

CCCG Meeting – 28 September 2004

Minutes

Present: Rodney Warren (Law Society/CLSA)
Robert Brown (LCCSA)
Alice Mutasa (Law Society)
Tim Collieu (Legal Services Commission)
Katherine Pears (Legal Services Commission)

1. Duty Solicitor Scheme – Enhanced Rates for Serious Matters

The list of serious offences attracting enhanced rates was discussed, and the Law Society raised the possibility of adding additional offences into the list. The Commission were concerned however that the budget allocated for the enhanced rates was limited and would need to be monitored closely.

It was agreed that the Commission would monitor the spend on these cases for 3 months, and would carry out a review in January. At that point it may be possible to consider introducing additional cases into the list should sufficient funds be available.

2. Saturday Representation by Court Duty Solicitor

There was some discussion of the new provision introduced in the recent contract amendments, to enable court duty solicitors to represent clients out of hours, where the client's existing solicitor cannot be contacted.

Some firms had expressed concerns with regard to the possibility of clients being 'poached' through this provision. It was agreed, however that if firms were concerned about this, they could ensure that their clients always have an emergency phone number so that they can be contacted in such instances.

3. Price Competitive Tendering

The Legal Services Commission reported that they were still in the process of settling the final policy and drafting the consultation paper on competitive tendering, and that as soon as a timetable is available it will be shared with the Law Society. The Commission stated that they are very aware of the concerns of the profession, and wanted to get the detail of the arrangements right.

The Law Society pointed out that since it was clear now that the July 2005 target deadline will not now be met, there was an urgent need to inform the profession of what the new timetable will be. The Commission re-iterated that they will inform the Law Society as soon as they have finalised the timetable.

4. CDS Direct

The Commission stated that the project has now been completely re-scoped as a result of the responses received to the original consultation. A summary of responses will be issued shortly, and a follow-up consultation paper on the re-drafted proposals. The Commission are also keen to set up meetings with practitioner groups to discuss the proposals.

The proposed pilot regions will be the same as originally proposed, with some changes to the scope of the scheme; and in London it is proposed that the scheme will only include telephone-advice only cases.

There was discussion as to how the scheme may be used to address some of the difficulties of providing immigration advice at the police station.

It is still proposed that the scheme will go live in April 2005, although contract amendments will be required for the pilot areas.

5. Proposed Review of Cracks and Late Guilty Pleas

The Law Society informed the Commission that the DCA have proposed a review group to look at cracked trials and fees for late guilty pleas, following the recent VHCC Review. The Law Society is to be offered a place on this review group. The Commission said that the review aims to extend the advocates graduated fee scheme to those cracked trials and late guilty pleas that currently escape the graduated fee.

6. Accredited Rep. System Data Cleanse

The Commission intend to conduct a data cleanse of the register of police station rep's held by the LSC. There are indications that some of the information held on the register may be out of date. The Commission will be writing to the supervising solicitor of everyone on the register to check the accuracy of the records held on them.

An article will appear in FOCUS explaining the process, & any draft letters to firms will be shared with the Law Society.

AOB:

7. EU Working Time Directive

The Commission has been discussing with the Law Society the impact of the EU Directive on the Duty Solicitor scheme. The consensus of opinion was that there was little point in restricting time slots on duty schemes, as people would find a way round this if they wanted to, by swapping duty slots, etc.

It is the view of the Commission that this is a professional guidance issue, & that the Law Society need to write to firms regarding the impact of the regulations. The Commission feel that it is the duty of the employer – i.e. the solicitor's firm – to ensure compliance with the regulations, & not the Legal Services Commission.

There was some question as to the extent to which the regulations apply to duty solicitors in any case, & an analogy was drawn with the case of German Doctors who took successful proceedings against the government with regard to working out of hours.

8. Meeting with Victim Support

The Commission reported back from a meeting with Victim Support. The Commission would like to promote more use of the Court Witness Service by defence solicitors, & suggested putting a piece in the Criminal Law Practitioners Newsletter.

The Society's view was that it was necessary to achieve a change of perception on the part of court staff towards witnesses. A query was also raised with regard to information leaflets that may be available at court.

9. Direct Access on Points of Principle

The difficulties of certifying a Point of Principle were raised by the Society. Under the current system, if a firm is unclear as to whether they are claiming correctly for an item of work, the firm has to first have an adverse finding on audit. This then has to be appealed - first to the regional Costs Committee and then the Costs Appeals Committee – in order to certify a Point of Principle.

The Society proposed that where a firm is in doubt as to the proper process for claiming for work done, there should be a mechanism by which they can ask the CDS Team at the LSC, through one of the professional bodies; the Law Society; CLSA, LAPG, or LCCSA. The CDS team would then issue interim guidance on the point.

The LSC stated that they are committed to investigating the most appropriate means of dealing with this proposal, and will look in more detail at how such a process might work.