

Criminal Defence Service

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For the attention of the Head of the Criminal Department

September 2004

Dear Practitioner,

NOTICE OF AMENDMENT TO THE GENERAL CRIMINAL CONTRACT

Please find enclosed a notice of amendment to the General Criminal Contract. This notice details a minor change to the Standard Terms which will take effect from 1 October 2004, and changes to the Contract Specification which will take effect from 31 October 2004. Further information on all changes is provided in this letter.

1. Change to Standard Terms: Clause 16.19 (to take effect from 1 October 2004)

In our letter of 1 June 2004, we confirmed that this new clause (dealing with the situation where The Law Society intervenes or a receiver is appointed by the firm) would not apply to interventions prior to 1 October 2004. The clause will now come into effect on that date, subject to one minor amendment as attached.

2. Amendment to Scope of Duty Solicitor Service and Service Obligations (to take effect from 31 October 2004)

One of the contract amendments from 17 May 2004 prevents a court duty solicitor from acting if the defendant has already been granted a Representation Order. The court duty solicitor may only act in these circumstances as agent for the CDS Supplier assigned under the order. We have received feedback from both practitioners and magistrates' courts that this restriction is causing problems at Saturday courts when it is difficult to contact the CDS Supplier assigned under the Order to obtain agency instructions. We have therefore lifted this restriction for court duty solicitor sessions that take place on a non business day if certain conditions apply. The definition of a non business day is as stated in Part E 1 of the Specification.

3. Costs Assessment and Appeals – Changes to the Contract Specification (to take effect from 31 October 2004)

In May 2004 we sent you a full set of the revised Standard Terms and Contract Specification to come into effect on 1 July 2004. In a further letter, dated 1 June 2004, we confirmed that

those amendments to the Specification which concerned costs assessments and appeals for Contract Work would not come into effect until 1 October 2004, pending further discussions with representative groups.

We are pleased to confirm that we have been able to agree changes to the appeal process following detailed and positive discussions with The Law Society and LAPG. We will keep these changes under review as part of the ongoing process of engagement with suppliers and their representative groups.

The attached notice therefore includes the revised versions of Rules C 1.1 and C 1.10 to C 1.13 inclusive, and replaces the notice previously sent to you in May 2004 insofar as it relates to those Rules. The changes from that version are as follows:

1. Rule C 1.10, paragraph (b) (i) has been amended to provide that subject to paragraph b (ii), findings on assessment can be applied to Claims made since the date the file sample was requested for the last contract compliance audit. This aligns this term with the equivalent term in the General Civil Contract and corrects an omission from the previous version.
2. Rule C 1.11 has been deleted and replaced with the text set out in the attached notice.
3. The following sentence has been added to the end of the first paragraph of Rule C 1.12 'The Costs Committee will determine the application to certify a Point of Principle of General Importance on the papers only.' This amendment confirms the long-standing practice that applications to the Costs Committee to certify Points of Principle of General Importance will be dealt with on the papers only.

Rules C 1.1 and C 1.13 remain as in the version previously sent to you in May. For convenience, all of the Rules are set out in the attached notice.

All the changes to the appeal process will now come into effect on **31 October 2004**, not 1 October 2004.

Rule C 1.11 (Appeals)

We have attempted, with the representative groups, to achieve a more streamlined and transparent appeal process. The details are set out in the attached Rule, but an outline of the process is as follows:

- (1) Firms must serve notice of appeal, with written reasons and the files, within 28 days of notification of the audit results. However:
 - (a) The LSC regional office will grant an extension of 14 days on top of the 28 days where it is requested within 21 days and there is good reason.
 - (b) The 28-day time limit will not start to run until the files have been returned to the firm following the audit.
- (2) Where an appeal is lodged in accordance with the above requirements then the Regional Director will endeavour to list it before the Costs Committee within a reasonable period and:
 - (a) The Regional Director may make a written reply to the appeal up to 21 days before the listed date.

(b) The firm may respond to this reply in writing up to 7 days before the listed date.

- (3) As before, there is a right to attend an oral hearing before the Costs Committee. Nevertheless, both parties should ensure that all issues that they want to raise are set out in the written representations, as raising new issues will require leave of the Committee, who will consider whether there is good reason why they were not raised previously.

However, the Committee itself can consider matters de novo and raise additional or new issues in exercise of its discretion to increase, confirm or reduce the assessment.

Wider context

These Contract changes represent only part of the agreement that we have reached with the Law Society and LAPG on ways of improving the appeal process. We have also agreed the following:

Customer Service Standards

Outside of the contractual requirements the LSC regional office will aim to process the appeals in accordance with the following customer service standards:

- They will acknowledge receipt of appeals within 14 days.
- The acknowledgement will either set a date for the appeal committee or state the period within which it will be heard.
- They will review appeal representations within a further 28 days and write to the supplier with any reply and to advise what points, if any, are not in issue. (The contract provides that this reply must be sent at least 21 days before the date fixed for the appeal). If they have not already done so, the regional office will provide an appeal date at this stage.

These standards will of course be subject to review from time to time as required.

Monitoring group

A joint monitoring group will be created, made up of Law Society and LAPG nominees and central and regional representatives from the LSC. The group will meet regularly to review the operation of the contract compliance process, with the aim of improving consistency and of dealing with particular problems that arise.

The group will not be an alternative appeal route, but will produce practical guidance and recommendations, for example on further training or on improvements to the way in which audit results are fed back to firms. Amongst its other functions, the group will monitor the compliance of the LSC with the customer service standards and review data on consistency of decision-making.

Review Panel Chairs Working Party

The Law Society will nominate a representative to assist the Working Party in their ongoing work to improve Committee processes. The Working Party has the target of reporting to the annual conference of Review Panel Chairs in October.

Measures currently under consideration by the Working Party include:

- Ensuring that regions record data in a more consistent manner, particularly Costs Committee decisions and the reasons for them. This will improve the quality of feedback to staff on their performance, and also allow the LSC and the joint monitoring group to more easily compare regional performance and address any issues that arise.
- Compulsory training for committee members.
- A newsletter for committees.

Costs Appeals Committee and Contract Review Body

In the interests of streamlining the process, the LSC will consult on changes to the roles of the Costs Appeals Committee and Contract Review Body to provide for a single body, which could deal with costs appeals as well as contract awards, sanctions and terminations. The aim will be to introduce these changes from April 2005.

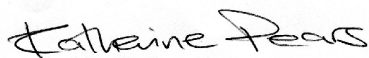
4. Increase in Police Station Duty Solicitor Rates for Serious Offences (to take effect from 31 October 2004)

An additional sum of £3 million has been made available to increase remuneration for police station duty solicitors in circumstances where the duty solicitor or another duty solicitor from the same firm personally attends the police station to advise a client under arrest for one or more of a range of specified serious offences. This change recognises the level of accreditation achieved by duty solicitors and provides better rewards to experienced practitioners for attending the most serious cases.

The attached Contract Amendment Notice provides details of when the higher rates can be claimed.

If you have any questions concerning these changes please contact the Regional Office responsible for managing your contract in the first instance.

Yours sincerely



Katherine Pears
Head of Criminal Defence Service Supplier Management and Development

Encl.