

JOINT STATEMENT ON UNIFIED CONTRACT AGREEMENT

The Law Society (TLS), Legal Services Commission (LSC) and Ministry of Justice (MoJ) have reached an agreement to resolve their differences of view about the consequences of the judgment of the Court of Appeal on the civil legal aid contract. The agreement has been reached through a series of open, constructive and pragmatic discussions between the three organisations.

The agreement is designed to provide a significant period of certainty and stability for civil legal aid providers to enable them to adapt to the changes to the legal aid system that have already been introduced, and to consider and plan for the future. The agreement also addresses a number of specific issues that the Law Society has identified to the Commission and Ministry as being of concern to civil legal aid providers and, where these issues require further consideration, sets up joint mechanisms to address these collaboratively. The principal benefits for practitioners include an arrangement in respect of historic unrecouped payments (meaning generally payments on account made at least six years ago), a right to undertake remainder work on the no fault termination of a contract, increased rates for specific categories of legal aid work and a review of the practices and procedures relating to contract compliance audits.

The MOJ and the LSC accept and will not challenge the decision of the Court of Appeal in favour of The Law Society's (TLS) arguments that clause 13.1 of the Unified Contract is incompatible with the Public Contracts Regulations 2006 (the Regulations). They regret that the implications of those Regulations were not recognised earlier and acknowledge that TLS was justified in commencing those proceedings. MOJ and LSC further acknowledge and accept that the Court of Appeal judgment means that the only power of amendment which now remains in the civil Unified Contract is the power in clause 13.2.

TLS issued further Judicial Review proceedings against the LSC on 12 February 2008 for a declaration by the court concerning the implications of the earlier judgment. However, under this agreement those proceedings will be discontinued on terms which are intended to provide tangible benefits for legal aid practitioners and which will establish procedures designed to ensure a closer and more constructive relationship between the parties in the future.

LSC, MoJ and TLS believe that this agreement represents the best way forward for legal aid providers and for the three organisations in the light of the uncertainty created by the Court of Appeal judgment. There is a strong commitment, on the part of the three organisations, to delivering the substance of this agreement. However, all consider that the process of reaching the agreement and the strong commitment to work together in this way in the future, are, in many ways, the most important outcome.

LSC, MoJ and TLS are pleased that further litigation and the uncertainty which would have been caused by early termination of the Unified Contract have been avoided. They look forward to working together and with other representative bodies harmoniously for the benefit of clients receiving publicly funded legal services and the providers of those services.