

We have been provided with and considered the Housing Law Practitioners' Association's response to this consultation, in respect of the proposals for Fixed Recoverable Costs (FRCs), and would agree with its contents.

We would further add and reiterate that the principle of FRCs will disproportionately affect and discriminate against our client-group, which comprises, primarily, mental health service users (MHSUs), their families and carers. This client-group, judged by level of need and aid to understanding, requires additional time, care and attention, at all levels of legal proceedings. This is so, even when such clients are, in relative terms, "well". FRCs will not provide for a fair or reflective representation of the time required when dealing with our vulnerable client-group, or indeed, those that have literacy, language, disabilities, other and/or multiple barriers, that impede communication.

FRCs in this area and for these client-groups, go against the principle that one must take one's victim as they find him/her and, in so doing, will permit opponents in litigation to exploit that omission. The effect will be that FRCs act as a disincentive to opponents of such clients, to settle cases, to settle them early and/or to be co-operative, knowing they will only be held responsible under an FRC-regime, and knowing that the effect of delay and tying us up in protracted correspondence and/or litigation, will bear no/little additional consequence to them.

In addition and in turn, this will prevent agencies such as ours, obtaining any notional "profit" for our work and successful outcomes, which, when obtained, we wholly rely upon to continue to fund this and related work, that is otherwise unfunded.

At best, this will leave us in a position where we no longer have any incentive to take on complex or difficult cases and clients, who have multiple issues to be unravelled; and, at worst, we will cease to be financially viable or able to operate, in this sector or at all. The margin between our operating costs and our income – generally, from Legal Aid – is already nominal and places us, every year in a position where we lurch between financial crises and employee exhaustion, just to make ends meet.

In such further, adverse conditions that FRCs will lead to, why would we continue to do this work, or to take on cases for those that are especially vulnerable and/or time-consuming, knowing it to be a "loss-leader", with no hope of recovery of our fair and reasonable time, proportionate to; a) the issues our clients face; b) the import of the matter to our clients and their needs; and c) seeking to obtain what, to our clients, is a small "victory", in a system already much-weighted against them?

In short, FRCs will significantly impede access to justice and/or to obtaining a fair legal remedy and redress for our clients, whether through the Court system or in seeking to prevent cases reaching formal litigation. And, for us, as agency, those cases, even if few, in which we recover our full costs (or as near as), for the work we do for vulnerable clients, at inter-partes/market rates, will sever an already thinning "life-line".