



INCENTIVISING BETTER DECISION MAKING BY PUBLIC BODIES

Government bodies, local authorities and other organisations sometimes take decisions that are inappropriate or fail to act on their statutory duties. This creates work and costs for the legal system.



What can be done?

Incentives and disincentives need to be built into the system to reduce the number of cases that require legal advice and representation. We recommend that:

- Courts use their powers to fine public authorities and others who cause costs to be incurred by the legal aid fund and solicitors
- Public authorities, such as the UK Border Agency, the Department for Work and Pensions, local authorities and others sometimes have their administrative decisions overturned by courts and tribunals. In legally aided cases where costs are not recoverable by the claimant, those authorities should pay those costs to the legal aid fund, together with the surcharge. There could be exceptions where the issue concerned involved a complex area of law. This approach already applies in personal injury cases
- Some public bodies need more encouragement to comply with court orders and directions. Cases that are cancelled at the last minute or become ineffective due to non-compliance by public bodies increase costs. These costs often fall on the legal aid budget. The threshold for making those responsible meet these costs should be lowered so that the legal aid budget is not hit.

