



The Law Society



**Crime Contracts Consultative Group (CCCG)
Minutes**

6 December 2011

When:	Tuesday, 6 December 2011, 15:00 – 17:00		
Where:	The Legal Services Commission. 4 Abbey Orchard Street, London SW1P 2BS VC - Bridgette Humby-Jones – LSC; Elaine Annable-LSC		
Chair	Ruth Wayte – LSC		
Present	Carol Storer - LAPG Elizabeth Gibby - MoJ Greg Powell – LCCSA	John Sirodcar - LSC Matt Shelley – LSC Mike Jones – CLSA	Rodney Warren - TLS Sarah Monument - LSC Shumi Mitra - LSC Steve O'Connor – LSC
Minutes	Grazia Trivedi - LSC		
Apologies	Alice Mutasa – TLS Avrom Sherr – IALS David Keegan-LSC	Jim Meyer – LCCSA Paul Keleher QC Gus Ghataura – ILEX	Mark Lucraft QC Neil Lewis – LSC Nick Poulter – LSC Raj Chada - SAHCA

Action Points from the previous meeting		By Whom	By When
AP1	Examine the current format of the Volume and Value figures report and make suggestions on what data should continue to be included and what could be discontinued.	Rep bodies	Closed
AP2	Inform the CCG about the date when the LAC1 form becomes available electronically	MShelley	Closed
AP3	Find out whether CDS Direct could notify solicitors of a court hearing by fax	EAnnable	Closed
AP4	Find out whether work conducted in the Magistrates' court that does not attract a payment from the LSC would be included in a contract compliance audit	MShelley	Closed
AP5	Set up a working group to discuss and address the issues raised by practitioners.	JHislop	Closed
AP6	Find out whether providers could use CDS forms (Version 8) for longer than the grace period of 1 month	BHumby – Jones	Closed
AP7	Send comments to BH-J on the new CDS forms	Rep bodies	Closed
AP8	Produce scenarios of employment arrangements for duty solicitors to clarify what complies with the contract and what doesn't	SO'Connor- JSirodcar	Closed

RWayte welcomed all present.

1. Minutes and actions from the previous meeting.

The Minutes of November's meeting were approved and would be published on the LSC website – www.legalservices.gov.uk >Criminal Defence Service>Crime contract>Criminal Contract Consultative Group.

AP1. It was agreed that the Volume and Value figures reports in their current format, for both Crime Lower and Crime Higher, would be produced quarterly. GPowell asked the LSC to consider factoring regional differences into the reports.

AP2. Options for the long term solution to the current LAC1 paper form were being explored, taking into account any impact they would have on current IT systems. MShelley explained that when considering the options it was also important to consider changes to the IT systems that were currently pending and the prioritisation of those changes. MJones reiterated that the current use of the LAC1 paper form was a burden on practitioners and suggested that, if an e-form could not be introduced by the LSC, an e-solution be triggered by the Mags courts in the same way that Means Testing was. The LSC explained that using current IT systems and the data collected through those systems was being considered as part of the options appraisal. RWayte explained that it was unlikely the LSC would replace the LAC1 paper form before Spring 2012.

AP3. JSirodcar had considered whether a better way could be found for CDS Direct to inform solicitors that their client was being detained and was due in court the next day, without ringing them during unsociable hours i.e. in the middle of the night. He would produce a paper in Jan/Feb outlining three areas he had identified as being in need of improvement:

- a) *DSCC*. Improve internet access so that providers could look at their own records
- b) *Providers*. Suggest a structure for contact phone numbers
- c) *CDS Direct*. How best we could advise providers when an own client was in detention and wished advice at court

AP1-JS

AP4. MShelley explained that any work on a case which attracted payment from the LSC under a Representation Order was contract work and was therefore subject to audit.

AP5. MShelley confirmed that a meeting had been arranged between TLS representatives and the LSC to discuss:

1. Definition of PPE – what amendment could be made to capture evidence that had only ever existed electronically but should count as PPE (e.g. witness statement generated electronically)
2. Representative Bodies practical examples of recent changes in the CJS that impacted on Crown Court remuneration

AP6 - AP7. Discussed under CDS forms.

AP8. The terms of the Contract stated that Duty Solicitors (DS) had to have a contract of employment with the firm for at least 2 days per wk. This included sole practitioners and partners but excluded consultancy agreements.

It was agreed that, provided that DSs were identified as designated fee earners and were properly supervised with their files reviewed, there was no cause for concern. It was noted that freelance arrangements were often the preferred choice for solicitors with young children and any other practitioner that wanted flexible working times.

It was agreed that the LSC and representative bodies would discuss the relevant wording in the Contract before the next tender and that Contract Managers would be asked to refer instances of grave concern to JSirodcar, whilst dealing with lesser non-compliance issues directly with the provider.

2. Crime Higher

Volume and Value Figures Report MShelley talked the group through the report¹. He explained that the report now showed both the Litigators Graduated Fees Scheme expenditure and the spend by HMCTS on *ex post facto* and standard fees payments.

The Advocates Graduated Fees Scheme figures showed a drop in volume and value compared with the same of the previous year which was primarily due to the backlog of claim processing and the first two stages of the 13.5% cut to AGFS rates following the Legal Aid Funding Reforms. The Bar Council had flagged up about 1k 'hidden' claims that had been submitted to the courts and had not been processed, some dating back to 2001. The LSC was considering where the liabilities for these claims rested.

Unrepresented defendants in the Crown Court. A recent report received from HMCTS showed that there was no significant increase in the number of unrepresented defendants in the Crown Court since end 2010 (0.2% increase to 0.8% in the period Jan to June 2011). However there was still a discrepancy in the number of defendants recorded as *unknown*. MShelley would continue to investigate this matter. **AP2**-MShelley

RWarren said that in a recent case relating to the LSC seeking to recoup payment from a firm due to early determination, the Commission had worked with The Law Society (TLS) to work through the issues, and were on the brink of establishing a way forward. This case had been brought to light and progressed within the CCCG and the cost judges were very appreciative of it.

3. LSC payments to solicitors

A paper had been circulated in advance. There was discussion about the LSC's proposal to pay all solicitors and barristers at firm rather than office level from June 2012. Representative bodies were asked to send their views to SMitra by 31 December.

The point was raised about firms with offices spread over a large geographical area, which may not use a primary account number. It was suggested that the LSC contact a small number of such firms to check whether the new arrangements could be implemented without difficulties. **AP3** - S Mitra.

4. Means testing

There was discussion about the Means Testing report in the Crime Update, which showed that national performance was almost within target.

CDS forms BHumby-Jones talked about the changes that had been made to CDS14 and CDS15 forms and the benefits that using them would bring. Consideration would be given about the transitional arrangements for switching from Version 8 to Version 9 of these forms. The final draft of the new forms would be sent shortly to the representative bodies to give them the opportunity to use them and feedback.

The LSC could not guarantee that this form change would be the only one in 2012 because it wasn't until the forms were used that problems with them emerged. Representative bodies voiced their disappointment on learning this; it was suggested that form changes be limited to April and that any change in October be considered as exceptional.

¹ Published on: www.legalservices.org.uk > Criminal Defence Service > Crime Contracts > Criminal Contract Consultative Group > Group Documents

5. AOB

- The *Criminal Legal Aid Manual* would be updated to include the February changes. The LSC would publish the complete, updated manual online rather than posting the new pages to providers to be inserted into their copy of the document.
- An error had been identified in Form G, Question 6 of the PQQ of the CDS Direct tender. The word *Adviser* should have been used instead of *CDS Direct Adviser*.
- MJones had been in contact with the DSCC two days earlier and was informed that the Text pilot had been extended to the whole country and that, due to technical and software problems it wasn't going very well. EAnnable said that she would find out what the problems were and report back. **AP4-EAnnable.**
- *CJS efficiencies.* One of the main issues for practitioners was in relation to electronic storage with its associated costs, and secure emails. TLS was going to issue a statement stating that it could not recommend that firms sign up to secure emails at this time but that they should use their own judgement after considering the Terms and Conditions.

MJones explained what the Terms and Conditions were and why they posed considerable practical difficulties, particularly when combined with T3. RWarren stressed that the pace at which the changes were being implemented was too fast and that the issues raised were not addressed at the highest level in the way that TLS felt they should be. TLS would be meeting the DPP the following week and the issues would be raised again.

MJones pointed out that he would not be allowed to take his laptop or mobile phone into a cell when seeing a client; also, Mags courts did not have suitable Wi-Fi connections. It was estimated that fewer than 40% of first court appearances would have the information served electronically. In RWarren's County the police force wasn't going to sign up to the CPS central depository because of the cost implications and was going to have its own.

S O'Connor said that there were two broad categories of issues. Firstly, there were a series of questions around the technology (software, hardware, terms and conditions and Wi-Fi etc). Secondly, there were a series of process related issues which covered the precise timing of service of evidence and ability to communicate with the prosecution. These had been catalogued by the LSC and the joint Defence/CPS working groups were presently looking at them.

Action Points		By Whom	By When
AP1	Produce a paper with options for improving the way in which CDS Direct notify solicitors	JSirodcar	31 January
AP2	Continue to investigate the reasons behind the discrepancy in the number of defendants recorded as <i>unknown</i> in the Crown Court	MShelley	Ongoing
AP3	Obtain the details of 6 large providers from Elaine Annable so that the finance team can get their views on the proposals	SMitra	asap
AP4	Find out what technical problems were affecting the Text pilot after it had been extended nationally and circulate a note to CCCG members	EAnnable	asap