

MINUTES OF THE MEETING OF THE CRIMINAL CONTRACT CONSULTATIVE GROUP 3 OCTOBER 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), Robert Brown (LCCSA).

1 Apologies

Hilary Moufid (Legal Services Commission), Katherine Pears (Legal Services Commission)

2 Minutes

It was agreed that the tone of the minutes was important and should reflect the progress being made whilst taking into account the Society's efforts on behalf of the profession.

3 Restructuring of Police Station Work

The Society thanked the Commission for the reply to its letter regarding the payment structure for police station advice and assistance. The Society's Working Group was currently developing alternative proposals and it was agreed that a joint meeting at the beginning of November would be helpful.

ACTION

- **Law Society and Commission to agree a date for the meeting.**

4. Reconciliation and Recoupment

The Society accepted that the figures supplied by the Commission showed that the problems with reconciliation and recoupment were not spread evenly across the region and affected some areas more than others. The issue for the Society was not whether the process had to take place, but whether the difficulties were being exaggerated by the underlying rates that underpinned the contract.

The Commission's total spend on criminal legal aid this year was estimated to be £480M minus the £65M pull forward in April. The budget was not however, cash limited. If firms billed more in the latter part of the year then the estimate would rise. It was also emphasised that last year's spend of £450M was not directly comparable, taking into the account the changes brought about by the introduction of s.51 Crime and Disorder Act; payments under the advice and assistance pilot contracts and work done by the Public Defender Service.

The Commission reported that the current turnaround of CDS 7s was 14 days. The Society said it had examples of payments taking longer than this and the Commission agreed to look at any examples brought to their attention. The Commission's offices were currently dealing with approximately 1000 CDS 7s a month, more than had been anticipated. They were unable to credit the value of CDS 7s prior to assessment.

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 of their SPOCC data, but noted that a number of big London firms had dragged down the average by not billing in April and May.

The Commission reported that the current average assessment rate on CDS7s was between 6 – 7% nationally, but around 21% in London. It was agreed that better results would be achieved by education of the profession as well as compliance audits. In doing so this should allow the Commission to direct resources elsewhere.

The Society asked about the success rates on appeal against costs assessments and the Commission said that they won the majority. The figure pre contract was approximately 85%.

The Commission provided some further figures on the contract and suggested that they indicated the billing pattern was now settled. The national average was 78% to August, but this was anticipated to climb when September's figures were inputted.

The issue of Bailbacks was discussed, it was suggested the effect they had was more critical in London. A similar argument was put forward for the high percentage of pilot firms in the capital.

The next reconciliation was planned to take effect in December and would aim to provide the 'soft landing' for firms as the end of the first year schedule was reached in April. A new payment rate would be calculated for the remainder of the year. This would be a national exercise.

ACTION

- **Firms would be contacted in October to be informed of their new SMP payment rate.**

5. Acknowledgement of CDS 6

It was agreed that the consequence of the Commission not receiving the CDS 6 was severe for firms. The Society suggested the solution was to inform the firm where it had not been received. This was problematic, but one long term solution might be the EDI (Electronic Data Interchange) system that was currently being piloted. There were only 17 firms on it at present, but the hope was that this would be expanded to eventually allow the electronic exchange of firms' individual data.

6. Remuneration Rates

If there are significant problems with the rates, then the aim must be to understand the situation on the ground. This in turn might help to influence any advice given to the Lord Chancellor regarding an uplift. The Society suggested that the major concern of firms is the underlying hourly rate, bearing the increased administrative burden imposed by the contract. There were also recruiting problems for firms and some age profiling of Duty Solicitors was requested by the Society.

7. I.T. Issues/Costs

It was reported by the Commission that some software suppliers had built in alerts to their systems that allowed firms to calculate how much extra fee earning work would allow them to reach the next band on a standard fee case. This had also been raised at the last software suppliers meeting on 3 September. The Society said that it could not condone any claim that was fraudulent, but suggested that such claims would in any event be picked up on audit.

8. Extended Court Sitting Hours

No detailed proposals had yet been received, but it was suggested by the Society that any pilots would require new money and that the issue would be what rates would be paid to undertake the work.