

**Minutes of the Meeting of the VHCC Working Group held on 02 April 2009 at the
Ministry of Justice, 102 Petty France.**

Present: Sarah Albon (SA)
James MacMillan (JDM)
Simon Hayllar (SH)
Adrian Vincent (AV)
Alexandra Healy (AH)
Paul Mendelle QC (PM)
Jim Meyer (JM) (by telephone)
Keith Milburn (KM)
Derek Hill (DH)
David Keegan (DK)
Cris Scotter (CS)
Matthew Shelley (MS)

Action

1. Welcome/Outline/Apologies

Desmond Browne QC, Michael Bowes QC, Rodney Warren, Richard Miller, Alice Mutasa, Prof. Martin Chalkley, Barbara-Ann Tweedie and Jo Cooper.

2. Bar progress on VHCC

AV explained that the Bar Council have set up a sub group to begin looking at proposals for a new VHCC scheme for advocates. Andrew Keogh is a Higher Court Advocate and has been invited to join the sub-group. The sub-group were due to meet on 2 April.

3. Data collection

AH explained that the sub-group had commenced work on setting up a data capturing exercise. The sub-group have circulated a draft data capture form for comment. The form includes requests for information including the client's position on the indictment. The sub-group feel it is worth investigating whether the position on the indictment reflects the level of work on a case. AH highlighted that we also need to be aware that the prosecution can be tactical in drafting the indictment and therefore position alone may not be a fair measure. KM suggested that another way to capture this information would be to ask practitioners to rate how difficult the case was to prepare. CS stated that in his experience some practitioners can often 'play up' or even 'play down' the difficulty of the case as it relates to the involvement of the client.

AH went on to explain that one way to proceed would be to identify three different categories of advocate distinguishing from the more involved (where most of the case falls against the client) to the less involved. The sub-group envisage that CCU Contract Managers (CM) would be the arbiter of this scale but do not anticipate a massive differentiation between advocate involvement. CS highlighted that one difficulty with this idea is the ability to judge the complexity of the case at the outset. SH suggested that one idea would be to keep a pot of money back, which could be attributed at the end of the case, based on involvement.

SH stated we would need to be sure of the financial impact of any such scheme. SH suggested that one-way to approach it would be to offset any additional spend at the top end by cutting spend at the bottom end. It was acknowledged that the

role of the CM in this regard would be pivotal. It was suggested that the Working Group should consider the idea of one CM per case in more detail. PM explained that whilst recognising the difficulties in terms of confidentiality, these difficulties are not insuperable.

CS explained that he had created a list of where we could source the information required. CS will forward document to sub-group.

CS

PM asked whether there is going to be a similar survey conducted with litigators. JM explained that his concern is that because this exercise is to assist in the creation of an advocate scheme, litigators may have issues doing work unpaid. CS explained that the LSC is currently looking at ways to overcome this.

AH explained that the following the sub-group meeting that evening, they would circulate the agreed data capture form to the Working Group. Following discussion about content with JM, CS will then draft a corresponding form for litigators.

AH

CS

CS explained that the data collection process could take six months. It was agreed that practitioners should be given 28 days to return the data. JM suggested using an electronic means of data capture to make the processing easier. CS stated that we need to have all the data by end Aug '09 in order to meet the ongoing deadlines. DK highlighted that some practitioners are likely to be reluctant to provide it and DH suggested that we should follow up the form with a phone call. PM explained that the Bar Council would like to send a letter to 'chivvy' practitioners along. PM explained that the aim is to get data from 100-150 contracts.

4. **Extension papers**

CS outlined background to the Panel Member (PM) and Panel Advocate (PA) extension notices. He explained that based on the legal advice received the LSC will be offering contract extensions to PAs and PMs. DH stated that there is a reasonable expectation that if we offer PM extensions we should also offer CA extensions. CS highlighted that it is the responsibility of PAs and PMs to sign and return the Contract Amendment Notice by the deadline.

JM explained his belief that The Law Society may have had concerns about the proposed three-month termination clause. DH will contact Richard Miller to discuss any concerns TLS may have.

DH

5. **Next steps**

DH asked for work to start on looking at extending AGFS to cover some/all VHCCs. CS will present an update paper at the next meeting.

CS

MS to produce outline timetable to be presented at next meeting.

MS

6. **AOB**

MS asked whether the Bar Council or TLS had or are due to issue press releases with regard to the response to consultation and the twelve-month extension. AV and JM explained that no such press releases have yet been issued but will take this forward.

AV/JM

7. **Next meeting date**

Tuesday 12 May – 5pm – Bar Council.