

Appendix 8A Letter to existing local administrators April 2001

Letter to existing local administrators

Dear

Continuation of Local Committees after 1 April 2001

Firstly may I thank both yourself and the other members of your local committee for their time, effort and achievements since the committee has been in operation. I can assure you that these are appreciated by both the Commission and myself.

We now need to begin the process to continue/establish the committees which are required by the Commission's Duty Solicitor Arrangements 2001.

As a first step I should be grateful if you would confirm whether your local committee wishes to continue after 2 April and, if so, whether all members wish to do so.

The Commission's preference is for local committees to continue in which case we will need to tell all contracted suppliers that:

- the current committee wishes to continue and that this has the support of the Commission
- the Duty Solicitor Arrangements 2001 allow each supplier to have the opportunity to join the committee. We therefore need to ask suppliers if they wish to take up this option. If the number of suppliers taking this option results in the committee becoming too large then it will be necessary to organise a ballot for committee places.

Can you therefore please confirm:

1. whether your committee wishes to continue after 2 April 2001,
2. if so, whether all members wish to continue,
3. who is the current member who attends the Court Users meetings and whether that person is content to continue in this role after 2 April.
4. if there is no wish to continue with your local committee, is there another committee (for example, a sub-committee of the local law society) which might take its place.

Please also let me know if any of your duty solicitors have been suspended or removed from your scheme for the period 1 January to 1 April 2001 in which case they cannot be "passported" through as duty solicitors and will have to obtain duty solicitor accreditation.

Finally, please let me know, if your local committee wishes to continue, whether it wishes its current representative on the Regional Committee to continue as a member of the Regional Committee.

Yours sincerely

Regional CDS Manager

Appendix 8B Letter to suppliers when local committee wishes to continue

April 2001

Letter to suppliers where local committee wishes to continue

Dear

Duty Solicitor Scheme

The XXX local committee have confirmed that they wish to continue to meet to fulfil the requirements of local liaison.

Paragraph 7.24 (a)(i) of the Duty Solicitor Arrangements 2001 allows each supplier the opportunity to request representation on the local committee. Please contact me if you wish to exercise this option. If the number of requests for representation are such that the local committee will become too large, then a ballot will need to be arranged. Alternatively you may be content to attend any Franchise Liaison User Group (FLUG) meetings that will be arranged where all contracted offices will be invited to attend.

Yours sincerely

Regional CDS Manager

Appendix 8C Letter to suppliers where local committee does not wish to continue

April 2001

Letter to suppliers where local committee does not wish to continue

Dear

Duty Solicitor Scheme

I understand from [name of administrator], the administrator of thescheme, that the local committee does not wish to continue after the introduction of the Criminal Defence Service on 2 April 2001.

It is not essential that there should be a local committee but, if you and other suppliers would like to see the continuation of such a committee, please let me know and also let me have the name or names of persons (not more than 1 per supplier) you would like to nominate to represent suppliers on your local committee by [insert date giving at least 14 days for a response]. The nominees may be duty solicitors on your scheme or, for example, a practice manager.

If there is no particular desire for the continuation of a local committee then I will proceed as follows:

- for local consultation, I will arrange a local meeting as and when necessary and send a letter to each supplier notifying you of the time and place of the meeting and the subject matter on the agenda. Such a meeting might, for instance, cover a discussion about a change to the local scheme.
- for a representative of your scheme on the regional committee, I would suggest that either your present representative, [insert name of representative and supplier once CDSM has ascertained from the representative that he/she is willing to serve on the new regional committee] or, alternatively, you may wish to nominate another representative. If the latter, please advise me of the duty solicitor you wish to nominate.

Yours sincerely

Regional CDS Manager

Appendix 8D Letter about ballot & ballot form April 2001

Letter about having a ballot

Dear

Local Duty Solicitor Scheme

I have received so many nominations for membership of your local committee that I have come to the conclusion that the committee would, under paragraph 7.25 of the Commission's Duty Solicitor Arrangements 2001, be too large to facilitate effective consultation and liaison.

I consider that the appropriate number of members to represent suppliers on your local committee should be [10] and would therefore be grateful if you would vote for not more than [10] of the nominees on the attached ballot form.

Please return the ballot form to me by [insert date not less than 14 days hence]. Once I have analysed the returned ballot forms I will notify you of the result. If there is a tie for the [10th] place I will organise an additional ballot for the nominees concerned.

Yours sincerely

Regional CDS Manager

Enclosure: Ballot form.

Ballot Form

[Name of local committee]

The following have been nominated to be members of the local committee. You may vote for up to [10] of the nominees by placing a tick or cross against their name. If you vote for more than [10], I will disregard all your votes.

This form must be returned to me by [insert same date as in the covering letter].

Name of Nominee and Employer	Vote

Signed

Supplier's name

Date

Appendix 8E Terms of reference for local committees April 2001

Terms of reference for local committees

NOTE: Local committees are a consultation body and not a decision making body.

- To monitor performance for local scheme
- To suggest areas of potential improvement for the local scheme
- To investigate any general complaints. A complaint against a specific supplier will be investigated by the CDS
- To resolve issues affecting local scheme
- To be a prime point of contact with other criminal justice agencies
- To ensure that one person attends Court User meetings which should be used as the focus for agreeing local changes needed
- To provide advice and assistance regarding potential service level agreements/protocols with other criminal justice agencies
- To review terms of reference annually and (a) decide where action is needed to improve the committee's effectiveness (b) if recommendation should be made to RCDM to amend the terms of reference
- To propose changes to local instructions and to consider any changes proposed by the Commission

Appendix 8F Lay member application form April 2001

Letter to be sent out to prospective lay members of a regional committee

Dear

I understand that you have expressed interest in joining the..... Regional Committee as a lay member. If you would like to apply for membership, please complete the enclosed application form and return it to me.

The enclosed note explains how the court and police station duty solicitor schemes work. The role of the lay member is explained at the end of the note.

Please note that JP's, probation and court staff are not usually appointed as lay members to duty solicitor committees.

It would be helpful if you would return the application form by [insert date].

Yours sincerely

Regional CDS Manager

Enclosures:

Application form attached to Appendix 8F.

Appendix 8G.

**APPLICATION FORM FOR MEMBERSHIP OF
REGIONAL COMMITTEE**

CONFIDENTIAL

(to be seen by Legal Services Commission staff and members of relevant Regional Committee)

If there is insufficient space for your answers on this form please use an additional piece of paper.

Title:

First Name: Surname:

Address:
.....

Date of Birth:

Please give the following information if we may contact you by that means:

Telephone:

E-mail:

1. Please give details of how you have spent the last few years. Please include voluntary community activities, both formal and informal, care of family, any jobs you have had, as applicable.

Dates Activity

2. Please give details of any skills or abilities which you feel might have relevance to this application.

3. Please give details of any courses, evening classes etc., you have attended and any qualifications you have obtained.

4. Please give details of any experience you have in connection with magistrates' or youth courts or police stations e.g. voluntary services at court, member of a police station Lay Visitors scheme.

5. What experience do you have of being a member of a committee?

6. Is there anything else you would like to tell us?

7. Do you have any criminal convictions which are not spent under the Rehabilitation of Offenders Act 1974? YES/NO If 'Yes', please give details.

8. Who, if anyone, has nominated you for membership of the relevant regional/local committee?

SignatureDate

Appendix 8G Terms of reference for regional committees

April 2001

Terms of reference for regional committees

NOTE: Regional committees are a decision making body for appeals and a consultation body for other issues

- To be a centre of expertise providing advice as to how schemes are best organised e.g. rota/panel times, amalgamation of schemes etc
- To review performance standards achieved across the region
- To provide advice re “best practice issues”
- Using guidance, to decide appeals (except involving accreditation).
- To investigate issues which cause poor service to clients e.g. lack of interview facilities
- To investigate issues which cause unnecessary expenditure e.g. long waiting times
- To ensure effective communication with other Criminal Justice agencies and to arrange effective input from prime agencies such as CPS, courts, and police
- To investigate proposals for changes in work practices from other agencies
- To provide advice and assistance regarding potential service level agreements/protocols with other Criminal Justice agencies
- To undertake court monitoring – (process to be revised)
- To review terms of reference annually and decide:
 - (a) where action is needed to improve achievement
 - (b) if a recommendation should be made to the CDSM to amend the terms of reference.

Appendix 8H Background information for CDS committee members

April 2001

Background information for CDS committee members

HISTORICAL DEVELOPMENT

Parliament originally authorised the introduction of the court duty solicitor scheme in the Legal Aid Act 1982, building on voluntary schemes initiated by the legal profession dating back to the 1970s. The police station scheme was introduced through the Police and Criminal Evidence Act 1984 (PACE). Until its introduction few criminal suspects received legal advice whilst in police custody.

From 2 April 2001, the Criminal Defence Service (CDS) as part of the Legal Services Commission (LSC) is responsible for duty solicitor schemes as part of its wider responsibility for publicly funded criminal work. Its head office is in London and there are eleven regional offices throughout England and Wales.

THE COURT SCHEME

The purpose of the court scheme is to ensure that almost anyone who appears before a magistrates or youth court for the first time in connection with a criminal charge and has no-one to represent them can receive advice and representation free of charge from a competent solicitor.

The court duty solicitor can apply for an adjournment and/or bail and/or represent on a guilty plea. Where a defendant intends to plead not guilty, the duty solicitor can assist in applying for a representation order. available to help defendants who appear before the court for not having paid a fine or who have disobeyed an order of the court. Representation is not usually available in connection with non-imprisonable offences unless there is good reason.

Court duty solicitors also provide representation for Early First Hearings (guilty pleas) and Early Administrative Hearings (not guilty pleas).

If a court is “busy” (dealing with more than 1,250 non-motoring cases per year) then a duty solicitor will usually be in attendance at the court until there are no more defendants needing help. If more than 7 defendants per day need representation by the duty solicitor then more than one duty solicitors may be in attendance. If only one duty solicitor is in attendance, but the volume of clients on that particular day is such that the duty solicitor needs assistance, the duty solicitor may arrange for another court duty solicitor from that local scheme to assist.

If a court is “less busy” (less than 1,250 non-motoring cases per year) then a duty solicitor is not usually in attendance but can be called in by the court when needed.

Solicitors on an attendance scheme are paid an hourly rate whether or not there are clients needing assistance whereas those called in can claim travelling costs (which those in attendance cannot except on non-business days) and are only paid for the time that they act as duty solicitor.

THE POLICE STATION SCHEME

The police station scheme is designed to provide a service which ensures that suspects being questioned by the police have access to free legal advice at all hours of the day or night.

A suspect who is arrested is made aware of the police station duty solicitor service by:

- posters in the police station
- a legal requirement that they must be informed clearly by the custody officer (a police officer responsible for the welfare of the suspect) of the right to have independent legal advice and given a printed “notice to detained persons”
- being asked to sign the custody record to confirm whether legal advice is or is not required

Only in exceptional circumstances should a client who requests legal advice be interviewed before this advice is received.

The client may request either a named solicitor (own client) or the services of the duty solicitor. If a duty solicitor is requested the police will ring the Duty Solicitor Call Centre (a telephone bureau paid for by CDS) who will arrange for a duty solicitor to attend. Research suggests that 40% of suspects request legal advice and duty solicitors provide one-third of this advice with own client work making up the remaining two-thirds.

Contact with duty solicitors is organised in two ways:

Panel : A list of duty solicitors. The Call Centre go through the list approaching each duty solicitor in turn until one accepts the call. This arrangement is usually in place at times when demand for duty solicitors is likely to be low.

Rota : A named duty solicitor who is on duty during a specified period (say 09.00 until 18.00). If that duty solicitor is already busy at the police station or cannot be contacted, the Call Centre revert to a panel arrangement. Duty solicitors are paid (c. £4.20 per hour) to be available on rota.

The rota and panel arrangements can be mixed for a scheme for example a rota overnight and at the weekends and a panel at other times.

Duty solicitors must provide initial telephone advice to clients. After this they may send an accredited representative to the police station. An accredited representative is an individual who has passed a series of assessments and whose name is on a register maintained by the LSC. The LSC has specified in its contract with suppliers the more serious instances where either the duty solicitor or an accredited representative **MUST** attend the police station. In other circumstances the solicitor can use his/her discretion. For example in a drink driving case, initial telephone advice is usually sufficient.

REGIONAL OFFICE STRUCTURE

Each LSC regional office is managed by a Regional Director. Amongst other managers, each regional office has a Regional Criminal Defence Service Manager (CDSM) who has responsibility for managing publicly funded criminal work.

Each solicitors' office that wishes to undertake publicly funded criminal work does so through a contract (the General Criminal Contract) with the CDS. The contract requires that the supplier passes a number of quality assurance standards (the franchise standard) primarily assessed by annual audits at their offices by LSC staff.

In order to be a member of the police or court duty solicitor scheme, until 1 February 2001, applicants were assessed for competence by a local committee comprising local duty solicitors and lay members. From 1 February 2001, applicants must apply to one of the assessment organisations approved by the Law Society (the solicitor's representative body) and pass an accreditation process covering the skills required to give advice in police stations and act as court duty solicitors. Further details of the accreditation process are available from the Law Society's website.

COMMITTEE STRUCTURE

There are two levels of committee:

LOCAL COMMITTEE

Not all schemes will have a local committee. Local committees are comprised of local duty solicitors, lay members and other criminal justice agencies. The role of a local committee is to:

- monitor performance of the local scheme
- suggest areas of potential improvement for the local scheme
- investigate any general complaints. A complaint against a specific supplier will be investigated by the CDS
- resolve issues affecting local scheme
- be a prime point of contact with other criminal justice agencies
- ensure that one person attends Court User meetings which should be used as the focus for agreeing local changes needed
- provide advice and assistance regarding potential service level agreements/protocols with other criminal justice agencies
- To review terms of reference annually and (a) decide where action is needed to improve the committee's effectiveness (b) if recommendation should be made to Regional CDS Manager to amend the terms of reference
- To propose changes to local instructions and to consider any change proposed by the LSC

Note that local committees are not a decision making body although they can submit their views to CDSMs and/or regional committee.

REGIONAL COMMITTEE

Each local committee can elect a member to attend its regional committee. If there is no local committee there should nevertheless be a local representative on the regional committee. Some LSC regional offices have more than one regional committee primarily because of the size of their region. Other members of the criminal justice system such as police, court service, probation service etc will also be members of the regional committee as will lay members.

The terms of reference for regional committees is:

- to be a centre of expertise providing advice as to whether schemes are best organised e.g. rota/panel times, amalgamation of schemes etc
- to review performance standards achieved across the region
- to provide advice re "best practice issues"

- using guidance, to decide appeals (except involving accreditation)
- to investigate issues which cause poor service to clients e.g. lack of interview facilities
- to investigate issues which cause unnecessary expenditure e.g. long waiting times
- to ensure effective communication with other criminal justice agencies and arranging effective input from prime agencies such as Crown Prosecution Service, courts, and police
- to investigate requests for change in work practices from other agencies
- to provide advice and assistance regarding potential service level agreements/protocols with other criminal justice agencies
- to undertake court monitoring
- to review terms of reference annually and decide:
 - (a) where action is needed to improve achievement
 - (b) if a recommendation should be made to the LSC's Criminal CDS Manager to amend the terms of reference.

NOTE: Regional committees are a decision making body for appeals and a consultation body for other issues.

APPEALS

Regional committees will hear appeals against (a) suspension/removal of duty solicitors or representatives (b) refusal of applications to join duty solicitor schemes (note that applicants must either be an existing duty solicitor or have passed accreditation re competence from a Law Society approved assessment organisation).

DUTY SOLICITOR ARRANGEMENTS

These are the rules made by the LSC that duty solicitors must operate within. The Arrangements also provide the rules for appeals and how these must be dealt with. It is important that each committee member has read these Arrangements.

DUTY SOLICITOR MANUAL

The Duty Solicitor Manual contains guidance for Regional CDS Managers on a variety of issues such as applications to join duty solicitor schemes and how suspension/removal of a duty solicitor should be applied. The manual has been consulted on with solicitors' representative bodies and is available via the LSC's website. Any relevant guidance will be drawn to a regional committee's attention when necessary, for example, when dealing with an appeal.

THE ROLE OF LAY MEMBERS

The role of lay members can be defined as to:

- add a non-legal perspective to the deliberations of committees. The regional and local committees have solicitor majorities and other members will be involved in the judicial system e.g. JPs. It is important that the lay member tries to reflect the public interest.

- represent the views of clients in the scheme. Other committee members will be involved in the judicial system and they may have vested or competing interests. It is important that the interests of those on the receiving end of the legal service should be represented on the committees.
- To participate in the appeals of duty solicitors and representatives. The lay member has an important role to play in ensuring that only those applicants who meet the relevant criteria are allowed to participate in the schemes.
- To monitor performance. Lay members can assist committees in monitoring all aspects of the service given to clients.

Appendix 8J Suggested Regional Committee Meeting Agenda

- ◆ Welcome by chair
- ◆ Apologies
- ◆ Position re local committees
- ◆ ACJLC and TIG updates
- ◆ CDSM update
- ◆ Scheme performance
- ◆ Monitoring visits
- ◆ Appeals (not the hearing but the results and appointment of next appeal committee)
- ◆ Any other business

Appendix 10A Note explaining Promis

April 2001

ROTA PRODUCTION

Introduction

As part of the introduction of the Criminal Defence Service, the Legal Services Commission (LSC) will be assuming responsibility for the production and distribution of duty solicitor rotas.

Each regional office will be using a software package called Promis to produce the rotas. The aim of this note is to inform you of the basis on which the software works and thus assure you of its fairness in allocating duties.

Slot Allocation

Slots are allocated as being weekday, weekend or Public Holidays slots. Allocation to slots within each category will be made in rotation in order to ensure that, as far as possible, each type of slot is evenly distributed. When the software is initially installed, it will not have any "history" of previously allocated duties. This may result in someone on duty at the end of the last rota being placed near the top of the first computerised rota. This may involve a small amount of inconvenience but no extra turn has been allocated.

In addition, where court duty solicitors are allocated to different types of slot e.g. custody/bail/youth the software will ensure that allocation between these duties is fair.

Regular absences approved by the Commission, e.g. for religious reasons, will not mean "missing a turn". If your turn falls on such a day and you have advised us of your need you will retain your priority and be allocated a slot when you are next available for duty.

Similarly, if you notify us about a holiday we will not allocate a slot to you for that period. If you would have had a slot during the period, you will retain your priority and be allocated a slot when you are available for duty. If your holiday covered more than one slot, only one will be compensated for one.

Each LSC region will prepare the rotas for its schemes. Within each region, we will not allocate you to more than one rota at the same time but those of you participating in schemes in more than one LSC region, you may occasionally find conflicting rota commitments. This is the same as at present and we ask you to continue the current practice of arranging swaps.

We will not allocate more than 50% of a supplier's solicitors to duty solicitor work on any one day without the consent of the affected supplier.

In future the rotas will look like this:

Scheme name: MELCHESTER

Rota Description:

Period Covered: 1/4/01- 31/7/01

Date	Day	Slot	<i>Adult Custody</i>	<i>Adult Bail</i>	<i>Youth</i>
1/4/01	SUN				
2/4/01	MON	0900-1700	Tom Smith 1234567	Dick Jones 8910123	Harry Patel 456789
3/4/01	TUE	0900-1700	George Reilly 101112	Mildred Stone 131456	

Note that roll numbers will be printed in addition to names to avoid ambiguity.

Rota Distribution

When the rotas have been produced, we will be e-mailing or faxing (according to your preference) one copy to your practice. We will also E-mail/fax a list of all rota members and their contact details.

Further Details

If you have any further questions, please contact insert name and contact details of CDSM].

Appendix 10B Record of dates rotas issued April 2001

Record of dates rotas issued

Year 2001/02

Name of rota	Date of issue	Date of Commencement

Appendix 10C Sense Checking Of Rotas

- ✓ New members have been added to the scheme
- ✓ Retiring members have been removed from the scheme
- ✓ Every solicitor on the scheme has been allocated slots
- ✓ All required duties have a solicitor allocated – in particular check Saturday courts, occasional courts and Bank Holidays
- ✓ The rota structure is sensible i.e. separate rotas are used when required to ensure fairness e.g. main solicitor and back up solicitor
- ✓ Formatting of the printed rota is sensible i.e. all police rotas are printed together all court rotas are printed together and main courts are printed first
- ✓ Numbers of slots have been fairly allocated i.e. no more than a difference of one between different solicitors
- ✓ Slots are evenly distributed as far as possible i.e. say on a rota with 20 sols, look out for anyone whose second slot is 30 or more slots away from their first. *NB this may be a conscious decision on our part and we have intervened to avoid clashes, but we must be prepared and happy to justify this.*
- ✓ 3rd slots have not been allocated before every solicitor has had their first etc
- ✓ There is a fair spread of ‘busy’ slots and ‘quiet’ slots. This is clearly a subjective view based on our knowledge of that scheme. E.g. every day is busy on Nottingham police station scheme, but only Thursday to Saturday nights are busy in Kettering.
- ✓ There is a fair spread of the unpopular duties e.g. Bank Holidays, but Christmas and Easter are the particularly unpopular duties. We should compare the allocation to which solicitor was allocated the duty over the last couple of years.

