

*Regional Prioritisation
and Contract Awards*
An Introduction

2003

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□ □ ■ **Preface**

This introductory booklet is issued to accompany each of the Regional Reports and Strategies published by the Legal Services Commission (LSC) regional offices, and the LSC's national document *Legal Services Commission Contracting Priorities and Strategies: An Overview*. It sets out the policy context and practicalities of the new LSC processes as background to the regional documents.

Information regarding the status of these documents, consultation, the planned report cycle and our approach to equal opportunities assessment under the Race Relations Amendment Act (2000) is provided at the end of the booklet.

Statement by the Chief Executive



Publication of our Regional Reports and Strategies marks another important stage in the development of the Community Legal Service. The Legal Services Commission's contracting regime has been operational for nearly 3 years and we are approaching a new year for contracts beginning April 2003. The Specialist Quality Mark is a requirement for our funding. At the same time, over 99% of England and Wales is covered by a Community Legal Service Partnership (CLSP). More than half of these CLSPs have delivered their first strategic plans for legal advice in their area. Many more have completed wide-ranging needs assessments for advice.

Following consultation, the Commission is now putting in place a process for regional prioritisation of needs which brings together contracting and partnership-working. Each Regional Legal Services Committee has been directed to submit a Regional Report which draws on the evidence gathered by CLSPs and sets out recommendations which will, in turn, inform an LSC Contracting Strategy for the Region.

It is important for me to underline that the RLSCs' recommendations are for refocusing our contracting spend as and when money becomes available. Within the constraints of our current budget, we cannot realistically expect this to take the form of new money. Instead, my Regional Directors will be looking carefully at the pattern of spend in their regions to ensure that it is focused on where the need is greatest.

From the outset, the CLS was devised in order to get the best value for the public from a limited budget. This was the reason for its emphasis on an evidence-based approach to planning and funding, working in partnership with others. Despite the many, often conflicting, demands on our resources, we remain committed to our aim of helping people get quality legal services that meet real needs and combating social exclusion.

Steve Orchard CBE
Chief Executive, Legal Services Commission

□ □ ■ **Introduction**

In the consultation paper *Regional Prioritisation and Bidding Rules (July 2002)*, we outlined our proposed approach to the future development of Community Legal Service (CLS) funding by contracts after the three year General Civil Contracts for solicitors and Not-for-Profit (NfP) organisations come to an end on 31 March 2003.

Specifically, we set out our intention to:

- Publish Reports by each of our Regional Legal Services Committees (RLSCs), bringing together the work of the Community Legal Service Partnerships (CLSPs) and other relevant information to recommend priorities for the award of new civil contracts during the period 1 April 2003 to 31 March 2004;
- Publish a 'Regional Contracting Strategy' for each region in response to their local RLSC report;
- Extend the General Civil Contract for solicitors by one year from 1 April 2003 on the same terms, with some minor amendments where necessary;
- Introduce a new General Civil Contract for NfP organisations from 1 April 2003;
- Introduce integrated bid rules for the award of new civil contracts to solicitors and NfP organisations with the intention of implementing these during 2002.

A post-consultation report has been completed and is available on the Legal Services Commission website or from the Civil Contracting Policy Unit at Head Office.

Regional Legal Services Committees' Reports and Prioritisation of Needs

Each RLSC has prepared a Regional Report, combining recommendations from strategic plans and needs assessments by CLSPs and contract management information to produce priorities for an evidence-based regional contracting strategy. In those areas where the CLSPs have produced neither a needs assessment nor a strategic plan, and for those categories such as Family where the CLSPs have had limited involvement this year, RLSCs remain responsible for recommending local priorities.

The Regional Reports produced by the RLSCs comprise three elements:

- An overview of how current contracting supply is meeting the needs identified to date;
- A discussion of any mismatch between demand under current contracts and the needs they are supposed to meet;
- A list of the regional requirements for funding through contracts, as and when funds are available, indicating regional prioritisation of the local recommendations determined by CLSP needs assessments and strategic plans.

In determining their priorities, the RLSCs have addressed only those needs that can be met through LSC-funded Specialist contracts. Where, in the RLSC's view, a particular need should be met through another method of delivery and/or the funding may be available from outside the controlled budget, then RLSCs were asked to indicate this.

The list of priorities for Specialist contracts in the coming year, provided in each Regional Report, has been divided into three parts:

- A group of the top priorities;
- A group of the next most important priorities;
- A group of any other priorities thereafter.

Immigration and Asylum are managed under a separate budget from other categories of law. For that reason, a separate section of the RLSC's Report indicates priorities for Immigration and Asylum only.

Criteria for prioritisation

Three criteria, set out below, have been used to determine the choice of the contracting priorities. The criteria are not ranked but have been considered together as a matrix in order to reflect regional and local knowledge.

(1) The priorities set out in the Lord Chancellor's Priorities Direction.

This provides that top priority should be given to the following categories:

- Special Children Act proceedings (as defined in the Funding Code);
- Civil proceedings where the client is at a real and immediate risk of loss of life or liberty.

After that, higher priority should generally be given to the following categories:

- Help with social welfare to tackle social exclusion, including help with housing proceedings, debt, employment rights and social security benefits;
- Domestic violence proceedings;
- Proceedings concerning the welfare of children (including proceedings under part IV or V of the Children Act not included above, adoption proceedings and proceedings concerning residence);
- Proceedings against public authorities alleging serious wrong doing, abuse of position or power or significant breach of human rights.

The priorities in the Direction are necessarily the starting point – but they are only that. This is partly because competing needs will often have the same level of prioritisation in the Direction. Further, the overall LSC priorities do not mean

that letting a contract to fill a gap relating to a particular client group or category of law that is higher up the Lord Chancellor's list must always be given precedence over other client groups or categories. The other criteria set out below may mean that, for example, it will sometimes be a more appropriate use of contracting funds to let a contract in a social welfare category than a Mental Health contract in the particular circumstances despite the overall LSC priorities.

(2) Access implications of the gap identified, such as:

The scale of unmet need; geographical factors (for example, lack of supply among a dispersed rural community), and the needs of particular client groups including but not only those covered by the LSC Equality Scheme.

(3) Regional versus local solutions:

The extent to which funding can deal with issues that extend across CLSPs. This will include consideration of whether current demand suggests a cross-partnership solution and categories of law generally considered on a regional basis, such as Mental Health or Immigration.

Regional Directors' **Contracting Strategies**

In response to the RLSC's Report, each Regional Director has produced a Regional Contracting Strategy for the award and renewal of contracts in April 2003 within the allocated budget.

Strategies this year largely confirm the 'roll over' of existing commitments but also include the Regional Directors' decisions on the extent to which money can be made available over the 12 month period from April 2003 in order to meet the priorities in the Regional Reports.

Funds may become available as 'new money' (which may have been held centrally), or as a result of suppliers ceasing to carry out contract work. Information supplied in the RLSC's Regional Report enables the Regional Director to identify where this may be a factor: for example, where the expected numbers of clients are not accessing a particular service.

Reprioritisation can take the form of reducing money allocated to those contracts (subject to the 80% guarantee for solicitors: see p.11) or, exceptionally, by not renewing contracts.

In responding to the RLSC Report, and deciding whether and where bids for contracts for the listed priorities will be invited, the Regional Directors have considered additional factors. In particular, Regional Directors have made decisions having regard to:

- The availability of funds for Specialist contracts;
- The nature of the potential bidders involved and the likely sustainability of the service. It may for example be known that there are suppliers willing to take up the work and bid for a contract. Alternatively there may be no local potential bidders and filling the need would involve a more expensive solution (e.g. by funding a new contractor to move into the area) that would be less justifiable in cost/benefit terms;

- ❑ Guidance issued by the Commission;
- ❑ Whether it is appropriate to meet any need by expanding or amending existing contracts;
- ❑ Leverage: whether the release of contracting money will unlock other funds in support (e.g. from the Local Authority) and thus represent enhanced value for money.



□ □ ■ *National Overview*

National Overview Document: Legal Services Commission Contracting Priorities and Strategies

In addition to and complementing the Regional Reports and Contracting Strategies, LSC is publishing an overview of the regional documents and a statement of national strategy with regard to Immigration and Asylum and to Methods of Delivery pilots. The overview is intended primarily as information for our national partners with an interest in wider CLS developments or who may wish to bid for contracts in more than one region. This includes single location agencies with a national remit and organisations with multiple locations.



Principles of funding

The Commission's Funding Code defines the services that the LSC may fund as part of the Community Legal Service, and reflects the Lord Chancellor's Direction on priorities as above. It sets out the detailed criteria and procedures that apply to decisions whether to fund individual cases. These criteria vary depending on the type of case, and the level of service required, but in most cases an applicant must satisfy a means test and their case must have sufficient legal merits for funding to be granted. Further information is available in our leaflet *A Practical Guide to CLS Funding by the LSC*.

Since 2 April 2001, only organisations with a contract with the LSC have been able to provide advice or representation funded by the LSC. For Family cases and Specialist areas such as Immigration, only Specialist organisations are funded to do this work.

Contracts

Timetable for availability and reallocation of resources

Contract schedules will be sent to existing suppliers in accordance with the Regional Strategies in January and February 2003, with a start date of 1 April 2003.

The introduction of Regional Reports and Contracting Strategies will assist us in prioritising limited resources and in awarding new contracts where funds become available on an ongoing basis throughout the year.

The overwhelming majority of current contractors can expect to have their contracts renewed (in the case of solicitors) or to have a new contract granted (in the case of NfPs) from 1 April 2003. For solicitors the amounts authorised in schedules granted from 1 April 2003 will reflect the 80 % guarantee in the current contract schedules. This means that solicitors will receive at least 80% of their matter starts from the previous schedule.



There will clearly remain individual suppliers whose performance under our contracts is such that measures restricting their work or exceptionally terminating their contract will be necessary. These issues will be managed with the suppliers concerned on an ongoing basis. There may also be occasions when the RLSC reports identify oversupply and action will need to be taken to remove or reduce contracts. However such cases will remain very much in the minority.

Our desire to provide stability to existing contractors must be balanced with the need to allow in new suppliers, particularly where there are gaps. This balance must be achieved within a cash limited budget.

Tolerances

The LSC will continue to prescribe tolerances in solicitor schedules in the same manner adopted from 1 April 2002, i.e. the amount of matter starts each supplier has been allocated for tolerance work will be marked out separately in their schedule from the matter starts that they have been allocated for category specific contracts.

For NfPs, schedule awards will specify the hours to be performed in each Specialist QM category of law. As now, there will be a tolerance to allow up to 10% of work to be performed in other categories of law.

This approach will enable us to continue to monitor the work carried out in tolerances with a view to our long-term aim of encouraging suppliers to develop category specific contracts.

Family, Immigration, Mental Health and Clinical Negligence cases will continue to be excluded from tolerance.

Bidding Rules

Organisations that have an interest in obtaining a new contract for Controlled Work to meet priorities identified in the Regional Strategy should write to their regional office to register on the bid panel in accordance with the new bidding

rules. Copies of the bidding rules may be downloaded from the LSC website or available free of charge on request from LSC regional offices. Details of local arrangements are published in each of the Regional Contracting Strategies.

The NfP sector is now an important and established part of the scheme. The new bid rules are intended to provide a process by which both solicitor and NfP sectors can apply for new contracts on an equal footing.



Equal Opportunities Impact Assessment

Our approach to equal opportunities impact assessment under the Race Relations (Amendment) Act 2000

The LSC, in common with many other government bodies, is subject to a new general duty under the Race Relations (Amendment) Act 2000 to have due regard, in carrying out our functions, to the need to eliminate unlawful discrimination and promote equality of opportunity and good race relations between persons of different racial groups. We have published an Equality Scheme which sets out our arrangements for assessing, consulting, monitoring and reporting on the impact of our policies on race equality. The Scheme also sets out our approach in relation to issues of discrimination on the basis of gender and disability. The Equality Scheme is available on our website or free of charge from the LSC Secretariat at Head Office.

The consultation paper *Regional Prioritisation and Bidding Rules* contained a provisional impact assessment, which anticipated that the new bidding rules would have a neutral impact on the promotion of equal opportunities across our supplier base. This assessment is finalised in the post consultation report. We will monitor and report on the relative success rates of organisations bidding for new contracts and report on the outcomes in accordance with our Equality Scheme.

As part of the prioritisation process, the RLSCs also considered the equal opportunities impact of any access gaps identified, and their findings are contained in the Regional Report. We will monitor and report on progress in meeting the priority needs identified through regional and national Contracting Strategies, and this information will inform the development of future Reports and Strategies.



Consultation and Report Cycle

Consultation

We do not intend to consult on the main body of the Regional Reports and Strategies, since these are based on other documents which have already been consulted upon, namely, the *Regional Prioritisation and Bidding Rules* consultation paper and CLSP strategic plans and needs assessments. We do, however, welcome comments on the provisional equal opportunities impact assessments set out in the Reports. Comments regarding individual Regional Reports should be sent to the relevant regional office by 31 March 2003. Addresses are supplied below and in the Reports themselves.

All the Reports and Strategies and the Overview can be downloaded from our website. Regional offices will also be able to supply additional copies of these documents.

Confidentiality

Please note that unless you ask us to keep your name or the contents of your response confidential, these may be made public in response to questions under the Open Government initiative. Please ensure that you indicate clearly if you wish your comments or name to be kept confidential. Confidential responses will be included in any statistical summary of the comments received and views expressed.

Report cycle

RLSCs' recommendations and RDs' strategies are drawn up with a view to sustainability of service. The RLSC Reports will be reviewed annually, taking into account comments regarding the equal opportunities impact assessments contained within them and any further information, such as needs assessment findings. Over time, with the development of CLSP strategic plans and co-ordinated funding commitments, RLSC Reports will reflect an increasingly longer term view in addition to priorities for more immediate attention. The plans set out in Regional Contracting Strategies will reflect this, and, where appropriate, may reflect other CLS partner funding cycles (such as Local Authority three-year funding).



Publications and Contact Information

Publications

Regional Prioritisation and Bidding Rules (July 2002)

Available on website or from Civil Contracting Policy Unit at Head Office

Legal Services Commission Equality Scheme

Available on website or from the Commission's Secretariat at Head Office

A Practical Guide to CLS Funding by the LSC

Available on website or by ordering (free) on 0845 3000343

Regional Reports and Contracting Strategies

Available from Regional Planning & Partnership and Contracting teams, respectively, in regional offices

Legal Services Commission Contracting Priorities and Strategies: An Overview

Available on website or from Planning & Partnership Development team at Head Office

Head Office addresses

- Civil Contracting Policy Unit
Legal Services Commission
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