



Criminal Legal Aid

A route map for future working

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July 2008

Introduction

The Legal Services Commission (LSC) is committed to setting out a route map for the development of criminal legal aid reform for the future. Many of the proposals which may be part of that route map, however, are necessarily subject to a full consultation process, and will also involve an ongoing and constructive dialogue with representative bodies and other key stakeholders as necessary.

Given this we intend to update the attached route map on a regular basis and maintain it as a live document on our website. As final decisions are made post-consultation, we will amend the route map to give more certainty to our future timetable for providers as the reform program progresses. Similarly, should new areas of work arise as time passes, these will be layered into the route map to be considered alongside our overarching work plan.

A ROUTE MAP FOR FUTURE WORKING

The outline timeline for reform is as follows:

July 2008	Publication of response to the December 2007 consultation Best Value Tendering of Criminal Defence Services
Late 2008	Publication of consultation on piloting a full means test in the Crown Court Publication of consultation on Crown Court remuneration Publication of second best value tendering (BVT) consultation and updated impact assessment – covering detailed options and implementation plan for Crime BVT and the award of new Unified Contracts from 2010 Publication of consultation to reform Prison Law legal aid work Possible consultation on VHCC Panel II Quality Working Group – jointly chaired by the Law Society and LSC – publishes its report and recommendations
Early 2009	Pilot of Quality Assurance for Advocates scheme Publication of response to the consultation on Crown Court means testing
March 2009	Government and LSC respond to the recommendations made by the Quality Working Group
No earlier than 30 June 2009	Advocates' Graduated Fee Scheme transferred to LSC
June 2009 – December 2009	Potential pilot for full means testing in the Crown Court
July 2009	VHCC Panel 1 ends
2010	Current Unified Contract comes to an end and new contract awards come into effect

This document needs to be read in the context of other publications – particularly the independent review of Legal Aid procurement by Lord Carter of Coles published in July 2006. The Government and LSC's response to this report was set out in *Legal Aid Reform: the way ahead*, which set the direction of travel for future legal aid reform and was augmented by a number subsequent consultation and post consultation papers on the implementation of fixed fees. All of these can be found on the LSC's website www.legalservices.gov.uk

Key Areas of Work

Best Value Tendering (BVT)

We have published a response to the consultation on best value tendering of Criminal Defence Services. We are intending a further consultation on the detail of how BVT could work in practice towards the end of this year, including full options for piloting price competition. A final decision on whether to progress with a pilot will be taken following this consultation in summer 2009.

Crown Court Work

We are currently exploring how all those defendants who can afford to pay for or contribute towards their defence costs in the Crown Court can do so. This work is at an early stage and the Ministry of Justice (MoJ) and the LSC are working closely with HMCS and other stakeholders to ensure that any proposals properly understand and costs their potential impact on the courts and the rest of the Criminal Justice System. We intend to consult on this work, including the provisions for piloting, later this year.

We are also considering the possibility of introducing means testing where cases are committed from the magistrates' court for sentencing only, in advance of other Crown Court work.

Crown Court Remuneration

The LSC is arranging for the transfer of the payment of advocates' graduated fees from the Court Service to the LSC. We will be consulting on how fees may be paid when the litigators' and advocates' fees are both paid by LSC.

Prison Law Work

We are currently at an early stage of examining how Prison Law work is provided to see how best the Carter principles may be applied to this area of work. We are working with other interested parties such as the National Offender Management Service (NOMS) and the Parole Board, and will be examining the contracting arrangements, value for money, scope, quality requirements and methods of delivery of this work as well as opportunities for improvements in the efficiency of the environment in which this work is delivered. Provider workshops will be held to help develop our thinking and a consultation is currently intended for publication later this year as part of a full consultation process in this area. It is proposed that any changes would be introduced in 2010, and may include the creation of a separate Prison Law contract.

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Quality Assurance for Advocates Scheme

A joint working group was set up in 2006 to identify the appropriate standards required of those providing competent advocacy in criminal defence cases, and to develop a mechanism to assess and badge advocates as competent at different levels of case complexity. Work, which since June 2007 has been led by the LSC and advised by a group comprising representatives of the solicitor and barrister profession as well as the judiciary, has recently agreed comprehensive competencies and is concluding work to define different levels of case complexity. Tenders to research assessment alternatives are due to be invited in July, and a pilot to assess Quality Assurance for Advocates (QAA) is set to begin in early 2009.

The Unified Contract (Crime)

The Unified Contract (Crime) started on 14 July 2008, will run until 2010.

During this period, LSC will give stability to legal aid providers by restricting amendments to the contract to those set out in the Unified Contract (Crime) July 2008. This will include those amendments necessary to respond to any legislative or other changes within the terms of clause 13.2 of the Unified Contract (Crime) July 2008 Standard terms that may arise in the lifetime of the contract. This will include those changes necessary to facilitate a pilot for Virtual Courts. Any proposed amendments will be consulted upon with TLS and other relevant representative bodies.

LSC will also use this time to review, with The Law Society (TLS) and others the existing cost compliance and quality procedures (including peer review) to ensure that they continue to be fit for purpose. LSC will want to confirm that these procedures maintain the right balance between its requirements to ensure propriety of expenditure and quality of service and the desire held by all stakeholders to reduce the burden of administration on legal aid providers.

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