

# MINUTES OF THE MEETING OF THE CRIMINAL CONTRACT CONSULTATIVE GROUP 27 JULY 2001

Present: Tim Colliou (Legal Services Commission), Richard Collins (Legal Services Commission), Andy Grant (Legal Services Commission), Greg Lewis (Law Society), Rodney Warren (Law Society), Steve Wedd (CLSA)

## 1 Apologies

Robert Brown (LCCSA), Katherine Pears (Legal Services Commission)

## 2 Restructuring of Police Station Work

The Legal Services Commission reported that the data capture exercise that it was undertaking to build a database on police station calls had now been completed and involved the collection of approximately 14,000 bills. These would be entered onto an Access database and provided to the Society by the 3 August.

The Law Society group looking at the restructuring of police station work and comprising members of CLSA, LCCSA and LAPG had met once and a further meeting was planned for 10 August. A request for further data from the Commission to help develop proposals for restructuring had been made.

It was agreed that there is common ground on what needs to be achieved, the limitation is the overall budget. There is an opportunity to deliver a system that is agreed by both the Commission and the Society.

## **ACTION**

- **Law Society team to produce draft alternative arrangements once further data received from Commission.**

## 3. I.T. Issues/Costs

It was reported by the Commission that changes to forms should now be slowing down and that no more were expected before December. Any further changes would be reviewed through the relevant Monitoring Group.

Problems with software suppliers were reported, notably software that did not work or that was prohibitively expensive. The profession was vulnerable to poor quality suppliers. The Commission agreed to put forward proposals at the next meeting of the Monitoring Group. The Society expressed a willingness to help where necessary and suggested a standard software set could be manufactured and distributed to the profession. This would also ensure integration with the Commission's SPOCC payment system. There would be a meeting of the approved software suppliers at the Commission on 3 September.

## 4. Quality Mark Requirements

It was reported by the Commission, that LAPG had expressed satisfaction with the redrafted Quality Mark. The Society would respond to the formal consultation, and would pay particular regard to the effect on criminal practitioners.

## 5. Transaction Criteria

The responses to the redrafted criteria had been considered and divided into three categories. These would be further discussed at a meeting organised by the Commission's Supplier Development group attended by the Society and representatives from CLSA and LCCSA. The Society questioned whether the introduction of the Specialist Quality Mark and new Transaction Criteria would be welcomed by those firms still having difficulties with the introduction of the contract.

## 6. Auditor Training

The Commission outlined the audit training structure. There were three levels of training; CDS Managers, Costs Assessors and Account Managers and Lead Assessors. It was confirmed that the Society's offer of involving its members as part of the auditor training would be beneficial and that this would be taken forward.

Cost Compliance audits were due to commence in August.

### **ACTION**

- **The Commission to make assessment materials available to the Society.**

## 7. Reconciliation and Recoupment

The Society had been contacted by firms who were worried about the effect of the proposed reconciliation. The Commission had a target for bills to be within 5-10% of payments. The Commission contacted every firm that was outside 60% in May and was now contacting all firms who were outside 20% of the target. Recoupment would be invoked after 5 payments, i.e. in September.

The CDS 7 average cost had been higher than anticipated. With regard to claimed rates against payments, the Commission provided figures that showed the average assessment rate was 6-7% for non London offices, but around 34% in London. Further dialogue was needed to establish what was causing the problem.

The Commission provided a graph showing CDS 6 case levels close to hitting the planned running rate of 80%. However, a graph plotting payments made against work claimed (CDS 6 and 7) showed a national average of just 68%. The Commission would undertake further analysis and noted that a number of big London firms had dragged down the average by not billing in April and May.

Whilst it was agreed that some form of recoupment would be needed the Society were concerned that the Commission were moving too quickly. The Commission argued that they were only reconciling to 80% rather than the originally planned 95%. Firms would be contacted to ask what their predicted running rate would be, but Account Managers would have no discretion with regard to the 80% reconciliation in September.

The Society stressed that the profession would need to know when reconciliation would happen again and the Commission suggested they would have a better idea after analyzing the July data. However, the group noted the requirement to monitor the overall performance of the contract and that a further reconciliation exercise would be necessary to bring all contracts within 90% to 95%.

### **ACTION**

- **Firms needed to be warned about the impending reconciliation. The Monitoring Group to consider the issue further at its September meeting.**

#### 8. CDS 7 Appeals

Concern was expressed at the time taken by the Commission to call for files, assess and then deal with the appeal.

#### **ACTION**

- **The Commission to consider this further.**

#### 9. Post charge investigation work

The issue of payment of Criminal Investigation work once the client had been charged had been considered by the Commission. They proposed that where a client was arrested for breach of bail or for failure to attend, these would be treated as new offences and remunerated at police station rates. It would effectively be a second claim under the Investigations Class, but would have the same UFN. Further thought was required to consider how to deal with I.D. Parades.

#### 10. Financial Monitoring Group

It had now been agreed that this should meet twice a year, chaired by Steve Orchard. The first meeting was likely to be in September or October. There would be two Law Society representatives.

#### 11. Administration Issues

Volume 4 of the Legal Services Commission Manual had now been published.

#### 12. Any Other Business

Advocacy Assistance Clients who face a driving ban when reaching 12 points on their licence are no longer covered by the criminal contract. The Court Duty Solicitor can do the work, but under the contract, the Duty Solicitor of choice can no longer do it. Solicitors cannot get a representative order because the case is usually one of speeding or careless driving. Clients likely to lose their livelihood or suffer some other serious hardship. Therefore exceptional hardship is argued to avoid a ban in the courts.

The Commission had suggested that it could be done as an emergency own solicitor, but would be called a back up court Duty Solicitor as the court Duty Solicitor would not have had the time to take full instructions or do the case on the day.

Cases such as these that are not by way of charge where advocacy assistance should be available are effectively another Duty Solicitor of choice scenario.

#### **ACTION**

- **The Commission agreed to consider further this lacuna**