

CRIMINAL CONTRACTING CONSULTATIVE GROUP

14th April

Present: Rodney Warren (Law Society/CLSA), Rob Brown (LCCSA), Katherine Pears (Legal Services Commission), Tim Collieu (Legal Services Commission), Alice Mutasa (Law Society), Maryvonne Islip (Legal Services Commission), Steve Wedd (CLSA), Billie Lever Taylor (Legal Services Commission)

1. CDS DIRECT

There has been an exchange of correspondence between the Commission and the Law Society regarding CDS Direct. The Commission met with Law Society representatives to narrow down the outstanding issues and examine ways forward. The remaining concerns primarily relate to the manual and practical aspects of CDS Direct. As regards section 58 of PACE (the right to legal advice from a solicitor) the Commission now believes that it has identified a way forward. The Law Society needs to advise the Commission if it is not in agreement.

The Commission is to reply shortly to an outstanding letter from Greg Lewis regarding the contract amendment package. The Commission requested that it be informed of any unresolved issues as soon as possible. CDS Direct has now reached its third period of consultation and it is difficult to manage continually surfacing new issues.

The Commission confirmed that the go live date would not be before July. There may be an issue over the Commission's entitlement to implement contract changes outside of April and October. However, the Commission believes that it has the power to do this where the need results purely from an extended consultation period. The Commission would like to focus on identifying a better way to manage the next package of contract changes. With that in mind, it has proposed that a working group be established with practitioner representatives.

As regards the issue of granting a waiver, the Law Society stated that, from their perspective, the waiver is outside of their remit. However, the Commission has been engaged in exchanges with the regulatory side of the Law Society and a way forward has been identified. In effect, it will be possible to structure CDS Direct in such a way as to make a waiver unnecessary. This will involve staff being supervised by the PDS and located in First Assist offices and stems from the exemption for the PDS in the Access to Justice Act. However, the Commission stated that it would proceed with the waiver application in any case, in order to obtain clarification on this point for any future tender.

The Law Society asked the Commission if CDS Direct is fully staffed and equipped. The Commission responded that it is. The Commission explained

that, part of the reason that CDS Direct must be implemented before October is that its newly recruited staff cannot be made subject to indefinite delay.

2. Competitive Tendering

A meeting is to take place with practitioners tomorrow. The Law Society agreed to inform the Commission of any emerging matters. The Commission noted that it has now met with most key players and consultation runs to the end of this month. The Commission expressed a desire to receive all responses by this deadline.

The Law Society mentioned the BME issue. The Commission is to commission further work on this issue. The Commission agreed to circulate its research proposals to the Law Society and to keep them updated.

The Law Society stated that the council motion that it passed is, by and large, the position taken by all practices. The Commission has found that its face-to-face events with practitioners have been very constructive in considering potential issues and concerns and identifying ways forward. The Law Society stated that practitioners are certainly keen to see improvements in the delivery of criminal defence services, but perhaps not via this route.

3. Court Duty Solicitor Scheme

The Commission explained that action is being taken locally to increase efficiency in the Court Duty Solicitor Scheme. The Commission has developed a suite of reports to identify courts where re-alignment of duties may be needed. A key matter is to determine whether an attendance scheme needs to be converted into a call-in scheme or, indeed, vice-versa. Additionally, the Commission will look to identify and clarify the arrangements for the arrival and release of duty solicitors at court. The Commission explained that it is providing a best practice guide for Regional Offices to use when reviewing schemes.

The Commission will endeavour to involve representatives of the local scheme or Local Committees (where these still exist) in determining any changes, however, there will also be a formal period of consultation on the changes. This consultation will be in writing to all members of the scheme and will last a minimum of 28 days. This period will be extended at the discretion of the Regional Office for any changes that are particularly contentious. The Commission stated that this project is essentially about ensuring efficient use of court duty solicitor schemes. Information on waiting times generally will also be available for Regions.

The Law Society had no objections to this project. However, it was suggested that consultation be prefaced by identifying whether duty solicitors accurately record the number of defendants assisted. It was agreed that the Commission was right to take a local approach given the important differences between schemes. It was suggested that data also be subdivided between adult and youth courts and the Commission agreed to endeavour to do this. The

Commission stated that local action is to commence in early May and subsequently proceed on a rolling basis over the next 6 months.

It was also emphasised that court duty solicitors provide incredibly good value to the Commission, the DCA and courts, as duty solicitors help to ensure the smooth running of courts. It was pointed out that, with centralisation, duty solicitors may have to travel further to court and therefore will be less likely to return to their offices during quieter periods of the day.

The Law Society advised the Commission to inform practitioners of the purpose of this project to ensure that nobody wrongly forms the impression that it is an auditing process. The Commission emphasised that individual suppliers will remain anonymous to courts and agreed that information from this project can be shared with the Law Society.

4. Litigator Fee Structure

The Commission is still considering potential options. In the short term it is clear that action needs to be taken with the NTT to improve operational management. In the longer term, it is intended that something along the lines of, but not the same as, a graduated fee scheme can be developed. The Commission agreed to keep the Law Society updated.

5. Immigration at the Police Station

The Commission explained that a meeting is being held in May. This will involve bottoming out this issue in a way that satisfies all concerned. The Commission mentioned that one idea might be to put in place a rota for immigration lawyers to support criminal duty solicitors.

6. SPOCC Data Cleanse

This is a data integrity exercise in which the Commission is examining its data for anomalies. The Commission stressed that this is in no way an auditing process. Any firms contacted at a local level will simply be asked to assist in ensuring data integrity.

The Law Society stated that it would be helpful if practitioners were to email data returns. The Commission stated that currently only around 400 of its 2700 suppliers use its web-based facility. This is frustrating, especially given that the web-based system is much more reluctant to commit data to the system without checks. A marketing manager is being recruited to attempt to encourage practitioners to use this facility and an article is to be put in Focus.

7. Waste Week

The Commission thanked the practitioner groups for progressing this. A meeting is set for the end of April. The Law Society asked whether London is included. The Commission stated that it is not currently in the potential list of

sites but could certainly be considered as an option. The FLAR team are interested in this work and will be invited to attend future meetings.