

CRIMINAL CONTRACTING CONSULTATIVE GROUP
1ST March 2006

Present: Rodney Warren (Law Society/CLSA), Rob Brown (LCCSA), Derek Hill (Legal Services Commission), Greg Lewis (Law Society), Alice Mutasa (Law Society), Andrew Bishop (CLSA), Freddie Hurlston (Legal Services Commission), Dane Johnson (Legal Services Commission)

Apologies for absence

Tim Collieu

Matters for Discussion

2. Actions from last meeting

Tim had discussed briefly with Rodney Warren enhanced rates, and the members agreed that this action should be carried forward to the next meeting.

Nothing finalised concerning training contracts.

3. Carter Review

The LSC informed the Society that a meeting had been held to discuss the re-accreditation process, which is going ahead in the autumn, and they are happy with the content of the process and will be looking at the proposals put forward. The LSC expressed that they will be looking at the effects of re-accreditation on Immigration.

Rodney Warren commented on the triangle relationship as far as re-accreditation between the profession, the LSC and the Law society and its importance of all three joined up together.

Re-accreditation raises two issues: concern about current quality of solicitors and Peer Review.

The LSC informed the Society about the large number of agents used and the point made for the need to ensure that they are quality assured. If there is no requirement stipulated then no one would do it, has it been 5 years since solicitors were passported.

The Society expressed that the profession would be dismayed about re-accreditation as there is no quality process for the Bar. The original process was designed to deal with passporting solicitors and any problems that may have occurred have not been made aware.

The LSC expressed the need for Preferred Supplier, Carter and Peer Review to be considered and is in the favour of quality.

The Society were concerned about the police station proposals and would like to see evidence where it has been propositioned, as there's a need in terms of volume of contracts making the business viable.

The Society feels that it is not a financially viable process, because of involvement of staff working at night and weekends.

The LSC did not have anything to add in respect of the Carter proposals as its still in its early stage but commented on the consensus about the lack of understanding amongst the regions.

The society informed that they have had one meeting with the Carter team to receive an update and was aware that there are 12 oversight groups with project teams set up.

The society expressed that the Commission's position differed to the profession and the number of issues, which, need to be looked at. The strategic ones covering cost implications and the proposition of the LSC becoming smaller and the non-strategic levels identifying recognisable problems that may occur and for the LSC and the Society to think of proposals together.

An example the VHCC and Carter has not addressed the difficulty to identify those cases and the inaccurate information about busy police stations.

The LSC agree that it would be useful to have detailed designs to share amongst the LSC and Carter team and explained that not all police stations house custody suites, the list that is kept by the LSC is not kept to define the market.

The society wishes to know if the LSC will be in charge of the consultation paper.

The LSC explained that they cannot give commitment, as the consultation may not be required and that there are statutory considerations to be taken into account and are not sure where these may fit in.

The Society commented that the profession would expect it to be consulted upon as this would give rise to criticism and a point made was the Interim report produced by Carter to the Law Commission did not invite anyone to make particular representations.

The Carter process was also not seen as a consultation as some stakeholders were not consulted upon although representations were submitted to which no reply was received. Examples included Graduated Fee and the New Litigation Fee structure – the profession before the Carter report has not seen these.

The rollout of the police station fixed priced contracts these have been mentioned but no consultation. Proposals from Carter may produce issues but practitioners would be happy to discuss.

The point was made that no one had been appointed to do the already mentioned consultations.

The LSC explained that the Litigator's Fee is going through a process and points made by the Society will be noted and taken away and consultation on remuneration lies with DCA.

The Society explained that a number of issues would be raised at a meeting with the Law Commission. Competitive tendering is the stage where proposals will be seen as the end result, the profession will not be happy as the panels for VHCC, does not acknowledge the existence of the current panel.

There is a general view that VHCC are identified because they are high cost and they should not be sectioned off as a separate panel by saying that a Fraud case is more complex, this will not be acceptable to the profession.

It also touches on the issues of liability especially if the lower work is unprofitable, there are approximately about 471 firms that this type of work may be beneficial to them and if a smaller panel is established this could mean firms feel that they are no longer viable as many rely on 3 to 4 big cases. There is the responsibility of having a sustained base.

The LSC were not in the position to update the Society on the 2007 contracts and is currently awaiting an update from Karl Demian. It was agreed to carry over to the next meeting. The LSC confirmed any updates/views will be communicated to the Society before the next meeting and informed that the minor April amendments will be published shortly with the implementation date of 30th April 2006. The main area – Wasted Costs Order will be put on hold until the next round of contract changes as they do not work well if applied to the Magistrates' Court and it cannot be used every time. The society agreed on this point.

The LSC informed the society that Derek Hill and Freddie Hurlston has been invited onto the Ineffective Trial Programme Board whose aim is to reduce the number of 1st and ineffective hearings.

The Society attended a meeting with the project team and Ian Kelcey, which involved the broader concepts.

Camberwell, Coventry, an area in Cumbria are the pilot areas where the ETMP will be rolled out with the fourth one to be announced.

The society explained that there are issues over the court process, granting of legal aid needs to be acknowledged as well as the problems between the police and the CPS, the Court and the defence.

The LSc explained that the process is being run by the OCJR who are more influential with all agencies working together giving the chance to flag up issues in the workshops in the pilot areas. The society expressed an interest to be involved.

The focus is more on the effective trials reducing the number of hearings rather than ineffective hearings. The Society states that this should include avoiding cracks.

Action: RW to discuss with FH the current position and the way forward.

The society expressed an interest in working with the LSC in 'Engaging the defence'. They also stated the importance of not allowing other organisations to confuse the role of the LSC and have that level of understanding where the professional input is needed.

The group were informed that Rob Crawley has updated and involved the CLSA in ways where there is conflict.

The society has signed up to go to a NCJB

The LSC agreed that there is an overlap between the role of the defence and the role of the LSC as the defence procurers and the Society agreed that this point should be raised at the Criminal Justice Council.

The society discussed the 'Waste Week' whose aim is to look at inefficiencies and in London; court users committees don't really exist. A meeting has already taken place at Thames Magistrates court involving District Judges and Stakeholders - minutes of this meeting are available from Rachel Hubbard – Secretary of CLSA.

It was agreed that instances where Wasted Costs order are used will be looked at and will be carried over on the agenda.

The LSC informed the society that the PDS Research is still incomplete. The society expressed great concern that a date has not been given for the publishing of the research and are currently reviewing the absence of publication, it was also felt that Lord Carter should have view research as well as the profession and BME as they don't understand why they are being kept secretive and that the DCA and LSC only get to see documents.

6 & 7 The Society commented on the fact that the LSC had said that the responses and summary would be available and this has not been done especially if interested parties want to contribute to Carter then the documents should be made available instead of after Carter is published, this would make for a more transparent process. This impacts on the CLSA members in a big way.

8 The society-expressed concern about the use of private telephone calls in the police stations especially where the doors are locked on vulnerable individuals namely solicitors with violent criminals. It was confirmed that meetings have been set up with ACPO and the HO to discuss further to the law society's approach. CDS Direct has also highlighted areas of concern. A primary concern of the society is the Sussex area where the policy in modern custody blocks is for individuals to speak into the intercom system, which is not a basis for receiving secure confidential advice.

Action: LSC link to the law society on agenda item 9??? Greg Lewis

Meeting with Rob Brown and ACPO has taken place where the point of vulnerability between the profession and the detainee is missed in the terms of reference.

The schedule of meetings has been set.

There is an issue concerning video links at court hearings where the prison officer stays with the individual during the video link.

The society also raised the problem where there are two duty solicitors already present at the police station as opposed to A – B system, which has been raised part of First Assist and not the LSC.

The society is very keen to explore effective avenues concerning the policy of Higher Rights and any work done on the costs and potential savings investigated.

The LSC explained that the Litigators Fee Scheme would happen at the same time as the Section 51 moving from the Magistrates' court to the Crown court, which is from November 2006. The materials and figures have been made available and the changes agreed by the Law Commission and the Judiciary.

The LSC commented that's its down to the society to define rights and the initiative may rest with them to handle request; this may save the LSC money.