

Consultation Response of the Legal Services Commission to the Criminal Justice System Green Paper 'Engaging Communities in Criminal Justice'

Introduction

1. The Legal Services Commission (LSC) is a non-departmental public body sponsored by the Ministry of Justice (MoJ). The LSC is the biggest single purchaser of legal services in England and Wales and, indeed the world, with an annual spend of £2.1 billion; we are responsible for the delivery of civil and criminal legal aid and the development of community legal services.
2. The LSC is responding to this consultation paper because it is a significant stakeholder in the Criminal Justice System (CJS) delivering through 1,700 contracted firms of solicitors and the Bar advice, assistance and representation to those under investigation by the police and subject to proceedings in the magistrates' and Crown Courts at an annual cost of £1.1 billion. This is achieved through the Criminal Defence Service (CDS) as well the directly employed Public Defender Service (PDS) and CDS Direct, a telephone advice service to those being questioned by the police.
3. Our budget and services are subject to any change in CJS policy and practice that could have the potential to effect future LSC expenditure. All departments are required to undertake a Legal Aid Impact Test with MoJ to identify any pressure on LSC expenditure.

General Comments

4. The LSC welcomes the proposals contained within the paper and fully supports the involvement of local communities in the justice system. It should be noted that the vast majority of the proposals have no impact on the operation of the LSC. The most significant proposals for the LSC are contained in Chapter 1 of the green paper and this response concentrates on those.

Section 1A: Community Prosecutors: enhancing the role of the CPS

5. The LSC supports the view that the CPS should work more closely with communities. However the CPS must be prepared to explain that on some occasions it is better to divert a case from direct prosecution and that as many benefits will arise from this as the direct prosecution of the defendant.
6. Whilst the LSC has no interest in who is and is not prosecuted and supports a community's proposed rights to influence, there is potential to increase the costs of legal aid if there is a net increase in the number of cases prosecuted. The LSC expects that the evaluation of the impact of Community Prosecutors will include a quantification of any change in legal aid expenditure in its impact assessment.

Section 1B: Community Impact Statements: community concerns taking centre stage

7. The Community Impact Statement (CIS) takes the form of a witness statement under s9 of the Criminal Justice Act 1967. There is a potential risk that the defence may seek to challenge the relevance of a CIS on any case involving their client, particularly if it is going to have an effect on the severity of the sentence imposed. Any challenge may increase the length of a hearing. However the LSC acknowledges that the risk is likely to be very small. The LSC has asked that case length be monitored as part of the evaluation of the CIS. If any increase in case length is shown, this must be reflected in the Legal Aid Impact Test.

Section 1C: Increased problem-solving in the courtroom

8. The LSC strongly suggests that the publication 'Causes of Action' by the Legal Services Research Centre is considered when developing this idea. This gives a very clear view of the impact of clustered legal problems and their relationship to offending. The LSC considers the proposed approach to focus on problem solving is very positive and has clear merit in reducing the likelihood of re-offending which is good for the community.
9. The LSC suggests that there is clear scope for Community Legal Advice (CLA)¹, the LSC's civil rights advice service, and the developing Community Legal Advice Centres (CLACs) and Community Legal Advice Networks (CLANs) to become involved at Community Justice Centres. The LSC already has an agreement with Her Majesty's Court Service (HMCS) to promote the CLA within each court in England and Wales. This is a mandatory agreement and all courts should now be hosting CLA materials in public areas. We would be keen to explore opportunities to build on this.
10. There appears to be significant scope for the CLA to provide and direct defendants to the sources of help that they need to solve their problems within the process at Community Justice Centres. There is also the opportunity for the LSC to support training and awareness sessions with magistrates' through its local contacts. The LSC would be happy to discuss further how it can be involved in developing these ideas.

Section 1D: Judicial continuity and case review

11. The LSC supports this proposal and notes the evidence that such an approach does divert and reduce the instances of re-offending. It is unclear what the continued involvement of the defence representatives are in this meeting, if any.

Section 1E: Intensive solutions to the most persistent problems

12. Again the LSC supports this positive approach. Should the proposals for virtual problem-solving teams to become involved be progressed, it may be possible to develop some sort of virtual support from the CLA or CLAC or CLANs.

Section 1F: Selection and deployment: the right people doing the right jobs in the right places

13. The LSC is supportive of these proposals and notes that they have no impact on its processes.

¹ Community Legal Advice is a free and confidential advice service paid for by the LSC and you can access it at www.communitylegaladvice.org.uk or call 0845 345 4 345.

Section 1G: Magistrates' courts: justice for the community, in the community

14. The LSC is supportive of these proposals and notes that they have no impact on its processes.

Chapter 2: Making Amends: Payback, reparation, restorative justice and compensation

15. This section has no impact on the LSC.

Chapter 3 Keeping communities informed, getting people involved

16. This section has no impact on the LSC.

I hope that you find this response useful. If you have any queries about its contents, please do not hesitate to contact Tim Collieu, Head of Policy External Communications at tim.collieu@legalservices.gov.uk.

We would welcome the opportunity to work with you on these proposals and contribute to a Legal Aid and Justice Impact Test to ensure impacts on the legal aid fund are mitigated whilst at the same time determining the extent that the provision of key advice and assistance can have in furthering the aims of increased problem-solving in the court room.

Yours sincerely

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Chief Executive
Legal Services Commission