

To:

Immigration Stakeholders

Immigration Policy

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7 March 2006

Dear Consultees

Consultation on the Proposed Amendments to the General Civil Contract (Solicitors)
& General Civil Contract (NfP) Relating to Immigration and Asylum Work

As you are aware at the Immigration Stakeholders meeting that took place on 11 October 2005 we started the consultation process on a number of changes that we were proposing to make to the General Civil Contract. I am writing to you to continue the consultation process specifically on the changes we are proposing in respect of introducing a performance standard for Controlled Legal Representation (CLR).

There were a number of issues raised by stakeholders in respect of our proposal and we have taken account of those views. The detail of the revised proposal is in the attached paper.

Our intention is still to introduce a requirement that all suppliers have a success rate of at least 40% in immigration and asylum (and a minimum of 35% in each category). This requirement will come into effect on 1 May 2006 and the paper explains how this figure will be measured.

It has been our stated position for some time that from April 2007 we will only contract with suppliers who can meet the 40% performance standard. As we will be making decisions on contracts for 2007/08 in the final quarter of this financial year, in practice it will mean that suppliers have to achieve a 40% success rate on the cases reported in the eight months from May to December 2006. Suppliers who do not achieve the performance standard during that period are unlikely to be offered a contract for 2007/08.

In terms of using the performance standard this financial year it is not our intention to terminate a large number of contracts, however clearly we will take action where suppliers are missing the standard by a significant margin. We would not normally expect to take any action based on less than six months data although we may rely on three months data where the success rate is so low as to amount to a fundamental breach of the contract. We would not issue any contract termination notices without a supplier first having a visit from their Account Manager to discuss their performance.

One of the measures we are now proposing is that from 1 May 2006 the devolved power to grant CLR will be returned to all suppliers in the Immigration category. This devolved power was removed from most suppliers in April 2004 due to significant concerns at the way in which it was being exercised. Since then there have been significant improvements to the supplier base. There has been the introduction of mandatory accreditation of immigration advisers and many firms have gone on to satisfy the current devolved powers criteria that includes the requirement of a 40% success rate for cases at AIT appeal. We therefore feel confident that re-introducing the devolved power to grant CLR, underpinned by a CLR performance standard, is the right step to take.

Although the contract would give all suppliers the devolved power to grant CLR, we would continue to apply the devolved powers criteria and only give the full range of devolved powers and higher financial limits to those suppliers who meet the published criteria. As Appendix A of the attached paper cancels all previous grants of devolved powers, before May we will review the performance of all suppliers against the published criteria and ensure that those who meet the criteria continue to have the full range of powers they currently have. The period we will measure performance against will be January to December 2005.

I appreciate that there are concerns about the introduction of a performance standard for CLR. However the aim of the standard is to ensure that legal aid is targeted on cases that satisfy the merits test, including unclear or borderline cases, and improve the outcomes for clients whose cases are publicly funded.

If you have any further comments in relation to the proposed contract changes or how the new arrangements will be applied please send them to Emma McGovern at the above address or by e-mail to immigration.services@legalservices.gov.uk The closing date for responses is **Tuesday 28 March 2006**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Newell', with a stylized flourish at the end.

Paul Newell

Head of Immigration Policy