

## The Access to Justice Foundation

### Distribution Principles

**(1)** The Foundation is primarily established to provide “financial and other support (including such financial support as is envisaged by section 194 of the Legal Services Act 2007 as amended or re-enacted from time to time) to persons who provide, or organise or facilitate the provision of, legal advice or assistance (by way of representation or otherwise) which is free of charge (that is, otherwise that for or in expectation of fee, gain or reward) and which is provided directly or indirectly to people who are in need of such advice or assistance by reason of youth, age, ill-health, disability, financial hardship or other disadvantage”<sup>1</sup>.

**(2)** Monies received from a section 194 order may only be applied “to provide financial support to persons who provide, or organise or facilitate the provision of, legal advice or assistance (by way of representation or otherwise) which is free of charge”<sup>2</sup>.

**(3)** The Foundation is secondarily established to promote “such other purposes aimed at improving access to justice being exclusively charitable according to the law of England and Wales as the Trustees may from time to time determine”<sup>3</sup>.

**(4)** Subject to (4C) below, applications will be invited from Regional Legal Support Trusts (RLSTs), from national organisations and for strategic pilots that may lead to regional or national developments.

**(4B)** Applications are not generally accepted directly from local organisations (save those involved with a strategic pilot),

- in order to enable the Foundation to keep a strategic focus,
- because local organisations may make applications to RLSTs (and to some national organisations),
- because RLSTs (and some national organisations) may in turn make applications to the Foundation in respect of the local organisations within its region, and
- in order to reduce and avoid administrative burden and cost, including through duplication of effort, for the Foundation and for local organisations.

**(4C)** However if a preference as to distribution is stated by those associated with achieving a section 194 order, and the preference is stated in favour of a local organisation rather than an RLST or a national organisation, then the Foundation may, in its discretion, deal directly with the local organisation for the purpose of deciding whether a distribution should be made (wholly or partly) in accordance with the preference, and implementing that decision.

An application to the Foundation is not required for these purposes – the preference (and reasons) may be advised to the Foundation in any convenient manner. However, the Foundation may in its discretion require an application to be completed from an organisation in respect of which a preference has been expressed, as a means of ensuring a fair distribution of funds overall.

**(4D)** Save in the case of monies received from a section 194 order, national organisations include those concerned with the provision, organisation or facilitation of pro bono legal advice or assistance overseas (and in particular in the developing world).

<sup>1</sup> Memorandum of Association paragraph 3.1

<sup>2</sup> Section 194(10) Legal Services Act 2007, and Memorandum of Association paragraph 3.1

<sup>3</sup> Memorandum of Association paragraph 3.2

(5) The Foundation will not fund litigation (including disbursements).

(6) Pro bono work is not a substitute for publicly funded legal assistance. Consistently, the system of financial support with which the Foundation is concerned is not a substitute for the system of publicly funded provision of legal services.

(7) When making its decision on distribution, the Foundation will have an absolute discretion and the Trustees do not accept and duty or liability to any person seeking a distribution. Subject always to the point just made, the Foundation:

- will have regard to (but will not be bound by) any preferences stated by those associated with the donation<sup>4</sup>,
- will take a strategic approach, recognising that the Foundation is able to take a country-wide picture,
- will assume that local and regional distribution needs will be identified by the appropriate Regional Legal Support Trust,
- will look to distribute some money to projects that enable new work rather than simply the continuation of existing work.

(8) The Foundation will seek to operate flexibly. Thus:

- both capital and revenue grants may be made,
- grants for both sole and supplementary funding may be made (and the latter need not be confined to funding on a “matched” basis),
- the majority of funds will be distributed in an “open” programme – that is, available for any type of application – with a minority allocated to a themed programme decided annually by the trustees (and with possibly fewer, larger grants),
- an emergency arrangement may be made in serious cases.

(9) The Foundation will seek to operate simply. Thus:

- a single, simple, application format will be used wherever possible,
- a single, simple, funding agreement will be used wherever possible,
- a single, simple monitoring and reporting format will be used wherever possible (although interim audits will be possible for longer term or larger grants).

(10) The Foundation will seek to operate transparently. Thus:

- there will be full transparency between RLSTs and the Foundation,
- all grants will be listed in available records, on website, and in annual report.

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<sup>4</sup> See Working Party Report dated 6 February 2007 and Hansard extract dated 8 May 2007. Confirmation was also given to the Ministry of Justice, at its request, in these terms on 10 July 2008 as part of the process of designation of the Foundation under section 194:

“To confirm, the draft distribution principles for the Foundation (prepared by the Working Party, and seen by the incoming Chairman of the Foundation, but to be formally approved in due course by the Foundation’s Board of Trustees) include the following:

“[The Foundation] will have regard to (but will not be bound by) any preferences stated by those associated with the donation”