

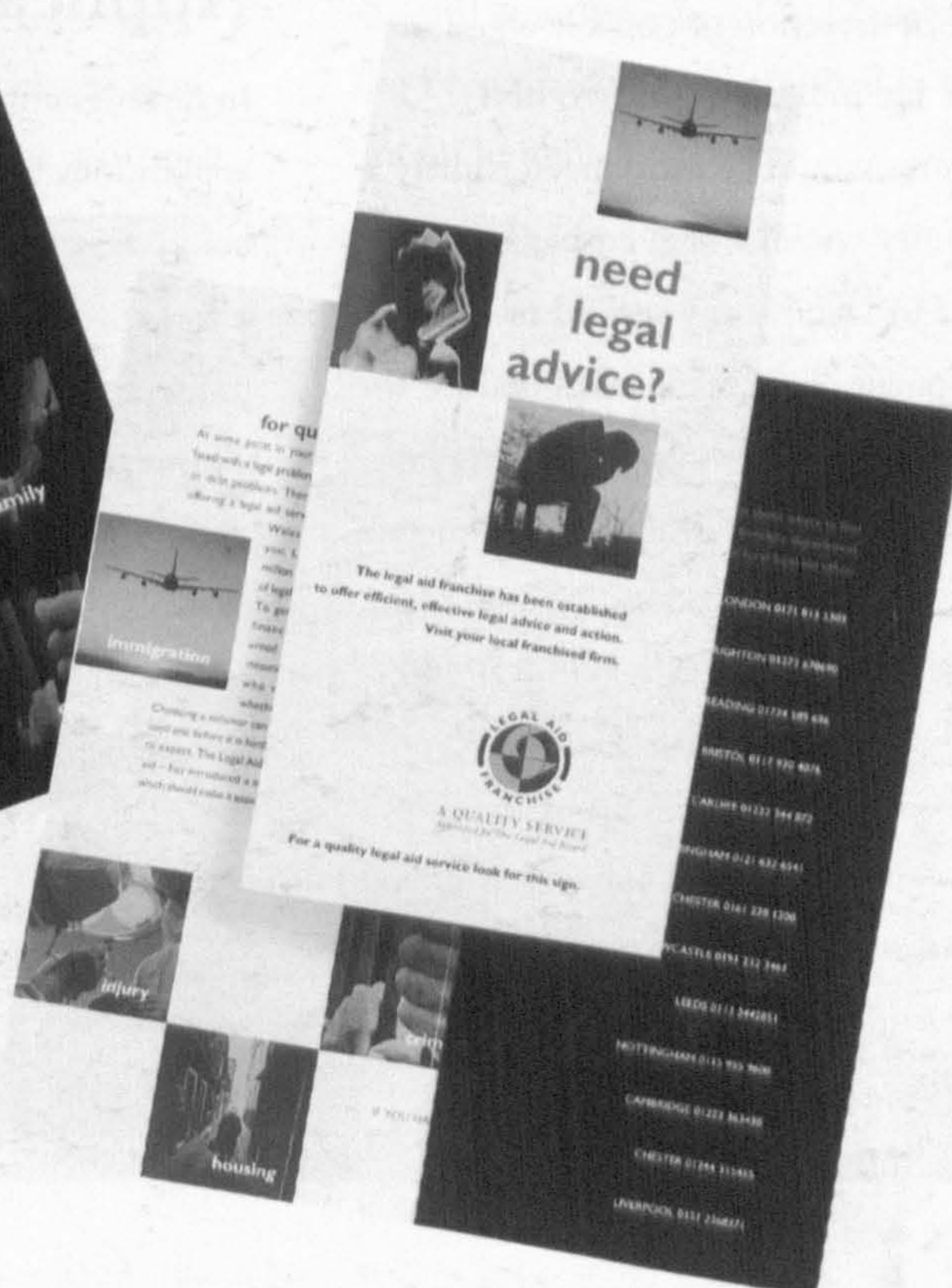
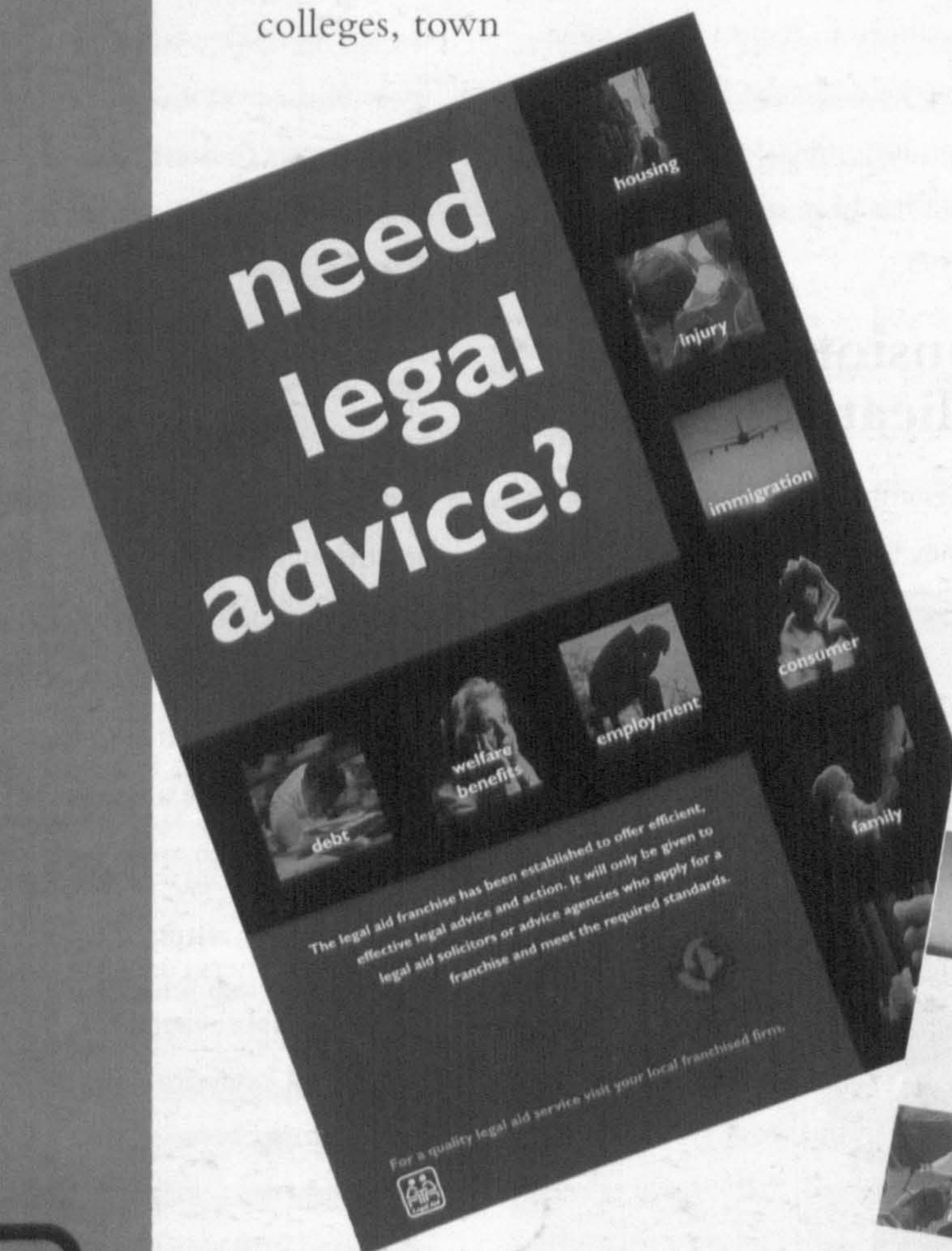
New Poster and Leaflet to Promote Franchising

A new poster and leaflet have been produced to promote and explain franchising to the public. The poster and leaflet will be displayed in franchised firms' offices and at thousands of public information outlets across England and Wales. Advice centres and citizens advice bureaux, libraries, colleges, town



halls and DSS offices have been issued with the new publicity material as part of a bid to promote awareness of franchising among target groups. This publicity material has been developed in consultation with the Law Society and the Advertising Standards Authority

and is being issued to meet the growing interest in franchising from the public. Franchised firms seeking further copies of the poster and leaflet should contact the franchise department at local area offices.



Proposed Payment dates for 1 October 1995 – 31 March 1996

There are two payment runs for solicitors and counsel each month. The proposed payment dates for the second six months of the 1995/96 financial year are set out below. Please note that these dates are subject to amendment by the Board should it be necessary but, where possible, you will be told of changes in advance. If you are paid by BACS (Bank Automated Clearing Service) the proposed payment date shown, is the date on which you will receive a payment in your bank account. For some smaller banks the BACS credit may appear a day later. The proposed payment date will also be the date by which the last of the cheque/remittance advices are despatched from our Head

Office Accounts Department. Remittance advices are despatched using DX or first class post. The majority of our payments to the profession are now made through BACS. For details of the benefits of BACS, and an application form, please contact the Master Index Section on 0171 813 1000 ext. 8626. If you need to ask about the despatch

of your payment or remittance advice, please contact the Solicitor/Counsel Settlement Section on the same number, ext 8625. These matters are dealt with by our Head Office Accounts Department but if you have a query regarding an individual item shown on a remittance advice, please contact your area office, which authorises and processes all such bills.

First Payment date of the Month	Second Payment date of the Month
Friday 13 October 1995	Monday 30 October 1995
Monday 13 November 1995	Tuesday 28 November 1995
Wednesday 13 December 1995	Friday 22 December 1995
Monday 15 January 1996	Monday 29 January 1996
Tuesday 13 February 1996	Wednesday 28 February 1996
Wednesday 13 March 1996	Thursday 28 March 1996

Use of separate green forms

Practitioners will recall receiving a letter from the Board earlier this year regarding control of the green form scheme. In that letter the Board's chief executive Steve Orchard explained that we had introduced a number of internal control measures which have increased the likelihood of detection of possible abuse or fraud. He indicated that two new measures would be introduced namely a computer system which enables the Board to identify any second or subsequent green form submitted for the same client and new forms requiring non-franchised firms to give additional details of the work done under the green form. The new computer system is in place and in appropriate cases the Board's area office cost assessors will bring together earlier claims with the current claim and assess the current claim in the light of work paid for under earlier claims. This may result in firms being asked to submit their files to substantiate total

amount claimed in respect of the same client. In relation to the new extension application form for non-franchisees (GF3), this has been mandatory since 1 June 1995. **Extension Applications** In dealing with the revised extension applications we found that the form was being completed by practitioners in such a way that it was difficult for area offices to identify the issues and the work done. This was because Box 6 (costs and disbursements – work already done) was being completed only with single words such as 'interview' or 'preparation'. This meant that, although the area offices were able to identify what had been spent and when the work was done, we could not necessarily tell what work had actually been done to progress the matter. We have therefore slightly amended

the layout of Box 6 so there is more space in the bottom left-hand corner for practitioners to describe the work done in narrative form. For example, where there has been an interview it should be made clear with whom and for what purpose. Again where there has been preparation it should be made clear what that involved. In completing Box 6 practitioners should bear in mind that in some cases the information regarding the issues involved in the case on the front of the form is minimal so that the area offices will require a certain amount of detail in Box 6 to appreciate *why* work has been done. If practitioners complete the form GF3 in an abbreviated way this may lead to reduced extensions or applications being refused because area offices cannot fully apply the reasonableness test contained in Regulation 21(2) Legal Advice and Assistance Regulations 1989 which covers green form extensions.

Immigration Advice in Police Stations

Representatives who only advise on immigration cases at police stations will need to register with the Board from November 1995 if the advice they give from that date is to be paid for by the Board.

This requirement will not affect representatives who are registered to give police station advice, as such representatives can also advise on immigration cases.

Representatives who wish to register on the Board's immigration register should apply for form REP 1 to the

Legal Aid Board, Policy and Secretariat Department, 85 Gray's Inn Road, London WC1 X 8AA. Tel: 0171 813 1000. Fax: 0171 813 8638. DX 450 LONDON.

The immigration register will operate in the same way as the existing register for police station representatives. Representatives will have six months in which to submit a portfolio and will then have to pass a written examination within 12 months of registration. (There will be no critical incidents test)

Central Law Training (0121 355 0900) are the only testing organisation for immigration accreditation and information can be obtained from them about testing and training.

The Immigration Law Practitioners' Association (0171 434 3690) are offering training on 7 December in Manchester and 17 January in London.

The Law Society is publishing a manual on immigration advice in the police station which will shortly be available from the Society's bookshop at £7.95.

Computer Strategy Signals Improvements For All

Improved customer service and speed of response will be the main benefits for practitioners when a new computer system is introduced throughout the Legal Aid Board's offices in late 1996. We have redesigned our information technology systems and the project, which is known as CIS – Corporate Information System – will allow us to access case information immediately thus dispensing with the need to check paper files. The immediate availability of information on screen will allow many more of your inquiries to be answered promptly over the phone.

Another feature of CIS will be 'unique identifier numbers' which will allow us to trace connections between assisted people, solicitors and cases giving us a more comprehensive overview of different but connected cases. This will enable us to answer related inquiries more quickly.

New forms are being designed which will be printed on white paper so as to be capable of being reproduced on firms own computer systems. We are also looking into the possibility of providing practitioners with all these forms on disk – a much requested development.

As part of the CIS project we have

reviewed the information we produce for legal aid clients. A recent survey of clients showed that 35% did not fully understand the content of the standard letters and documents we currently generate. This computer generated documentation is being rewritten following Plain English guidelines so as to ensure the information is clear and helpful to the reader.

The new system will go live at the very earliest in November 1996. Training programmes are already beginning so that staff will be familiar with the new system well in advance of the start-up

date. A customer service pack will be sent to practitioners about three months before implementation of CIS. These packs will explain the effects of CIS on our customers. We will include samples of the new CIS forms and will provide details of a local contact point to answer questions about the change over to CIS. We will be making a video with Legal Network Television to explain the most important changes resulting from CIS. Local area office newsletters and the national newsletter Legal Aid Focus will also keep practitioners informed in the run up to implementation.



Franchising Pilot for Non-Solicitor Agencies

A pilot to fund advice agencies to provide advice and assistance to clients in areas of social welfare law was launched in January 1995. 42 independent advice agencies and citizens advice bureaux began work under contracts with the Board. The franchising requirements, are being applied to discover whether non-solicitor agencies can meet the quality standard for legal aid work in particular categories of law.

Independent research is under way to monitor the pilot and to investigate the effects of being franchised, not only on the agency, but also on clients, and other practitioners and funders. The research will assess what benefits there are in extending legal aid funding to non-solicitor agencies – in particular it will look at the benefits of payment through block-funding rather than payment on a case by case basis. The final research report, is due in March 1996 however, interim reports from franchise audits suggest that it is likely that agencies will be able to demonstrate full compliance with the franchise specification by the end of 1995. As well as a preliminary audit, agencies will have undergone two full franchise audits by the end of the year. Transaction criteria audits have generally reflected the management audit results and we have seen some

impressive compliance rates in both. The transaction criteria still need to be developed further to be comprehensive enough to cover the areas of work encompassed in social welfare law. Some of the agencies in the pilot together with selected solicitors are helping us to develop draft criteria – initially in the housing and welfare benefits categories. These criteria will be consulted on more widely and will be put to Law Society Specialist Committees.

The Lord Chancellor has agreed in principle to extend contracts to the end of 1996 for those agencies in the pilot who are fully compliant with the franchise requirements at their final audits scheduled to be completed by the end of 1995.

The Green Paper consultation will be complete later this year when the Lord Chancellor will consider the future direction of legal aid provision. The involvement of advice agencies in the future scheme is part of the Green Paper proposals and one which most commentators seem to support in principle. We hope that the Lord Chancellor will agree to build on the progress made in the pilot so far and will allow a controlled expansion of block funded contracts in social welfare law, including for solicitor advice agencies and perhaps also for solicitors in private practice on a pilot basis. If the Lord Chancellor agrees then we would be able to invite applications from the Summer of 1996.



Recent Publications

The Legal Aid Handbook 1995 has been published by Sweet & Maxwell. It costs £12.60. Copies are available from Sweet & Maxwell direct, telephone 01264 342899 or from bookshops.

The Legal Aid Handbook is the official guide to legal aid practice in England and Wales. It is prepared by

the Legal Aid Board and published annually. The 1995 edition has been updated to include the April and May 1995 changes including the eligibility limits and remuneration rates.

Conditional Fees: A Survival Guide published in August, this is

the Law Society's official guide to conditional fees. It is written by well-known personal injury practitioner Michael Napier and legal journalist Fiona Bawdon. Copies are available from the Law Society's bookshop price £14.95.

Legal Update

Costs Assessments – Points of Principle of General Importance

Since April 1989, solicitors and counsel have had the right of appeal to the Board from an Area Committee's review of costs assessment. Issue twelve of Legal Aid Focus carried the decisions made by the Board's Costs Appeals Committee covering the period April 1994 – September 1994. Listed below are the decisions of the Costs Appeals Committee on points of principle of general importance for the period October 1994 – October 1995. We hope this will be of help to practitioners when claiming costs.

Applications to the European Commission

Where an application to the European Commission is an essential preliminary step in court proceedings in England & Wales, such an application would be within the scope of a certificate granted to cover such court proceedings. (Ref: CLA 16 – 18.10.94).

Costs Guidelines – Guidance on the Exercise of Devolved Powers – Interim Edition

The costs guidelines contained in "Guidance on the Exercise of Devolved Powers – interim edition" are indicators only. Payment in each case should be made for work actually and reasonably undertaken. (Ref: LAA5 – 19.12.94).

Preparation of Brief to Counsel for Immigration Appeal Tribunal Hearing

Preparation of a brief to counsel to represent an assisted person at an Immigration Appeal Tribunal is itself representation pursuant to section 2(4) Legal Aid Act 1988 and is therefore outside the scope of the Green Form Scheme. (Ref: LAA6 – 30.1.95).

Magistrates' Court Standard Fees – Either-Way Offences Discontinued Prior to Mode of Trial

A charge or summons for an offence which is triable either-way which is discontinued or withdrawn before mode of trial is determined in accordance with the procedures set out in sections 19–23 Magistrates' Courts Act 1980 attracts a category 1 standard fee. (Ref: CRIMLA 44 – 30.1.95).

Travel: Time Spent and Costs Incurred

In determining the amount to be allowed in respect of travel:

- (a) Prima facie the amount to be allowed is the cost of the time expended on and the expenses incurred in making the journey by public transport, provided that public transport is available and is reasonably convenient, having regard to the relevant circumstances in each case, and
 - (b) Allowances made should include the time spent and expense incurred in getting from the starting point to the railhead or coach station and also the time spent and expense in getting from the terminus to the destination.
- (Ref: CRIMLA 33 (Amended) – 30.7.92 & 30.1.95).

Photocopying

The making of copies of documents is part of the solicitor's normal overhead expense, and thus would not normally be remunerated separately. However, an allowance may be made for copying in unusual circumstances or where the documents copied are unusually numerous in relation to the nature of the case. The cost should be claimed as a disbursement. If copies have been made out of the office the actual cost should be claimed. If made in the office a charge equivalent to the commercial cost should be claimed. A charge based on the time expended by a member of the solicitor's staff will not be allowed. (Ref: CRIMLA 1 (Amended) – 18.12.89 & 30.1.95).

Magistrates' Court Standard Fees – Claims which Attract a Standard Fee

A claim for costs is only to be dealt with in accordance with the standard fee regime if the claim falls within one of the categories specified in the table set out in paragraph 2(2) Schedule 1 Part III Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989. Claims which do not fall into any of those categories attract a non-standard fee.

(Ref. CRIMLA 45– 27.2.95).

Transcription of Taped Interviews

Where a solicitor applies for prior authority to transcribe a tape whether audio or video using an outside agency and satisfies the Area Committee that such a transcript is necessary then authority should normally be granted. Where a solicitor chooses to transcribe such a tape in-house the work of transcription would not normally be regarded as fee earner's work and will not therefore be remunerated under the Legal Aid Order. Consideration of the tapes to decide whether any part of them should be transcribed and the checking of the accuracy of any transcripts obtained constitute fee earner's work which may be remunerated as such.

(Ref: CRIMLA 19 (Amended) – 11.3.91 & 27.2.95).

NB: THIS DECISION REPLACES AND INCORPORATES DECISION CRIMLA 10

Magistrates' Court Standard Fees – Newton Hearings

The fact that in a case to which the magistrates' courts standard fees regime applies there is a hearing in accordance with the principles in R -v- Newton [1982] 77Cr App R13 does not mean the case attracts a category 2 standard fee.

(Ref: CRIMLA 46 27.3.95).

Magistrates' Court Standard Fees – Enhanced Rates: Use of Unassigned Counsel

A solicitor operating under a legal aid order granted on or after 1 June 1993 is entitled to claim for work done by unassigned counsel at an enhanced rate if the criteria in paragraph 3 of Schedule 1 Part 1 of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 apply to such work.

(Ref: CRIMLA 47 – 16.5.95).

Magistrates' Court Standard Fees – Special Reasons Hearings

In a case to which the magistrates' court standard fee regime applies, the fact that there is a "special reasons" hearing does not, of itself, mean the case attracts a category 2 standard fee.

(Ref: CRIMLA 48 – 16.5.95)..

Authority for the Signature of a Fresh Green Form

There is no power to grant retrospective authority to give advice and assistance under a fresh Green Form where such authority is required and there is also no power to allow costs in Green Form or ABWOR cases where such authority is required but has not been obtained. An approval of ABWOR by the area office does not alter the position. A client *may* complete an application for advice and assistance in anticipation of such authority under Regulation 16 being granted.

(Ref: LAA 1 (Amended) – 14.5.90 & 26.6.95).

Application for Advice and Assistance Under the Legal Advice and Assistance Regulations 1989

The combined effect of Regulations 9(1),9(3),9(4) and 9(6) of the Legal Advice and Assistance Regulations 1989 is that the making of the application for advice and assistance includes the provision of the information required by Regulation 9(4) so that the application must be made in person and the information which is part of that application shall be provided at the same time as the completion, including signing and dating, of a form approved by the Board.

(Ref: LAA 7 – 24.7.95).

Routine Letters in the Legal Aid in Civil Proceedings (Remuneration) Regulations 1989

In Item 3 column 1 of Schedule 1 of the Legal Aid in Civil Proceedings (Remuneration) Regulations the words “which are not routine” relate to each of :-

- 1 Letters written
- 2 Letters received
- 3 Telephone calls

(Ref: CLA 17 – 24.7.95).

Medical or Psychiatric Reports in Mitigation

Where it appears a court may be considering a disposal under the Mental Health Act, only in exceptional cases will the cost of medical or psychiatric reports be allowed for use in mitigation on conviction where no request has been made by the Court.

(Ref: CRIMLA 3 (Amended) – 27.3.90 & 24.7.95).

Magistrates’ Courts Standard Fees – Cracked Trials:

Time of Discontinuance and Guilty Pleas – Category of Case

For the purposes of Magistrates Court standard fee (set out in the table annexed to paragraph 2 of schedule 1 Part III Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989):-

1. *Category 2.2* – it is not essential for the change of plea to be notified on the day of trial provided that the proceedings were listed and fully prepared for trial.
2. *Category 2.3* – it is not essential for the proceedings to be discontinued on the day of trial provided that proceedings were listed and fully prepared for trial.

(Ref: CRIMLA 41 (Amended) – 17.5.94 & 24.7.95).

Enhanced Rates in Criminal and Care Cases

Where the criteria for paying enhanced rates in criminal proceedings under the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 are met such claims will be assessed on the basis of broad average direct cost of the work (the A figure) to which is added a percentage uplift (the B figure) to take into account all the relevant circumstances of the case.

The A figure will represent the broad average direct cost of undertaking the work. Factors to be taken into account in identifying this figure may include the rate likely to be allowed in an enhanced rates case by the appropriate Crown Court for the relevant level of fee earner at the time to which the costs claim relates and evidence of the results of surveys of local solicitors expense rates for the locality in which the solicitors office is situated.

As to the B figure, 35% should be considered as a starting point in respect of preparation. Solicitor advocacy would normally be expected to carry an uplift of 40-60% and attendances with counsel 20%. Travel and waiting would not normally be expected to attract an uplift on the A figure. Each case must be considered on its own particular merits, having regard to all the relevant circumstances of the case.

Where enhanced rates apply, they apply to all letters written and telephone calls made or received. For letters and telephone calls which are not timed, the method of assessment is to allow them at 1/10th of the hourly rate plus uplift allowed for preparation.

(Ref: CRIMLA 13 (Amended) – 24.7.90 & 4.9.90, 9.3.93 & 14.6.93, 22.3.94, 17.5.94, 26.9.94 & 11.9.95).

Standard Fees – Bail Act Offences

Proceedings under Section 6 Bail Act 1976 for failure to surrender to custody are not incidental to the original proceedings for which bail was granted and do constitute a separate case.

(Ref: CRIMLA 42 – 17.5.94 (Amended) – 11.9.95).

Legal Update

Attendance on the Editing of Interview Tapes

Where there is only one interview tape in existence (without any copies) it is reasonable for a solicitor to attend and be present when the tape is opened and either edited or copied by the police.

(Ref: CRIMLA 49 – 9.10.95).

Magistrate Court Standard Fees – Series of Offences – Offences Separately Committed

Whilst offences may, subsequent to committal, appear on separate indictments that does not of itself mean that they cannot form a series of offences and be classed as one case although it is a strong indication that they are separate cases.

(Ref: CRIMLA 50 – 9.10.95).

Travel and Waiting – Enhancement

Where paragraph 3 of Schedule 1 of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 applies, items or classes of work allowed at more than the prescribed rates can include travel and waiting time.

(Ref: CRIMLA 51 – 9.10.95).

Work Reasonably undertaken when the Legal Aid Order covers both Solicitor and Counsel

Where a legal aid order is granted to cover both solicitor and counsel the solicitor is entitled to proper remuneration for considering such papers and other materials to the extent necessary to enable the solicitor to understand the case and properly instruct and attend on counsel.

(Ref: CRIMLA 52 – 9.10.95).

The Exercise and Recording of Devolved Powers

Solicitors may charge for work done in the exercise of devolved powers and the recording of such exercise.

(Ref: LAA9 – 9.10.95).

An Area Committee's Decision to Proceed with an Appeal

In looking afresh at a costs assessment the Area Committee has an unfettered discretion. The solicitor has a duty to place all relevant matters before the committee. There is no breach of natural justice in refusing to allow an adjournment at the solicitor's request nor to give reasons for the refusal to adjourn.

(Ref: CRIMLA 53 – 9.10.95).

Additional copies of Legal Aid Focus can be obtained from Karen Bobbin.

Please write to the Press and Publications Office,

Legal Aid Head Office, 85 Gray's Inn Road, London WC1X 8AA

