

Criminal Contracting Consultative Group

Meeting held on 3 July 2007

In attendance: LSC – Tim Colliou, Alex Nash, Mike Crowley, Ellis Pinnell, Rebecca Tinker (minutes)

TLS – Alice Mutasa, Greg Lewis, Rodney Warren (Committee Member/CLSA)

CLSA – Andrew Bishop

1. Apologies

1.1 Derek Hill (LSC), Rob Brown (LCCSA), Tim Gir (LAPG).

2. Minutes of the last meeting

2.1 RW has given the LSC a list of changes he would like made to the last meeting minutes. These will be changed and circulated before the next meeting.

3. Matters arising from those minutes

3.1 No new issues were raised.

4. Payments, claims and supplier numbers update

4.1 The Group discussed issues raised by RW surrounding the reconciliation process of provider claims. It had been said that providers must now meet a reconciliation tolerance of 100% and that the date of reconciliation had changed so that it was on an historic basis. The latter would result in one month without payment. LSC confirmed that the tolerance of between 90% and 105% still applies to all contracts, but will check whether there has been a change in the reconciliation arrangements. **Post-meeting note:** The LSC confirm that when it reconciles a contract, the revised standard monthly payment is set at a level that will result in 100% reconciliation. This is to minimise the level of future intervention as a result of changes in a provider's profile.

4.2 RW raised concern over the frequency of account reconciliation and advised that it would be easier for accounts to be reconciled on a quarterly basis rather than monthly. LSC confirmed that during the past two years account managers have attended to accounts every six months, but this has led to a further six months of reconciliation. To resolve this issue, the LSC may intervene every quarter. RW asked whether the LSC had any intention of moving the date that monthly payments are made from the beginning of the month to the end. MC replied that he was not aware of any proposed move, but that the LSC will check to ensure that the terms of the Unified Contract supported this.

4.3 **Post-meeting note:** The basis of contract reconciliation for Crime suppliers has not changed for some time, although the Unified Contract, that will come into effect in April 2008, does not incorporate the one-month 'pull-forward' that is allowed presently. This would not mean however that Crime suppliers would go without payment for one month, but rather that any reduction that may be required would be spread over the contract period April 2008/March 2009.

Training on contract reconciliation for Account Managers and Relationship Managers is based around bringing the contract to 100% but the tolerance mentioned is to allow for the normal fluctuations that are seen in every firm's billing patterns and try to minimise the level of interventions.

- 4.4 **Post-meeting note:** Contract reconciliation data is provided to Account and Relationship Managers on a monthly basis but this would not necessarily mean that changes are made every month, as the tolerance mentioned in 4.3 would cover the majority of situations. Where claim patterns fluctuate more however, as has been seen over the past few months, then the level of interventions are bound to increase. There are currently no plans to move payments to the end of the month.
- 4.5 LSC circulated a paper showing the statistics of police station and Magistrates' Court claims, comparing claim figures from the past financial year. It showed that while the number of cases had fallen, the average case cost had increased. The Group discussed the possible cause of the rise in costs. RW felt that the CPS charging initiatives and fixed penalty notices were likely to be the cause.

5. Market Stability

- 5.1 LSC advised that the market stability measures project has finished and the current consultation on slot allocation is now part of the overall police station reforms. The consultation is now underway and will close on 2 August. Five responses have been submitted and four of those have chosen Option A - to continue with the existing method of allocation.
- 5.2 The Group discussed the draft form that enables providers to report if they have been disadvantaged by previous slot allocation proposals. LSC agreed to review changes to the form as suggested by RW before posting on the LSC website. It also agreed to forward a copy to representative bodies.

6. Police Station

- 6.1 The Group discussed the recently announced fixed fees for police station work. CLSA suggested that as the fees were based on historic data, the published fees would not reflect the average case cost when implemented in October. In addition, the effect of external cost drivers such as CPS charging initiatives would further impact on costs until the fees are rolled out. LSC confirmed that the fees consist of the average case cost of firms from 06/07 and that whilst there has been a slight increase in case costs this is not necessarily a uniform increase across all providers. The LSC noted that providers have significant differences in average case cost and that a large number of providers with low average case costs would benefit immediately from the introduction of fixed fees.
- 6.2 The LSC confirmed that the fee levels will remain under review and this was one of the reasons why providers will still be required to report actual costs from October. It was recognised CJS agency initiatives and police practices can contribute to greater case costs and is an issue the LSC would like to tackle. The Group agreed that the LSC would raise the issue, particularly bail backs during unsocial hours, at the next NCJB meeting. TLS representatives agreed to address the matter during the course of the PACE Review.

- 6.3 LSC asked the Group if anyone would like to comment on the published fixed fees. TLS confirmed it was not yet in a position to comment.
- 6.4 LSC confirmed that the fees do not include telephone advice only, where no attendance takes place, and can continue to be claimed separately. The fees are also VAT inclusive. Providers will need to use the current hourly rates to work out the escape fee. The Group agreed that an additional meeting would be needed to discuss the proposed contract changes before October.
- 6.5 No decisions have been made on implementation of a minimum contract size, but it will not be part of the reforms in October.
- 6.6 The Group discussed the General Criminal Contract amendments consultation and the new rules about payments for the life of cases at the police station. CLSA indicated that some providers will follow cases through to the end but due to the nature of duty work some solicitors will hand over their case to another firm once their slot has finished. LSC explained the proposals are intended to encourage providers to fully complete cases, but will look further into the issue of how payment would be made where multiple providers work on the same case.
- 6.7 The Group discussed whether a change in the number of providers would adversely affect the legal aid supply base. LSC confirmed that while there has been a slight drop in the number of providers since May, it was not a significant number to affect supply. It is not an issue if some providers stop doing legal aid work, but it might be if supply decreased in areas resulting in inadequate coverage. LSC stated that it does not have an ideal number of providers in mind.
- 6.8 RW requested to see a copy of the draft wider Regulatory Impact Assessment. LSC confirmed it is submitting a draft to its Commissioners in July and will circulate to the group when it is available.

7. Magistrates' Court

- 7.1 LSC confirmed a drop in the volume of legal aid cases dealt with at the Magistrates' Court. The reason for the decrease is due to a combination of the effect of means testing and charging initiatives. The data needs to be closely monitored before their impact is known.
- 7.2 RW requested information on the rate of legal aid grant in the Magistrates' Court and the LSC agreed to take it forward.
- 7.3 LSC explained that a paper on Magistrates' Court fees will be considered by Commissioners in July. It discusses the current issues relating to the roll out of new fees in urban areas across the country. To date, the LSC has received two judicial review notices from Hull solicitors and a firm called Rowe Sparks regarding the Portsmouth area.

8. Crown Court Fees

- 8.1 LSC confirmed the litigator's fee consultation has now been published. RW asked whether Crown Court cases would form part of the contracting regime or would it be taken away from firms. The LSC said that it will provide an answer to the group.

9. Very High Cost Cases

- 9.1 The LSC reported that their high cost cases team will consider tenders for VHCCs from the end of July.

10. Best Value Tendering

- 10.1 LSC explained that it would like a high level of involvement from representative bodies and providers in the development of BVT . A consultation paper on the proposals for best value tendering is currently being produced. The intention is to send this document to Commissioners in August and then to publish it at the end of summer 2007. The consultation will last for a 12-week period.
- 10.2 RW stated on behalf of TLS and other practitioner groups that they did not support the principle of best value tendering for defence services but that they do want to be fully involved in the reform of legal aid. RW confirmed TLS could not comment on BVT until it started to take shape.
- 10.3 The Group discussed whether BVT could work in all areas of the county. LSC indicated that the assessment of whether tendering had worked was wider than the price it achieved and that a major element of managed competition was based on the idea of revealing the true cost of supplying the service. It was noted that the existing schemes have been formed in a piece-meal way and the LSC confirmed they would need views from stakeholders as to whether certain schemes and areas of the country are ready for competition.
- 10.4 RW suggested that providers would want a baseline, or minimum payment, within their contract. LSC agreed that it needs to find a balance in sharing the risk of low volumes between providers and the LSC. RW expressed concern that newer or smaller providers might bid low in order to keep working in legal aid. CLSA added that the introduction of competition should have been given a longer lead time and that for example a five-year gap between the moratorium on new contracts and BVT would enable providers to better prepare.

11. Niche Suppliers

- 11.1 LSC confirmed it will consult on whether specific providers should provide a specialist service and have a national contract, or to offer the full service. The current position is to encourage providers to take on all categories of work. TLS indicated that some Niche Providers do not mind attending at the police station but do not want to do duty work.

12. Any other business

- 12.1 RW asked whether the crime peer review was on target and whether CDS Direct had been tendered. LSC agreed to send RW information on those points.

Paragraph reference	Action	Due date	Owner
2.1	Amend minutes from last meeting according to RW's corrections.	13 July 07	TC
4.1	Check if any changes have been made to current provider account reconciliations.	See post-meeting note	MC

4.2	Check whether the Unified Contract supports moving the date that monthly payments are made.	20 July 07	MC
5.2	LSC to consider RW's suggestions to the slot allocation form before posting on the internet. Circulate final copy to representative bodies.	13 July 07	NC/AN
6.2	Arrange for the issue of external costs drivers (specifically police practices) to be raised at NCJB.	20 July 07	TC
6.2	Address the issue of external cost drivers (specifically police practices) through the PACE Review.	<i>At next PACE Review meeting.</i>	RW
6.4	Schedule a meeting to discuss police station reforms, before October.	13 July 07	SA
6.6	Look into payment distribution where multiple providers have attended to the same case and report back at next meeting.	September 07	NC/AN
6.8	Send a copy of the wider RIA to RW once finalised.	August 07	SP
7.2	Send information on Magistrates' Court legal aid grant rate to RW.	20 July 07	TC
8.1	Provide an update to the Group on whether the Crown Court work will form part of the contracting regime.	31 July 07	TC
12.1	Send RW information on peer review and CDS Direct tendering timetables	20 July 07	TC

Next Meeting: 4 September 2007, Law Society, Chancery Lane.