

## **Criminal Contract Consultative Group (CCCG): 9 December 2003**

Present: Robert Brown (LCSSA)  
Rodney Warren (Law Society)  
Alice Mutasa (Law Society)  
Richard Collins (Legal Service Commission)  
Tim Colliou (Legal Service Commission)  
Katherine Pears (Legal Service Commission)

- **ETMP**

The Commission were asked whether there would be any flexibility in the timetable; the response was that since it was a limited pilot there was a shorter consultation period. There has however been pressure from the Bar to extend the consultation period. It was possible an announcement may be made this week. The LSC were due to meet with the DCA next week.

It was queried whether in reality the pilot will be rolled out over the whole country, with no further consultation, otherwise why does the paper include London rates. The Commission explained that some courts included in the pilot were in places like Epping, where work was conducted by London firms.

If the proposals were to be implemented nationwide, contract changes would need to be made, so there would have to be another consultation.

The LCCSA and the Law Society will send their final responses to the Commission.

### **Very High Cost Case's**

The proposed rates may cause some concern to practitioners.

Concern was also expressed regarding the restriction of the definition of a Category B Fee-earner; this has been tightened up in the paper and may now exclude some people.

The CDS are meeting with the Head of the Very High Cost Cases Unit, with the aim of bringing forward the work on the serious fraud panel. The aim is to redefine 'serious fraud' and limit to 6 or so firms.

More cases have been reported than expected.

### **Contract Changes**

The view of practitioners is that some changes are a 'pay-cut'.

The Lord Chancellor invited submissions on pay some time ago – these were submitted by CLSA and the Law Society, but it was not clear what had happened to the response to these.

The Commission stated that this had been held up by the issue with the Bar on Family Graduated Fees – but that something should be issued shortly.

### **Out of Hours Police Station Attendance**

It was asserted that the failure to increase rates will have an adverse impact on quality of service, and that many firms will lose money from the changes.

The Commission was asked whether it would consider a small enhancement for this work. This would be low cost but a big win in the view of practitioners.

The LSC responded that there was no possibility of any rate increase.

### **Notice of Contract Changes**

(Civil and Criminal contracts)

The Society queried why changes were being made to the current contracts, when these are being terminated and only have a couple of months to run, with the new contracts being introduced in April.

The LSC's response was that a complete package in April would be better, but the current contract is still a valid one, so if changes are needed they should be introduced as soon as they are ready. If they are necessary then there is no reason not to introduce them even for only 2 months. The changes are viewed as a series of 'measured steps', to be introduced in a measured way – not all at once.

Had the LSC taken legal advice? The response was that they had not, but had considered the legal aspects of the contract changes.

### **Scope Cuts (LSC) – DCA Paper**

A DCA announcement is likely after Christmas, with the changes to be introduced in April.

### **Contract Changes (Civil and Criminal)**

The Society expressed a hope that the LSC would be tolerant of ongoing discussions after the deadline of 13/1/04.

The Commission said that they would, but that they really need to get the amended contract signed soon after January. The intention is to have a single coherent document that contains all the changes. It was felt that it was better to consider Crime and Civil changes all at same time, and have one set of discussions with the Law Society.

### **PDS - Chester**

There have been a number of complaints regarding the Duty Solicitor rota; 4 members of the PDS are on the rota – even though there is not enough work in the office to justify their presence. A number of letters have been received regarding this from members of CLSA. The general view is that the PDS aim to 'load' the Duty Solicitor rota.

The LSC stated that the head of the Chester PDS office has gone on maternity leave and there is a temporary replacement in place.

It was alleged that the Manchester Regional Office has been allocating court duty slots to Chester PDS on more convenient days than other firms. The LSC agreed that they will investigate the issues raised by the Law Society. It was confirmed that a letter would go to the LSC to seek clarification on a number of issues.

## **Reduction in Criminal Firms**

The LSC were asked to clarify the criteria being used to reduce contracts.

It was explained that examples of factors to be considered may be; whether the firm provides other categories of work as well – civil work etc. Also the firm's costs assessment rating.

It was queried whether interviews for supervisors were likely in Crime (as is happening in immigration).

The LSC stated this was unlikely as there are more robust methods of assessing supervisor competence in Crime. It is not to be ruled out though, and may be necessary if similar concerns arise as with Asylum.

It was queried to what extent discussion is possible of the criteria for reducing the number of firms.

The Commission stated that they would want LCCSA, CLSA and the Law Society very closely involved, as they will have useful input.

The timescale is likely to be early in the New Year to begin to look at it.

It was pointed out that many firms are thinking of merging as way of surviving the cuts – this may create more gaps in provision.

The LSC suggested meeting early in the New Year – with some hard input from the LSC to form the basis for discussions. The LSC would want input from the profession. It would need to be demonstrated to wider government the delivery method that is the most efficient.

## **CDS Bill**

It was confirmed that the existing Widgery criteria were to remain.

It was also likely that the Means test would be re-established, and the grant of representation orders to be transferred to the LSC.

A draft Bill is expected this year – to transfer grant of Legal Aid to LSC – but it could be April 2005 until implementation of the transfer. The grant of Legal Aid for Indictable only offences may be devolved down to contractors.

The saving to be generated would be in the reduction in the number of grants of Legal Aid.

It was pointed out that only 40% of convicted cases with representation result in loss of liberty; this surely this shows the value of representations.

The LSC felt that research showed there was no difference if a lawyer was there.

The changes are aimed at removing complexity and doubt – by ensuring that where a Representation Order is granted there will be a bill at the end.