Ministry of Justice Supplementary Estimate 2018-19

Thank you for your letter of 25 March 2019 in which you asked a range of questions stemming from the Supplementary Estimate and the supporting Memorandum. Given the imminent appearance of the Secretary of State before the Committee on 3 April, I would be grateful if you could treat this letter as an interim response which focuses purely on the question you have asked (question 4 in the letter) about demand-led legal aid work.

The key demand-driven jurisdictions for legal aid spend are criminal and public family law. As demand is generally driven by external factors, we do not currently have levers to manage it, but I have set out below work we are doing to ensure the system is better placed to respond to fluctuations in demand.

Changes in crime, police funding, capability and priorities affect the criminal justice system as a whole, including spend on criminal legal aid, and problems can occur where one part of the system is not adequately resourced to respond to changing pressures in other parts of the system. In preparing for the Spending Review, key criminal justice departments will need to consider how best to co-ordinate to anticipate and jointly forecast future pressures, with the aim of ensuring that the Criminal Justice System as a whole is adequately resourced to manage future fluctuations in demand. For criminal legal aid, a fundamental review of all fee schemes began in January 2019. This will go far beyond our previous proposals, considering criminal legal aid throughout the lifecycle of a criminal case. This will include pre-charge advice at the police station, advice and advocacy services in the Magistrates’ Court, litigation and advocacy services in the Crown Court, and the Very High Court Case (VHCC) Scheme. The review will report by Summer 2020.

Demand for legal aid in public family cases is similarly largely driven by external factors. The national Family Justice Board, chaired by MoJ and DfE Ministers, recently agreed proposals developed by both departments to address rising volumes and local variation in public family law. The proposals are intended to reduce the differences in decision making and practice which contribute to the increased volume of cases being brought to court and local variation, with an emphasis on changing behaviours to
improve the operation of the family justice system. These proposals focus on better preparation of cases before court and diverting cases from court where appropriate; making better use of the wider family network; and promoting consistent and appropriate decisions in court. We will be working closely with the sector, at both a national and a local level, to deliver change.

I will respond to your remaining questions shortly.

Yours sincerely,

Richard Heaton

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