

Criminal Contracting Consultative Group

Meeting held on 8 October 2007

In attendance: LSC – Derek Hill, Tim Collieu, Neal Craig, Paul O’Sullivan, Rebecca Tinker (minutes)

TLS – Alice Mutasa, Richard Miller, Rodney Warren
(Committee Member/CLSA)

CLSA – Andrew Bishop,

LCCSA – Greg Powell,

LAPG – Tim Gir

1. Apologies

1.1 Rob Brown (LCCSA)

2. Minutes of last meeting

2.1 RW stated that it was inappropriate to have a post-meeting note explaining the basis of contract reconciliation when it should be communicated to providers for clarification. Furthermore, LSC should address the issue of change in monthly payment rules where it might lead to a month’s less income for providers. LSC agreed and confirmed a letter would be sent to TLS outlining the reconciliation process and clarifying any potential pay issues surrounding the implementation of the Unified Contract.

3. Matters arising

3.1 TC circulated last month’s figures, showing spend and claim data. TLS requested for the data to be sent to members on a monthly basis and to include the number of contracts let. LSC confirmed that it would circulate the data, but that it would make more sense to provide data on the number of contracts from January to coincide with implementation of the new contract.

3.2 RW commented that it would be useful to have a map of places where Conditional Cautioning is set up against the LSC areas.

3.3 The Group discussed the data report and noticed that there was a dip in December and a spike in January. It was noted that it was likely to be due to Christmas, but that there may have been other reasons. Additionally, AB noted the sharp increase in ‘Other Proceedings’ data and questioned what work it covered. LSC agreed to add an explanation of possible cost drivers and to breakdown the data relating to ‘Other Proceedings’ in future reports.

4. LSC Statement

4.1 DH confirmed this agenda item would cover the LSC’s statement that came out with the new criminal contract package. Any questions asked by members in this meeting about the contract would be published in the Q & A document on the LSC’s website as it is a requirement of procurement law.

- 4.2 RM confirmed that TLS are in the process of sending a letter to LSC outlining several issues it has with the contract package. This is due to some of the existing clauses that in the new contract imply slight different rules.

5. Best Value Tendering

- 5.1 LSC advised that it could take any suggestions on board made by members at this meeting. The suggestions would be considered in the formulation of the consultation paper.
- 5.2 PO stated it is important that the BVT agenda item be treated as an off- the-record discussion and this was agreed by all present.

6. July 2008

- 6.1 LSC confirmed that the intention is to continue with plans to include criminal work in the Unified Contract. A consultation on plans for the Contract will be published in November. DH confirmed that the Contract would broadly mirror the civil part of the contract except in its detail. RW requested to see the Contract consultation in draft form.
- 6.2 RM added that a consultation on the Contract then publication of a response is not the best approach. Instead the process should involve a series of meetings. LSC confirmed that it would conduct a series of meetings as was done during the police station reforms consultation. RW said he would prefer not to have the LSC lawyers involved in the meetings. LSC confirmed that the intention is to have members of the policy team attend.
- 6.2 RM pointed out that the word 'tender' is being confused with BVT and some solicitors think that BVT will be implemented in July. LSC confirmed that there is no competitive element in the January contract and that BVT will not be implemented until 2009.
- 6.3 TLS asked if a minimum contract size would be included in the July Contract. LSC confirmed that it has not completely been ruled out, but is not likely for the moment.

7. Virtual Courts

- 7.1 LSC suggested that RW and Miles Dagnell should meet to discuss Virtual Courts and would set up a meeting.
- 7.2 RW stated that the greater use of technology in the court process is ideal, but certain firms should not be expected to deliver work just because they do not have the technology to do it. Also the cost of technology is an issue for firms. GP commented that virtual courts involve arbitrary moments of dealing with cases rather than following the process model.

8. CDS Direct / PACE

- 7.3 RW stated he is concerned with LSC changing s.58 of PACE and also around Bostal's involvement. Bostalls have been awarded a contract and that the three contracted firms are now receiving payment. He continued that Borstals is thought to have made a waiver application and therefore wondered whether it

was legal for that firm to now have a CDS Direct contract. LSC agreed to check with John Sirodcar who oversees CDS Direct policy.

9. Post-implementation Review

- 9.1 The Group discussed the recent means testing post-implementation review report. RW suggested it revealed the spend has reduced to £350m; that the savings forecasted is £58m; and that the target savings is £35m per annum. He thought the cost of administration of £23m was unacceptable. LSC pointed out that part of that cost came from Central funds and that some of the cost is going back to the firms.
- 9.2 RW commented that while the report stated the aim of means testing has been achieved the profession thinks the scheme is a shambles and a bureaucratic nightmare. In addition, the profession is opposed to the introduction of means testing in the Crown Court.
- 9.3 RW further said that p.33 of the report states that the recommendation for guaranteed payments for first hearings is not being taken forward and which he feels is erroneous. He suggested that a process that would enable the eligibility test to be made after the case is just as valid as one that performs the test at the outset.
- 9.4 LSC confirmed it would persevere with the policy for Early Cover. There are issues surrounding mental health and those self-employed which are currently being dealt with.
- 9.5 The Group discussed CJSSS and means testing. AB and GP thought that as a result of means testing, lawyers are acting against the aim of CJSSS. Lawyers are calling for adjournments in order to allow time to sort out their legal aid. TLS added that the low-quality of decision-making (grants) in the report was noticeable and further asked how much would the administration costs be to take forward the next steps. LSC confirmed it would check the costs.
- 9.6 RW made a suggestion on an alternative to means testing. A surcharge could be put in place to cover the legal aid fund which is similar to the victim surcharge currently used. LSC said it would take the suggestion on board.
- 9.7 LSC confirmed that the thinking behind a potential Crown Court means testing scheme would begin next year.

10. Any other business

- 10.1 TG asked about the current policy on cost compliance audits and in particular how it will affect his firm. LSC explained that it is re-stating the Cost Compliance Audit process. LSC confirmed it would check the position of TG's audit with his account manager.
- 10.2 A question was raised about the position of the Preferred Supplier scheme. LSC confirmed that it won't be affected by any of the reforms, although the Preferred Supplier status will expire in October.

Paragraph reference	Action	Due date	Owner
2.1	Write to TLS clarifying the reconciliation process and impact of implementing criminal work into the Unified Contract.	19/10/07	TC
3.1	Circulate spend and claim figures to members on a monthly basis and include an explanation of likely cost drivers and a breakdown of 'Other Proceedings'. Diary to include information on contract numbers from January onwards.	From 11/07	TC
3.2	Consider drawing up a map which superimposes Conditional Cautioning areas with LSC areas.	19/10/07	TC
3.3	Add an explanation of possible cost drivers and to breakdown the data relating to 'Other proceedings' in future reports.	5/11/07	TC
6.1	LSC to consider sending TLS a copy of the UC consultation before publication.	26/10/07	NC
6.1	LSC to set up a series of meetings with TLS to discuss progress on the UC consultation.	26/10/07	NC
7.1	Meeting to take place between RW and Miles Dagnell to discuss the issues surrounding Virtual Courts.	26/10/07	RW
8.1	Check the position with Bostals in relation to its waiver application.	19/10/07	TC
9.5	Check with Hilary Baker the forecasted costs of taking forward the recommendations of the means testing review.	26/10/07	TC
9.6	LSC to discuss the suggestion about using a surcharge system for criminal legal aid in the magistrates' court.	31/10/07	TC/HB
10.1	Check with TG's account manager the reason for the cost compliance audit.	26/10/07	NC

Next Meeting: 6 November 2007 at the Law Society, Chancery Lane.