

FOCUS

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Increase in Remuneration for Family Law and Social Welfare Solicitors

Family Law solicitors will receive increased rates of pay for publicly-funded work, the Lord Chancellor, Lord Irvine, announced on 16 January 2001. Rates will also be increased for some other categories of advice work.

The increased pay rates are aimed at solicitors working in areas such as domestic violence, cases involving children's welfare and cases which are about helping people escape social exclusion - areas which the Lord Chancellor has identified as priorities for the Community Legal Service. Enhanced rates for solicitors accredited to expert panels will further encourage greater specialisation and expertise in family law work.

Lord Irvine said, " I want to ensure that people have the best possible legal help and advice when they have problems in these very difficult areas. Solicitors doing publicly funded work in social welfare law are routinely helping some of the most vulnerable people in society. These proposed new pay rates will help to safeguard a good range of quality-assured legal firms in the Community Legal Service throughout England and Wales ."

Lord Irvine's proposals to the Law Society, the solicitors' professional body, include:

- an increase of around 10% in

advice and representation rates for family work;

- an increase of around 10% in rates for advice on housing, employment, immigration, community care, mental health, education, public law and actions against the police;
- a further guaranteed minimum 15% enhancement above the new rates for solicitors who have achieved accreditation to either of two specialist panels – the Solicitors' Family Law Association Panel or the Law Society Children's Panel

Current average rates for legal help - the initial advice and assistance which solicitors provide - range from around £45 to £52 per hour. They will rise to between £50 and £57 per hour. Current rates for the later, detailed work - such as a child care dispute - are about £66 per hour. They will rise to at least £73 per hour. Solicitors who are on the specialist panels (see above) will receive up to about £90 per hour for relevant work, or more if a higher enhancement than the guaranteed minimum of 15% can be justified. The new rates will be effective from 1 April 2001.

The Lord Chancellor's proposals will be the subject of consultation with the legal profession. Lord Irvine is also considering proposals for criminal law rates for solicitors in the context of the ongoing contractual negotiations.

STOP PRESS

Practitioners might like to note that the Government is planning to repeal Part II of the Family Law Act 1996. The provisions of the Act in relation to divorce have not been implemented. Part III of the Family Law Act 1996 which contains the provisions relating to publicly funded family mediation have been implemented and remain in force. ■

CDS Update

As a result of the major programme of consultation that has been undertaken on the draft General Criminal Contract we have substantially revised and clarified the initial proposals. The changes are a significant improvement for criminal defence lawyers.

The revised contract was sent to criminal practitioners last month.

Focus on CDS

A supplement to *Focus* has been produced for criminal practitioners. A further two or three issues will be produced leading up to the launch of the CDS in April 2001. *Focus on CDS - issue 1* included key implementation dates, changes to the General Criminal Contract and CDS contact details. Copies are being distributed to criminal contracted suppliers and are also available on our website - www.legalservices.gov.uk ■

Key CDS Implementation Dates

November 2000	Consultation paper on contract remuneration rates and payment structures published 24 November.
December 2000	Final version of contract documentation and Duty Solicitor Arrangements 2001 published end December.
January 2001	Consultation on remuneration rates and payment structures closes 26 January 2001.
February 2001	New accreditation scheme for Duty Solicitors effective from 1 February. Final version of remuneration rates and payment structures published in February. New CDS forms issued for use from 2 April. Monthly payment figures notified to suppliers. Contracts issued for signing, any requests for review notified to Regional Directors.
March 2001	Regional Directors re-determine monthly payments where reviews requested. Suppliers who have passed a preliminary audit by 31 March eligible for a one year contract. Suppliers who have passed a pre-contract audit eligible for a three year contract. All contracts signed. Training materials published for suppliers' staff on website and as hard copy. Regional offices to arrange local training events for the profession.
April 2001	Criminal Defence Service established 2 April. Contracts start. First monthly payment 4 April. 10 April cut off date for receipt of individual case claims. Duty Solicitor Arrangements 2001 implemented.
May 2001	10 May cut off date for submission of first monthly matter reports. ■

Contracting for all Civil Representation - Responses to Consultation

This article also appears as part of our paper *General Civil Contracts from 1 April 2001*, which was sent to all organisations with a General Civil Contract in December 2000. The paper also contains, for consultation:

- draft amendments to the General Civil Contract, Franchise Categories and LAFQAS – largely to give effect to the introduction of contracting for all civil certificated work; and
- details of our proposed approach to contracts for controlled work, including the basis on which we will deal with the reconciliation of claims and payments for controlled work from the first year of contracting.

Copies of the paper may be obtained from our regional offices or from Jamila Atom-Ra at our Head Office address.

We received over 150 responses to our August 2000 consultation paper, *Contracting for all Civil Representation*. The respondents included a large number of firms of solicitors as well as representative bodies like the Law Society and the Legal Aid Practitioners' Group. For the most part, our proposals were well received, and we will award licence contracts on the basis of them. The majority of respondents also raised serious concerns about our proposals for the handling of judicial review cases, however. We set out below the key features of contracting for all civil representation and the action we will take in respect of judicial review cases.

For the purposes of this article, the mental health, education, community care, actions against the police etc., public law, debt, employment, consumer, housing and welfare benefits categories, together with all cases which do not currently fall within an existing contract category, are described as the **remaining categories**. Matters at any level of service which requires a certificate to be issued by the Commission are described as **certificated** matters. The **Specialist Quality Mark for**

contracted firms succeeded franchising for organisations funded by the Legal Services Commission, though LAFQAS remains the relevant quality standard. In time, we plan to make the format of the quality standard consistent with other levels of the Quality Mark. We will issue a consultation paper on that subject during the course of this year.

Key features of contracting for certificated work

Except in the circumstances set out in the paragraphs in italics below:

- an office will need to have a contract in at least one civil category of law to do **any** civil certificated work;
- in order to apply for a certificate in the family, immigration, personal injury and clinical negligence categories, the office will need to have a contract in the category concerned;
- in order to apply for a certificate in the remaining categories, the office will need to have a contract in at least one civil category, but not necessarily the category concerned.

An office will qualify for a contract in a category of law when it has passed a preliminary audit for the Specialist Quality Mark in that category of law. We will continue to award contracts on that basis throughout the year.

Public law challenges arising from criminal matters (including proceedings under the Human Rights Act 1998) will be conducted as part of the Community Legal Service. They may be conducted only by offices with a General Criminal Contract or offices with a General Civil Contract in the public law category.

Funding certificates will be given to non-contracted firms (or to contracted firms without a license contract covering the relevant category of work) in exceptional circumstances where it would prejudice the administration of justice if the client were forced to

change to a contracted solicitor. Applications will be made to our Special Cases Unit on our usual form of application for a CLS funding certificate but will need to be supported by a letter explaining the circumstances justifying the award of a certificate outside the normal scheme. If satisfied with the proposals for running the case, the SCU would then issue an individual case contract which would include appropriate standards for the experience of the person running the case and its supervision. Where the SCU decided to refuse an individual case contract, that decision would be susceptible to review by the Funding Review Committee, which could refer the matter back to the SCU for reconsideration.

In our consultation paper, we gave the following example of the sort of exceptional circumstances that we have in mind, which we will now adopt:

"A solicitor who is not franchised has been representing a private client in complex, multiple proceedings which have been going on for some time. The client runs out of money and becomes eligible for Community Legal Service Funding. Even though the solicitor does not have a contract, it would be unduly onerous and would run counter to the effective administration of justice if the client were forced to change to a contracted solicitor, even though he had full confidence in the solicitor instructed".

The General Civil Contract will allow an office to start licensed work matters but does not limit their number or the amount that will be paid for them under the contract, other than through the established procedures of case control and assessment. The matters that are started under the contract are subject to the normal, current processes associated with managing funding, including applying for a certificate, and for amendments to it, and submitting interim and final claims.

The regime governing claims and payments under the contract will be the

same as at present: they are both made on a matter by matter basis.

Judicial Review

Respondents to our consultation paper expressed two main concerns about our proposals in respect of judicial review cases:

- Very few offices would be able to meet the proposed additional supervisor standards for judicial review cases, which would result in inadequate access to legal services
- Judicial review cases sometimes needed to be commenced very quickly. The proposed requirement

that, in order to obtain a funding certificate, a written opinion in support of the proceedings should be obtained from a barrister would result in unacceptable delays in some cases.

In view of these concerns, we have decided that we will not introduce our proposals for the time being, except that, in cases where we require a barrister's opinion, it will be a requirement that the barrister should be experienced in public law. We take some comfort in our decision not to introduce most of our proposals from

the fact that:

- All offices undertaking judicial review cases in future will need to have a General Civil Contract or a General Criminal Contract. The contracts require all work to be carried out to the Quality Mark standard.
- A protocol for judicial review cases is currently being prepared, which will help to improve practice in this area.

We will monitor the predicted and actual outcomes of judicial review cases conducted under contract. ■

Amendments to Funding Code Procedures

Important changes are being made to the Funding Code procedures with effect from 2 April 2001. The principal changes are set out below.

Practitioners should note in particular the proposed changes to the procedure for serving notice of the issue of certificates on an opponent.

All the changes are currently subject to consultation. Consultation responses are due by 26 February 2001. Meanwhile, the full text of the proposed amendments is available on the LSC website and copies may be obtained from Michelle Jordan on 020 7759 0460. Final changes to the Funding Code procedures will be available on the website in due course, and will be issued with other changes to the LSC Manual in May.

The most significant changes to the Code are to provide for the fully contracted civil scheme from April. Part A of the Code Procedures has therefore been amended so that the category of 'Non-Contracted Work' is abolished as all such work will be Licensed Work under the General Civil Contract. For greater clarity work outside the General Civil Contract has been divided into two categories, namely 'Individual Case Contracts' (such as MPA contracts) and 'Other Grant or Contract Work' covering other miscellaneous types of funding. The amendments deal expressly with 'Exceptional case contracts', namely exceptional applications from non-

contracted firms to the Special Cases Unit, as well as covering the special procedure for applications under Section 6(8)(b) of the 1999 Act (exceptional funding for out of scope cases).

Other changes to the Procedures are as follows:

- (i) Rule 4 of Part C (Certificated Work) has been amended to make it clear that the solicitor must hold a General Civil Contract (or a General Criminal Contract for Public Law cases arising out of criminal proceedings) to make an application for funding. This also applies to multi-party action contracts and very high cost case contracts.
- (ii) An amendment has been made to Rule C16 governing notice of issue of certificates to opponents. The change would require a funded client to notify an opponent of the existence of the certificate as soon as a claim is intimated to the opponent (under a pre-action protocol or otherwise). This is a change from the situation under the old Legal Aid Regulations when notice need only be served on the issue of proceedings. This amendment follows a suggestion made to the Commission by solicitors who pointed out that delaying giving notice of the existence of the certificate to the point of issue of the proceedings runs contrary to the spirit of the new court rules (see Section 4 of the Practice Direction relating to pre-action protocols).

- (iii) The referral criteria for the Special Cases Unit (Rule C23) have been amended to make it clear that where there are several cases proceeding together, they can be referred together if in total they meet the threshold figures for referral. This is likely to be particularly relevant in Public Law Children Act proceedings involving numerous parties.
- (iv) Rule C26 explains the approach to exceptional non-licensed work and provides for a review to the Funding Review Committee if the Special Cases Unit refuses the application.
- (v) The requirement in C43(vii) to notify the Regional Director whenever a certificate is issued to an opponent in proceedings has been modified. In the future it will not be necessary to report the issue of a certificate in family proceedings unless the family proceedings concern financial provision. This change will avoid unnecessary reports to the regional office, especially in children cases where the issue of a certificate to the other party is unlikely to be important in deciding whether funding should continue.
- (vi) The procedures for making applications under Section 6(8)(b) of the Act (exceptional funding for out of scope cases) have been clarified in Part A and in the new Section 4 of Part D of the Procedures.

For further information contact Colin Stutt on 020 7759 0000. ■

Merger of South Eastern and Southern Regions

In July 1999, the Legal Aid Board (now LSC) decided that there should be a rationalisation of the boundaries of regional offices to align them with those of regional government and the Crown Prosecution Service.

The South and South Eastern Regions will merge on 1 April 2001. Anne Pinks will be the Regional Director for the merged regions and Helen Hinchliffe will be the Operations Manager.

For operational efficiency, changes have been made to the arrangements for processing applications for funding and assessing/authorising bills for certificated work. The table below summarises where operational work should be directed.

All operational work should be sent to either Reading or Brighton (effective since 30 October 2000) as indicated, irrespective of when the certificate was issued.

Please note that any CLAIM10 bills and extensions plus Consolidated Matter Report Forms and New Matter Start Forms from contracted suppliers, should continue to be sent to Reading. All criminal bills should continue to be sent to the Nottingham office.

All telephone calls and correspondence in relation to civil finance matters

should be directed to the Brighton office and all calls and correspondence in relation to an application or means assessment matter should be directed to Reading.

The following summary provides essential information in relation to addresses, telephone numbers and contact names.

	Reading	Brighton
Address	80 Kings Road Reading RG1 4LT DX 4016 Reading	3rd/4th Floor Invicta House Trafalgar Place Brighton BN1 4FR DX2752 Brighton 1
Switchboard	0118 955 8600	01273 878800
Direct dial telephone nos	Applications: 0118 955 8764 Means: 0118 955 8760 CLAIM10: 0118 955 8765	Civil Finance: 01273 878995
Supervisor Name	Applications: Jackie Coston Means: Jackie Coston CLAIM10: John Pearce	Civil Finance: Christine Taylor

Application Forms and Related Correspondence	Description	Reading/Brighton
CLS APP1	Application for CLS Funding certificate, Legal Representation/Investigative Help, Non Family Proceedings	READING
CLS APP2	Application for CLS Funding certificate, Litigation Support	READING
CLS APP3	Application for CLS Funding certificate, General Family Help and Legal Representation in Family Proceedings	READING
CLS APP4	Application for CLS Funding certificate, Help with Mediation (Family)	READING
CLS APP5	Application for CLS Funding certificate, Legal Representation in Special Children Act Proceedings	READING
CLS APP6 & 6A	Fax emergency application and fax means form	READING
CLS APP8	Application for amendment or prior authority in civil cases	READING
CLS APP11	Application for discharge	READING
CLS ADMIN 1	Preservation/recovery under the statutory charge and request to postpone	BRIGHTON
CLS ADMIN 2	Change of details	READING
CLS ADMIN 3	Application to suspend contributions and undertakings as to costs	BRIGHTON
CLS ADMIN 4	Payment of monies	BRIGHTON
CLS CLAIM 1	Claim for assessment of costs or payment of taxed costs in civil cases	BRIGHTON
CLS CLAIM 2	Report in civil cases, Costs met in full or in part by other party	BRIGHTON
CLS CLAIM 3	Counsel's fee note in civil cases	BRIGHTON
CLS CLAIM 4	Claim for payment on account	BRIGHTON
CLS MEANS 1, 1A, 1B, 1C	Means assessment forms	READING
CLS MEANS 3 & 4	Means assessment forms	READING

LSC Manual

The first of the three 2001 updates to the LSC Manual will be published in May 2001. Updates 2 and 3 will follow in September and December. Volume 4 which will contain CDS material will be published in June 2001 with a first update in December.

A loose-leaf publication with an optional CD-ROM and an updating service allows the Commission to update the material in the Manual regularly. The four-volume Manual is designed to contain all the key documentation relating to both the CLS and the CDS. Sweet & Maxwell publish the Commission's Manual and updates and if you require details you should contact them on 020 7449 1111.

The Commission's key documentation is also available on its website at www.legalservices.gov.uk. The Commission will continue to use both the website and *Focus* to ensure that suppliers are provided with details of all new materials for the CLS and the CDS (including consultation papers) as soon as possible.

Changes to LSC forms

A new set of criminal forms for use by contracted suppliers after the CDS is established on 2 April 2001 will be added to the forms masterpack in February.

It is anticipated that forms for use under the Family Graduated Fees Scheme will be also be published separately with guidance on the scheme in February, and then included in the April 2001 update of the forms masterpack. The April update will also include amendments arising from changes to the General Civil Contract and the Funding Code guidance where necessary.

The masterpack is likely to be revised again in early Summer 2001 to reflect changes to financial conditions, depending on the timetable for implementation of these.

Suppliers are advised not to duplicate large numbers of the forms in advance of these changes. ■

Alternative Dispute Resolution

What role should ADR have in Clinical Negligence cases?

One of the aims of the Community Legal Service is to help people resolve disputes without unnecessary or unduly protracted proceedings in court. The Commission therefore wishes to take a proactive role in encouraging the wider use of mediation and other forms of ADR in appropriate cases. This is already reflected in our decision-making guidance under the Funding Code which is in Volume III of the Manual and on the website (see chapter 7 of the guidance for non-family cases and chapter 20 for family).

Practitioners are reminded that they must inform the regional office whenever a funded client refuses an offer by the other side to mediate or to attempt early neutral evaluation of a dispute (Rule 43.2(vi) of the Code). If ADR is rejected without good reason offices have the power to place limitations on a certificate so that it covers only work necessary to progress ADR.

Clinical negligence in particular is an area which might benefit from the wider use of ADR. The NHS Litigation Authority which deals with the larger

clinical negligence claims is actively encouraging its solicitors to attend mediation. The Clinical Disputes Forum is also looking at this issue. The Commission has therefore published for consultation draft guidance aimed at encouraging the wider use of ADR in clinical negligence cases. This would require practitioners actively to consider ADR at certain key stages of the case and, if ADR is not pursued, to report the reasons for that to the regional office when applying to extend the scope of the certificate.

We are also issuing for consultation some changes to our general guidance on non-family mediation. This is aimed at encouraging solicitors and clients to consider ADR more often and at key stages in a case.

Responses to these consultations are due by 26 February 2001. If adopted the guidance would come into operation from 1 May 2001. Meanwhile the draft guidance is available on the website and copies may be obtained from Michelle Jordan on 020 7759 0460. For further information contact Colin Stutt on 020 7759 0000. ■

Methods of Delivery Pilot Update

All seventeen of the organisations contracted under the Methods of Delivery (MOD) pilot have been invited to extend their contracts, subject to audit, from April 2001 for another year.

In the meantime, the Lord Chancellor has asked the LSC to expand the pilot in relation to second tier and telephone specialist legal services. The shortlisting process for those organisations wishing to provide second tier services is underway while the invitation to tender for telephone services is currently being advertised. The focus of this phase of the MOD pilot is to test contracting arrangements for delivering legal services.

By targeting unmet legal need in specific priority categories of law and

geographical locations, the expansion of the pilot for telephone services offers an opportunity to provide legal services to people who would not be able to access services in any other way. It is designed to complement existing legal services, not replace or detract from them. It also allows the opportunity to explore the possibility of contracting with new providers such as commercial call centres who already provide legal advice, through e.g. motor and other insurance policies. The expansion is structured to accommodate both full time, cross-region service provision and part time, locally targeted service provision using a mix of suppliers including the not-for-profit sector, firms of solicitors and commercial call centres. See page 7 for full details of the invitation to tender. ■

Community
Legal Service

INVITATION TO TENDER

Telephone Legal Services

The LSC is running a pilot scheme in England and Wales to examine a variety of methods of delivering legal services. One way is to provide specialist legal advice by telephone. The Lord Chancellor has asked the LSC to expand the pilot and the LSC is inviting tenders from organisations which can provide the following telephone specialist legal advice services directly to the public:

- ◆ Initial telephone advice and active referral of cases; and/or
- ◆ Initial telephone advice and on-going casework and active referral of cases.

The LSC would be pleased to hear from a variety of organisations including the not-for profit sector, firms of solicitors and commercial call centres who currently offer legal advice.

The expansion targets unmet legal need in specific priority categories of law and geographical locations. The telephone services can be based anywhere and any number of suppliers can bid for any combination of categories of law and locations and for any period of daily access time. The locations are identified under the LSC's regional areas.

West Midlands

Shropshire, Staffordshire, Herefordshire, Worcestershire, Warwickshire - Consumer, Education, Employment, Housing
Birmingham, Sandwell and Dudley - Debt, Housing, Welfare Benefits

South and South East

North Kent - Housing

West Oxfordshire, South Oxfordshire, Vale of White Horse - Debt, Welfare Benefits

South West

Cornwall - Community Care including Mental Health, Consumer, Debt, Education, Employment, Housing, Welfare Benefits

Rural Dorset/ South Somerset, North Devon/West Somerset - Community Care including Mental Health, Employment, Housing

Eastern

Mid Essex (Districts of Maldon, Chelmsford and Braintree), Mid Suffolk (Districts of Waveney, mid-Suffolk, Suffolk coast, South Norfolk), Hertfordshire - Debt, Employment

Yorkshire and Humberside

Rural parts of Yorkshire and Humberside - Debt, Employment, Housing, Welfare Benefits

North East

The North East - Debt, Employment, Welfare Benefits

East Midlands

Derbyshire, Lincolnshire, Rutland, Nottinghamshire - Debt, Welfare Benefits

Wales

Gwynedd, Ceredigion, Pembrokeshire, Carmarthenshire, Powys, Anglesey and Denbighshire - Debt, Housing, Welfare Benefits. Services in Wales to be provided in both the English and Welsh languages.

For further information and a full list of selection criteria, please contact Carol Taylor, Policy and Legal Department, Legal Services Commission, 85 Gray's Inn Road, London WC1X 8TX. E-mail your postal details to modpilot@legalservices.gov.uk. If you do not have e-mail access, please call 020 7759 0461. The deadline for applications is 5.30 pm Friday 23 February 2001. We regret that we cannot consider applications which arrive after this date.

legal services
COMMISSION

Commission Expands E-Mail Correspondance

From January 2001, we will be able to offer e-mail communication between suppliers and regional offices and with our head office in Gray's Inn Road. Initially this will be on a pilot basis, managed by Jayne Elliott, Business Support Manager. This is part of our on-going commitment to information technology. We welcome your involvement in this pilot, and your feedback on the service we are offering. Feedback should be sent directly to Jayne. She can be contacted at bsu@legalservices.gov.uk or by phone on 020 7759 1108.

The pilot will run alongside the development of our website and our EDI project (see page 13). At the moment, it is not clear what volume of work will be received by e-mail. Initially, we will limit the type of communications we accept via the pilot. We are able to accept any enquiry either on an individual case or those of a general nature. We do not intend to accept any applications, amendments, appeals or claims for payment submitted as e-mail attachments as part of this pilot. We are keen to adopt this new business initiative and so we want to ensure the volume of work received may be matched by our ability to deal with it as effectively and efficiently as possible. As soon as we are able to extend this service to other parts of our business

we will do so. The dedicated e-mail addresses for the LSC are as follows:

Regional Offices & Processing Centres	
London Regional Office	london@legalservices.gov.uk
South Eastern Regional Office	brighton@legalservices.gov.uk
Southern Regional Office and LSC Processing Office, Reading	reading@legalservices.gov.uk
Western Regional Office	bristol@legalservices.gov.uk
Wales Office	cardiff@legalservices.gov.uk
West Midlands Regional Office	birmingham@legalservices.gov.uk
North Western Regional Office	manchester@legalservices.gov.uk
Yorkshire & Humberside Regional Office	leeds@legalservices.gov.uk
North East Regional Office	newcastle@legalservices.gov.uk
East Midlands Regional Office and LSC Processing Office, Nottingham	nottingham@legalservices.gov.uk
Eastern Regional Office	cambridge@legalservices.gov.uk
Merseyside Regional Office	liverpool@legalservices.gov.uk
LSC Processing Office, Chester	chester@legalservices.gov.uk
Central Departments at Head Office	
Land Charges Department	landcharge@legalservices.gov.uk
Debt Recovery Unit	dru@legalservices.gov.uk
Policy & Legal Department	legal@legalservices.gov.uk
Business Support Unit	bsu@legalservices.gov.uk
Secretariat	secretariat@legalservices.gov.uk ■

Unrecouped Payment on Account (UPOA) Exercise 2001

During 1995/96 and 1996/97 we undertook an exercise to identify certificates where payments on account had been made but no final bill received. The purpose was to confirm the status of those certificates, closing the case and recouping payments as necessary.

In 95/96 we concentrated on certificates issued prior to 1990 and in 96/97 post-1990 certificates. As a result, a large number of cases were closed which assisted the introduction of the Board's Corporate Information System (CIS).

We are proposing to start a further

UPOA exercise in February 2001 covering all certificated work as well as criminal payments on account made to franchisees.

The process will be similar to the previous exercises. Each firm will receive a letter explaining the process together with a list of outstanding cases. The list will include all cases where a payment on account has been made and no final bill received within 18 months of that payment.

We will be asking you to complete a short questionnaire confirming the status of each certificate listed and,

if appropriate, to submit your final bill or other documents.

We appreciate that asking for details on all certificates in one go may place a significant extra burden on your administrative systems and resources. Consequently, the exercise will be phased and thus more manageable for you.

Your local regional office will be contacting you with the first list in late February. If there are any queries in relation to this exercise once it has started please contact your regional office in the first instance. ■

Further Information for Family Law Practitioners Undertaking Publicly Funded Work

The requirement to attend a meeting with a mediator before making an application for General Family Help or Legal Representation for a Family Matter (Funding Code Criteria 27 - 29) now covers 98% of contracted family practitioners in England and Wales. Extensions to the pilot to cover the remaining areas took place in London on 8 December 2000 and across the whole of England and Wales on 22 December 2000. Please see the list below for full details.

Working within a pilot area has the following affects:

- Before an application is made for General Family Help, or Legal Representation in certain family matters, the applicant will be required to attend a meeting with a mediator in order to assess whether mediation will be suitable to the parties, the dispute and all the

circumstances;

- Where an application is made for General Family Help or Legal Representation which is subject to Funding Code Criteria 27 - 29, and the applicant does not fall within any of the exceptions to the requirement to attend a meeting with a mediator (please see form CLS APP7), the application will be rejected unless the applicant has attended a meeting with a mediator; and
- Where mediation is suitable, and the applicant is financially eligible, they will receive publicly funded family mediation. Family practitioners can use Help with Mediation to provide advice in support of any such ongoing mediation, help in drawing up any agreement reached in the mediation and where appropriate help in confirming any

such agreement in a court order and related conveyancing work.

In order to ensure that family law practitioners at your firm are aware of the requirements under Funding Code Criteria 27 - 29, and that they understand the procedures involved when practising under this requirement, please ensure that you read the chapter on Family work of "The Funding Code - Decision Making Guidance". If you do not have a copy of the Funding Code or the guidance you will find it on the LSC website at www.legalservices.gov.uk.

We have already written to all mediation services and family solicitors who will be affected but should you have any queries regarding the implementation please contact your LSC regional office or Catriona Myers Wilson at the Family Mediation Project on 020 7759 0320.

LSC Regional Office	Mediation Zone	Postcodes to add in
Birmingham	1	B49, HR3, HR5, WR15, B90, B93, WR10, B14, B20, B21, B25-B28, B30-B37, B92, B42, B43, B62, B66
Brighton	7	ME16, TN26, TN30, DA13, TN6, TN21, TN22, RH12, RH13, RH19, RH6, RH8
Bristol	6	GL52, GL20, GL18, GL19, PL27, BA7, BS40, DT9, PL14, PL15, TQ7, TR26, TR27, TR5, GL6, GL7, GL8, GL11, EX12
Cambridge	18	CO9, IP6, NR11, PE37, IP25, NR19,
Cardiff	2	CF33, SA8, SA9, SA13, LL13, LL15, LL16, LL65, LL68, LL77
Chester	3	CW10, CW11, CW12, CW4, CW6, CW7, CW8, CW9
Leeds	1	S25, S26, LS22, YO23, YO24, YO32, BD16, BD21, LS14, LS15, LS25, LS26, LS21, LS29 and WF10, WF11, DN14, DN31, DN32, DN35, DN18, DN20, YO62, HX1, HD1, HD6, HD7, S66, S62, DN12, S70, S73, DN14, WF1, WF5, WF13, WF14, WF16, WF17, WF7-WF9
Liverpool	1	L35, CH48, Ch60, CH63, CH64, L37, L39
London	1	BR5, BR6, BR8, HA4, HA5, HA6, HA8, UB1, UB2, UB4, UB8, UB10, N9, N13, N15, N17, N18, NW2, NW4, NW7, NW9, SE19, SE20, SE25, SW12 and SW17, SM6, CR3, CR5, CR9, DA1, DA8, W4, W6, W10, W12, W14, SW6, E10, E11, E17, E18, E4, EN1, EN2, EN3, EN4, EN5, EN6, EN7, EN8, IG1-IG10, LA18
Manchester (New)	14	OL1, OL16, OL2, OL4, OL8, OL9
Newcastle	13	NE65, NE66, TD15, LE16, LE17, PO31, PO33, PO37, PO38, PO40
Reading	9	SO30, SO31, SO32, SO40, SO51, SO53, MK18, SO45

The Quality Mark - Current Developments

Phase I of the Quality Mark project included the development of the QM standard for the Information and General Help levels. The Commission is now extending the scope of the Quality Mark to include different types of service or methods of their delivery, e.g. mediation, the Bar, internet and telephone services. This article outlines the main developments that will be taking place in the immediate future.

The Quality Mark for the Bar introduces quality assurance for barristers in chambers. The Commission is working closely with the Bar Council to develop the standard and a draft final version for consultation is expected in February 2001. A consultation paper is also due shortly on Quality Mark standards for other second tier services.

There will shortly be a draft for consultation on the Quality Mark for mediation services covering family and community mediation only. Standards for additional services falling within a wider definition of mediation will be developed at a later date.

The publication of the Additional Requirements and Guidance for Telephone Services marks the first step in quality assuring different types of delivery of legal services being developed by the LSC in its Methods of Delivery Pilot covering telephone advice, second tier and outreach services (see pages 6-7). The guidance, together with workbooks to apply at the Information or General level, will be available from LSC regional offices and on

the LSC website by the end of January 2001.

Work on standards for other methods of service delivery is ongoing with the Quality Mark for service delivery via the internet already out for consultation until 28 February 2001 and the final version due in Spring 2001. A consultation paper on a Quality Mark for outreach services will follow shortly.

The Commission is working with an ever increasing range of organisations, particularly in the not-for-profit sector. We are currently training external development officers in Local Government and the not-for-profit sector who will help organisations to work towards the Quality Mark. ■

Development of Transaction Criteria: Family Franchise category

Introduction

The latest phase of development of the Transaction Criteria used in the franchise audit process began in 1997 as part of our ongoing commitment to quality. The key aims in Transaction Criteria development are to ensure they are updated with changes in the law; to expand on the types of cases which can be audited using the Transaction Criteria, and to improve the format of the Transaction Criteria booklets.

The Family category was not included in the initial phase, and so a new project to update and develop the Family Transaction Criteria started last year.

Background

The aim of the Family Transaction Criteria development project is to produce five separate booklets for this category covering:

1. Domestic Violence
2. Divorce

3. Ancillary Relief
4. Section 8 Children Act cases
5. Special Children Act: Public Law Childcare cases

The first four booklets will replace and update the existing booklets: "Family" and "Matrimonial and Family", which already cover these types of cases. The last will be a completely new booklet covering Public Law Childcare cases. These have not been previously audited using the Transaction Criteria.

Domestic Violence and Divorce booklets

The consultation process for the Transaction Criteria covering Domestic Violence and Divorce took place between February and June 2000. Over 70 Family franchisees took part in the consultation process, together with representatives from the Law Society and practitioners' groups. Consultation was followed by internal testing and piloting. The final versions of these booklets have now been completed,

and have been in use in Franchise audits since **Tuesday 28 November 2000**. The booklets may be viewed on the Legal Services Commission website at www.legalservices.gov.uk. Alternatively, copies can be obtained from local regional offices.

Ancillary Relief and Children Act booklets

Initial drafts of the booklets covering these types of cases are currently being produced. Following internal consultation, these will be placed on the Legal Services Commission website for consultation with the profession and any other interested parties. It is anticipated that these drafts will be ready by February 2001.

Anyone wishing to become involved in the consultation process should consult the LSC website, or contact Alice Mutasa at the Supplier Development Group, Legal Services Commission, 85 Gray's Inn Rd, London WC1X 8TX, tel: 020 7759 0384 or e-mail alice.mutasa@legalservices.gov.uk. ■

Client Feedback Questionnaire

To meet the new requirement 'AA' (Client Satisfaction) of the Specialist Quality Mark, currently LAFQAS, we have produced a client feedback questionnaire in association with MORI and experts in the field of market research, plus guidelines for its use.

This questionnaire is currently being distributed for consultation to a sample of solicitors and not-for-profit agencies. Following this consultation, the final version will be available in March. It will be distributed with an Excel spreadsheet that will enable solicitors and advisors to input the data received from the completed questionnaires and analyse the results (NB there is also an alternative manual data handling guide). The distribution of the final version will include all CLS 'Help Point' services (i.e. CLS

members at General and Specialist levels).

Client feedback is an important aspect of the Quality Mark as it enables providers to develop and improve their services. The use of the LSC questionnaire is not mandatory and organisations may wish to develop their own processes or tailor the LSC process to better reflect the services they offer. However, any process must meet the requirements of section AA which will be fully audited from April 2002.

If you require further information on the client feedback questionnaire, please contact Sarah Davidson from the Supplier Development Group on 020 7759 0394 or by e-mail to sarah.davidson@legalservices.gov.uk. ■

Passporting and Accreditation

The Legal Services Commission is liaising with a number of organisations to establish the level of compatibility between the Quality Mark and existing or developing quality standards. There are two aspects to this process namely "passporting" and "accreditation".

The term passporting describes how certain aspects of quality standards are transferable because of their comparability with the Quality Mark. We are working with the developers of various standards to see which elements can be passported, e.g. the achievement of the Investors in People standard may passport organisations through the people management section (J) of LAFQAS. This will hopefully lead to a reduction in the overall length and scope of audits conducted by the various bodies.

We are working with the Department of Trade and Industry and the Office of the Immigration Services Commissioner (OISC) to develop evidence of competence in consumer and immigration advice respectively. This will allow us to better define knowledge and expertise required for the different levels of the Quality Mark. The accreditation scheme allows us to

train and assess the auditors or other bodies such as National Association of Citizens Advice Bureaux (NACAB) and the Local Authorities coordinating body on food and trading standards (LACOTS) so that they may audit their members against the Quality Mark. Six NACAB auditors have been presented with certificates stating their competence to audit against the Quality Mark and the NACAB membership criteria has been adapted to fully match the Quality Mark at the General Help level. Therefore, if an organisation passes the NACAB membership scheme plus the LSC transaction criteria they would be recommended for the Quality Mark as well. The recommendation will be sent to the Commission where the decision will be made regarding the final award of the Quality Mark. This is a good example of both passporting and accreditation in practice.

Negotiations are continuing with LACOTS and the OISC for their standards to be passported (wholly or in part) and their auditors accredited.

For further information please contact Sara Kovach-Clark on 020 7759 0387 or e-mail qualitymark@legalservices.gov.uk ■

Phase II of the Quality Mark – Specialist Level

The Specialist Quality Mark standard is currently LAFQAS. It is being re-written to have the same appearance as the Information and General level Quality Mark standards and a draft for consultation is anticipated by Spring 2001. Although there will be no additional requirements introduced at this stage, it will include changes and some additions that will take effect from April 2002. This will allow a considerable lead-in time to adapt procedures. As well as the planned consultation document, the Commission will run a series of seminars for specialists in each region to raise awareness of the CLS and the new specification and also provide an opportunity to debate and comment on the proposed changes. No more details are available at the moment but they will be publicised at a later date.

Supervisor standards and transaction criteria are being developed for the four new specialist categories: Public Law, Education, Actions Against the Police etc and Community Care. Transaction criteria are also being drafted to cover Prison Law and Criminal Cases Review Commission cases. A group of practitioners who represent a cross section of expertise in these areas on a national basis has been set up for each new category.

Transaction criteria are also being developed to extend their use at the General Quality Mark level. The proposed timetable includes a consultation period beginning Spring 2001. Any organisation wishing to be involved in the consultation process should contact Clare Powell-Evans of the Supplier Development Group on 020 7759 0397 or by e-mail to clare.powell-evans@legalservices.gov.uk by the end of January 2001. ■

Immigration and Asylum Act 1999

Part V of the Act makes provision for a scheme to regulate immigration advisors and service providers. Immigration practitioners may be concerned about how the requirements of the Act apply to them. This article explains the circumstances where Quality Marked practitioners and contractors need to meet the additional requirements of the Office of the Immigration Services Commissioner (OISC). Under the scheme, the provision of immigration advice or services will be prohibited unless a person is registered with the Immigration Services Commissioner, authorised to practice by a designated professional body (e.g. The Law Society) or exempt under the terms of the scheme.

It is expected that the prohibition on providing immigration advice or services will come into effect in April

2001. The aim of the scheme is to prevent unscrupulous and incompetent immigration advisors from exploiting vulnerable people. The Commissioner also has a duty to promote good practice by those who provide immigration advice or services. The OISC has developed Rules and a Code of Standards to govern advice providers. Solicitors and anyone supervised by a solicitor does not have to apply to the OISC for registration. However, other advice providers in the 'for profit' sector will have to apply, pay the appropriate registration fee and abide by the Rules and the Code.

At present, all practising solicitors, barristers and members of ILEX do not have to apply for registration or an exemption.

The LSC is working with the OISC to

match the Code with the Quality Mark at the various levels and it is likely that the Quality Mark will act as a passport for the majority of the Code as they are very closely matched. However, there are a few requirements additional to the QM, mainly around competence.

Non-solicitor NFP organisations that give immigration advice and are either members of the CLS (i.e. those who have the Quality Mark) or have committed to apply for the QM by October 2001, will be sent details of the additional requirements in January.

Any enquiries about the scheme to regulate immigration advisors, please contact OISC on 020 7211 1500, or the application process for Quality Marked organisations, please contact Jill Saville on 020 7759 0396 or e-mail qualitymark@legalservices.gov.uk. ■

Advocacy Graduated Fees Scheme for family cases - an update

As explained in previous editions of *Focus*, the Lord Chancellor's Department (LCD) proposes a new payment scheme for barristers who undertake family work. The scheme provides a separate payment regime for counsel during the lifetime of family cases brought with the assistance of public funding. The scheme will operate alongside the existing arrangements for paying solicitors' profit costs and disbursements.

Family barristers will need to be familiar with the new payment scheme. Similarly, solicitors will need to be familiar with the fee scheme when they report to their client on the running costs of the case, calculate costs for the purpose of the costs limitation, or verify counsel's claims.

The consultation period on the scheme structure document and the draft regulations, including the proposed rates of remuneration, published by the

Lord Chancellor's Department, ended on 22 September 2000.

Responses to the guidance for suppliers on the operation of the scheme, proposed changes to the General Civil Contracts for licensed family work and draft forms for the administration of the scheme, issued by the Legal Services Commission, were requested by 29 September.

Responses were received from the judiciary, the legal profession, professional bodies and individual solicitors and barristers. Ministers are fully considering all the views and

suggestions received from respondents on all the consultation documents. Once Ministers have made decisions on the structure of the scheme and the rates to be paid, a summary of the views of respondents and the Government's response to them will be published. It is intended that the scheme will now be implemented in Spring 2001.

We will provide a further update in the next edition of *Focus*. Copies of the consultation papers can be found on the LCD and LSC websites – www.open.gov.uk/lcd and www.legalservices.gov.uk. ■

Family Mediation Research Report Published

The research report "*Monitoring Publicly Funded Family Mediation*" was published in December 2000. The research team was led by Professor Gwynn Davis, University of Bristol. The full report and a summary are available on the LSC website or from the Family Law and Mediation Project, 85 Gray's Inn Road, London, WC1X 8TX. ■

Extending E-Business into the LSC

"E-business will transform your company:

- the way in which your employees communicate and share information;
 - your relationships with clients;
 - your distribution and supply chains"
- (Adair Turner, Former Director-General, Confederation of British Industry, November 1999)

A very simple definition, but one that sums up the impact of e-business - on any organisation, whatever the sector or size.

Much of e-business currently revolves around using the internet, mostly through web browsers such as Internet Explorer. The internet has been around for about 35 years and bearing in mind its current rate of development (one internet year is seen as equivalent to four standard years in any other sector), will come to the end of its current form well within our own working lives. By comparison e-business is at an early stage - and much more is to come.

Targets have been set by the Government for all departments and Government bodies to maximise the advantages of e-business.

LSC

The LSC is keen to develop e-business so that all our customers can take advantage of the benefits. We aim to:

- Develop a range of interactive services aimed at legal suppliers and the funded client
- Make EDI available to all contracted CDS and Legal Help suppliers by March 2002
- Deliver 25% of business transactions electronically by 2002 and 100% by 2005

The first of these services, SPAN-EDI, was piloted throughout 2000. In

November 2000 we offered the service to all civil contract suppliers. The service offers fundamental benefits which will be extended over the coming years. SPAN-EDI also underpins the LSC's aim to reduce paperwork.

SPAN-EDI

SPAN-EDI allows the electronic transfer of civil contract management (SPAN) reports between suppliers and the Commission via the internet.

The main benefits for all involved are:

- Timeliness, quality and integrity of information from suppliers
- Improvements in costs (and speed) associated with completing, processing and storing the information
- Building the foundations for both the LSC and our suppliers for future development of electronic business systems

Since November 2000, we have seen a steady take up and a keen interest from other suppliers in adopting the service. Equally vital, case management software suppliers are working with us to incorporate automated transfer of your claims into their systems - making life simpler for all.

How it works

The system is built on the SPAN contract management system and replaces the current paper forms which are completed monthly (Matter Start Forms and Consolidated Matter Report Forms). Instead, suppliers use an internet connection to type in the information when convenient - and then submit the full set of accumulated data to the Commission at the end of each month. This guarantees the following month's payment will be sent automatically to their bank. On-line reports, statistics and details of previous submissions are then

available to suppliers.

Security

Security has been given top priority and takes the form of:

- Passwords for all users (which have to be changed every 2 months);
- The internet connection from the supplier to the LSC uses Secure Sockets Layer (SSL - a high standard internet security system to encrypt data);
- A high security firewall protecting all internal LSC systems.

Joining is free

There is no charge for using the system and registration will take place on a first come, first served basis. Register online at www.legalservices.gov.uk (select the eBusiness link on the left of the screen)

The e-business future

Work is underway to develop fully the potential of e-business and the internet. We aim to ensure that the benefits of e-business are realised by the Commission and all of our customers.

A pilot will run in 2001 to extend the EDI service to criminal advice & assistance - offering an e-business facility alongside the forthcoming SPOCC (System for the Payment of Criminal Contracts) system.

Another vital development will be the ongoing work to provide additional reports to the registered suppliers - such as the average cost of cases by zone.

More information

A leaflet is available on SPAN-EDI, listing full benefits and details of the computer set-up required. For more details please contact the Business Support Unit on 020 7759 1110/1113. ■

Exceptional Funding

How CLS Funding can sometimes be obtained for cases which are otherwise out of scope

"I am sorry, we cannot fund representation at tribunals and inquests". This was true of the old legal aid scheme but not of the CLS. The Lord Chancellor has power under Section 6(8)(b) of the Access to Justice Act 1999 to provide funding for cases which are normally entirely outside the scheme. However, this power will only be used for really exceptional cases and only where funding has first been requested from the Commission.

What types of case can be covered?

A case can be funded under Section 6(8)(b) either if it is excluded because of its subject matter (paragraph 1 of Schedule 2 of the Act) or because funding is requested for representation at an inquest or tribunal which is not normally covered (paragraph 2 of Schedule 2).

About 80 applications for funding have been received to date. Just over half of these applications have concerned representation at inquests, in particular those following deaths in custody. Death in custody cases are the type most likely to come within the Lord Chancellor's guidance as explained below. The Lord Chancellor's Department is expected to issue a consultation paper shortly dealing with the availability of public funding for representation at inquests.

What criteria are applied?

The Lord Chancellor has issued guidance on the types of case that he might consider funding under Section 6(8)(b). This is set out at Section 3.4 of the Funding Code decision-making guidance in Volume 3 of the Manual and on the LSC website. It is also printed on page 23 of *Focus 29*.

Only really exceptional individual cases will qualify for funding. In general cases will need to show either "significant wider public interest" or "overwhelming importance to the client". Both these concepts are quite narrowly defined.

Significant wider public interest is confined to those cases where providing representation for the client is likely to be of real benefit to other members of the public, for example through a real prospect of establishing a new principle of law or making recommendations which will improve public safety. See Section 5 of the Funding Code guidance for the approach to public interest.

Note that for cases before the civil courts which are excluded because of their subject matter, for example personal injury claims, the Lord Chancellor's general directions on scope already bring such cases within the Scheme if they have a significant wider public interest. Such cases can therefore be funded in the usual way through the regional office, rather than relying on exceptional funding under Section 6(8)(b).

"Overwhelming importance to the client" is restricted to cases affecting the life, liberty or physical safety of the client or his or her immediate family or the roof over their heads. This will usually be a very difficult test to satisfy, although the Funding Code guidance does recognise deaths in custody and infant death as cases which may give rise to overwhelming importance to the client.

What funding can be provided?

The Lord Chancellor has power to authorise any level of service under the Funding Code when funding a case under Section 6(8)(b). In practice the most likely type of funding will be level 7 of the Code which is "such other services as are authorised by specific orders or directions from the Lord Chancellor". This means that funding will not usually involve the issue of a funding certificate as for Legal Representation but will take the form of a one-off grant up to a sum specified by the Lord Chancellor in each case.

Funding under Section 6(8)(b) is aimed

only at covering those services which are excluded by Schedule 2 of the Act. Funding for inquests and tribunals which are out of scope will cover only advocacy and representation at the hearing itself. This is all that is excluded by paragraph 2 of Schedule 2. Any necessary preparatory work prior to an inquest or tribunal hearing must instead be covered under Legal Help.

How can applications be made?

Only the Lord Chancellor can approve funding of individual applications and he can only do so where funding is requested by the Commission. Therefore all applications under Section 6(8)(b) must be made to the Commission in the first instance.

Applications should not be made to regional offices. Instead all applications should be sent directly to Head Office at the following address: Policy and Legal Department, 85 Gray's Inn Road, London WC1X 8TX. Please state in the heading of your application letter that it concerns an application for exceptional funding.

As from 1 February 2001 we will require all applications to contain both a standard CLSAPP1 form together with all relevant Means forms as if applying for a certificate for Legal Representation.

Some parts of the APP1 form will not be relevant to certain applications under Section 6(8)(b). For example, Prospects of Success is not relevant to representation at an inquest. Applications should concentrate on addressing the issues set out in the Lord Chancellor's guidance. Applications must also include a breakdown of the funding required setting out the hours claimed and rates charged. For the time being representation at inquests will be paid at rates not exceeding those for Crown Court work (page 679 of the 1998-99 Handbook plus up to 50% uplift) and

representation at other tribunals will be at Mental Health Review Tribunal rates. Remember that only advocacy and attendance at the hearing in question can be claimed.

Urgent cases

It is important that applications are made as early as possible to allow time for us to decide whether to request

funding from the Lord Chancellor and for the papers to be passed to the Lord Chancellor for a final decision. We will try to deal with applications as quickly as possible but inevitably there will be some cases where a final decision cannot be made before the hearing has taken place. Since funding under Section 6(8)(b) is by way of a one-off grant and does not involve the issue of

a certificate, it is within the Lord Chancellor's power to approve funding retrospectively if necessary. However, this will only be considered if the application to the Commission for funding was made at the earliest opportunity.

For further information contact Roy Pershad on 020 7759 0000. ■

Immigration News

Contract Reconciliation and stage claiming

The General Civil Contract was amended in November 2000 to allow staged billing in asylum and Human Rights cases. Such cases can now be billed at the following stages (where applicable):

1. The date the asylum application is completed; to include submission of any asylum questionnaire and up to and including completion of any substantive interview.
2. The date of determination by the first adjudicator.
3. The end of the matter.

Guidance on stage claiming was sent out to practitioners at the end of October 2000. The option applies not only to new cases but also to pre-existing cases that had already passed one of the relevant stages when the contract amendment was introduced.

First year contract schedules are due to end March 2001. It is important that practitioners realise that reconciliation under their contract Schedule is based upon balancing money paid out to the firm with claims submitted - subject to the one month pull forward. Standard Monthly Payments are on account of claims submitted – not work in progress, save for the £400 payment on account in asylum cases. As payments to immigration practitioners are currently running at roughly double the rates for which they are billing cases, it is important that firms adopt staged billing as soon as practicable so that the costs can be taken into

account as Schedules are reconciled over the coming months

Given the difficulties caused by the protracted duration of asylum cases the Commission will be prepared, in general, to be flexible with immigration practitioners when issuing the second year Schedules. The 'extra payments' announced in April 2000 (see *Focus 30*, page 1) – namely the £400 payment on account for asylum matters and the one month pull forward - will be carried over to second year schedules in any event. Further, in order to give staged billing time to take effect, we will be willing, **in most cases**, to allow sums over and above these amounts to be carried over into the second year Schedule and not to insist on immediate full reconciliation. However, where there are very large discrepancies between the amounts paid and the amounts due under the contract we may need to effect a more immediate full reconciliation in individual instances. In any case payments to all firms will need to be reconciled against claims (subject to the carrying over of the 'extra payments' referred to above) over the course of the second year Schedules. When carrying out that reconciliation the Commission will take into account the fact that firms will have had the option of staged billing their cases, even if they have not taken up the opportunity.

Counsel's Fees for Controlled Legal Representation

As from 1 January 2001 the contract Specification has been revised to

provide that counsel's fees for representation before the Immigration Adjudicator or Appeal Tribunal cannot exceed the rates payable to a solicitor under Controlled Legal Representation (CLR). This provision will not apply in cases that raise exceptionally complex or novel points of law or a matter of significant wider public interest.

It should be noted that the contract amendment (notice of which was sent out at the end of October 2000) does not prevent solicitors from entering into fixed fee arrangements with counsel provided that the overall fees will not exceed the amount that would have been payable at the CLR rates. The relevant Rule (12.7 in the Specification) sets a maximum –but clearly lower fees may be agreed when it is reasonable to do so and the overall principle that counsel's fees must be reasonably incurred applies.

Asylum Expansion in London

The Commission has issued invitations to London immigration practitioners to apply for a package of incentives to support the expansion of their asylum practice (see *Focus 32*, page 4). Measures available in London include grants for the recruitment of new staff, an income guarantee of £47,500 per year for three years in relation to each fee-earner recruited; provision of extra payments to meet supervision and training and for loans for the cost of new premises. Any queries in relation to the invitations and the bidding process should be addressed to Una Lane, Contracts Manager at the London Regional Office. ■

Abolition of Committal Proceedings for Indictable Only Offences

Section 51 of the Crime and Disorder Act 1998 abolishes committal proceedings for indictable only offences and introduces the new procedure of "sending" cases to the Crown Court for trial with any related offences or defendants (including youth defendants). These changes have been piloted since January 1999 at certain Crown Court centres (see *Focus 25*, page 16).

From 15 January 2001, section 51 will be implemented nationally. From that date, anyone making a first appearance at a magistrates' court charged with an indictable only offence will be sent straight to the Crown Court for trial. In most cases, this will happen after the initial hearing. Any related either way or summary offences, including those involving co-defendants will also be sent if they are before the magistrates' court at the same time. Related either way or summary offences appearing subsequently to the indictable only offence may also be sent (section 51(3)).

Cases which have had at least one appearance in the magistrates' court prior to 15 January 2001 will continue to be dealt with under existing arrangements for committals for trial.

The relevant amending regulations are the Legal Aid in Criminal and Care Proceedings (General) (Amendment) (No. 2) Regulations 1998 (SI No. 2909) and the Legal Aid in Criminal and Care Proceedings (Costs) (Amendment) (No.3) Regulations 1998 (SI No. 2908).

Criminal legal aid will be available for both the magistrates' court and the Crown Court by means of a through order. Magistrates' courts that send a person for trial under the new procedure have the power to grant legal aid for the Crown Court proceedings. The means test will continue to apply to these cases although the magistrates' court will be able to undertake a preliminary assessment of means without supporting documentary

evidence before the case is sent in order to avoid delays in grant. A reassessment of means will be undertaken by the court once this evidence is available and a contribution order will be made at that stage, if appropriate. The regulations allow a legally aided person 14 days after legal aid is granted to supply the court with supporting documentary evidence. Legal aid may be withdrawn if this information is not supplied.

If the magistrates' court refuse to grant legal aid because of the applicant's failure to satisfy the interests of justice test, he or she will still be able to apply to the area committee for a review. If legal aid is refused on grounds of means, further application can be made to the magistrates' court. Application can also be made to the Crown Court for legal aid after the case is sent in the usual way.

When a case is sent to the Crown Court the Legal Services Commission will have no role to play in determining costs, other than to consider applications for prior authority. The Crown Court will become the determining authority responsible for assessing and paying the entire claim for work undertaken in both the magistrates' court and the Crown Court. This means that any claims submitted to the Commission for this work will be rejected. Instead a single claim must be sent to the relevant Crown Court taxing team at the conclusion of the proceedings in the Crown Court form. The magistrates' court element of the claim will be assessed applying the appropriate magistrates' court prescribed rates. Work undertaken in the Crown Court will be assessed in accordance with the usual Crown Court rates. The determining officer will assess whether the total amount falls within the Crown Court standard fee scheme in which case either a lower or principal Crown Court standard fee will be allowed. If the

claim does not fall within the scope of the Crown Court standard fee then the entire bill will be assessed on the basis of the appropriate magistrates' court and Crown Court hourly prescribed rates.

If the Crown Court determining officer reduces or disallows a claim for work undertaken in the magistrates' court a right of appeal arises to the taxing master in accordance with Regulation 15 of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989. There is a further right of appeal on a point of principle to the High Court under Regulation 16. The costs committee does not have jurisdiction to hear appeals in these cases.

If a case is remitted back to the magistrates' court to be dealt with, authority for determining costs in respect of work done from that point onwards reverts back to the Commission which will continue to assess and pay the claim for work undertaken **after** the case was remitted back to the magistrates. A separate claim for this work should be submitted to the relevant processing centre on form CLAIM 7 or CLAIM 8. This will be assessed according to the usual principles i.e. the magistrates' court standard fee scheme or ex post facto where appropriate. The Crown Court will determine and pay the remainder of the claim.

Regulation 4E of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 is amended so that franchisees will **not** be entitled to claim an interim payment from the Commission when a criminal legal aid order is granted for an indictable only offence (and any related offences) sent for trial. This is because the Commission will not be able to recoup payments on account as we will no longer be responsible for determining the final bill.

For further information contact Katherine Pears on 020 7759 0000. ■

Terrorism Act 2000 – Judicial Extensions of Detention

A new system is being established under this Act to enable judicial authorities to determine whether periods of detention in police custody for terrorism cases should be extended. The relevant powers and procedures are set out in Schedule 8 of the Terrorism Act 2000.

In England and Wales the relevant authority will be the Senior District Judge (Chief Magistrate), her deputy and any other district judge (magistrates' court) designated by the Lord Chancellor.

The current arrangements for representation on an application for a warrant of further detention (or for extension of such a warrant) under sections 43 or 44 of the Police and Criminal Evidence Act 1984 (PACE) will

be replicated to cover representation in the magistrates' court on applications to extend detention in terrorist cases. The scope of Assistance by Way of Representation (ABWOR) will be extended by the Legal Advice and Assistance (Amendment) Regulations 2001 and the Legal Advice and Assistance (Scope) (Amendment) Regulations 2001 which come into effect on 19 February 2001.

There is no means test for this new ABWOR provision and no requirement for an application to be approved by the LSC. Representation may be by the Duty Solicitor or an Own Solicitor. Claims for such work will be made on the current form which is the CLAIM16 and the rates which currently apply to representation on a PACE warrant will apply. ■

Flintshire CLSP launched

A new Partnership recently launched in Flintshire aims to make it easier for residents to get information and advice about their legal rights with housing, welfare benefits, debt, employment and consumer problems.

The Community Legal Service Partnership has been set up by Flintshire County Council, the Legal Services Commission and representatives from information and advice providers.

The advice network includes Age Concern Flint, the Citizens Advice Bureau, community groups, Housing Associations, private law firms and services provided by Flintshire County Council. The Partnership is also encouraging and helping advice providers to obtain the quality mark that will demonstrate that their service provision meets national standards of competency. Flintshire County Council Community Services Manager Paul Neave said, "For many Flintshire residents attempting to find the advice service that can help them with a particular problem is as easy as finding



(l-r) Ken Davies, Age Concern Flint; Paul Neave, Flintshire County Council; Alison Linfield, LSC

their way round a maze in a blindfold. They can go from service to service and still not find the right one that they need. Eventually they think that they are wasting their time and simply give up without getting any help at all. Once fully established the Partnership will help these people to find the service that they need to deal with their particular problem. Also as the Partnership is helping information and advice providers to obtain a quality standard, Flintshire residents can be confident that the agency who advises them will do so in a competent way". ■

Update on changes to Financial Conditions

A summary of the LCD consultation paper on Financial Conditions was published in *Focus 32*. The consultation period has now closed, and submissions are currently being considered by Ministers. Full details of the planned changes will be made available as soon as possible, with a likely implementation date of early Summer 2001. ■

Preparation of Bill of Costs - Decision in Family Proceedings

The Court of Appeal has now considered the amount payable for preparing a bill of costs in family proceedings. The case of *A Local Authority v A Mother and Child (20 December 2000)* resolved any confusion over the disparity between the Civil Procedure Rules and Legal Aid in Family Proceedings (Remuneration) Regulations 1991 ("the Regulations") as to the appropriate amount recoverable by way of Law Costs Draftsmen's fees.

The appellants had argued that the Costs Practice Direction to CPR 47, which allows for the recovery of the reasonable costs of preparing a bill, was inconsistent with the Regulations which limit the cost for preparation of the bill to £51.75.

The Court held that the Costs Practice Direction could not revoke or amend (expressly or impliedly) the Regulations and therefore that any inconsistency was irrelevant as the Regulations applied regardless of the practice direction. The leading judgement delivered by Hale LJ states.. "In fact, however, it is comparatively easy to reconcile them...The costs of preparing the bill are now to be considered allowable, because the general practice has now changed, but only up to the maximum permitted by the Regulations, which is to be taken as setting the 'reasonable cost' in the context in which the Regulations apply" ■

Norfolk CLS Events

The Right Honourable Lord Irvine of Lairg, the Lord Chancellor, visited Norfolk on Wednesday 25 October 2000 to attend two events relating to the development of the CLS.

The first event, co-hosted by the Legal Services Commission and Norfolk County Council, launched the Community Legal Service Partnerships in Norfolk. The event was jointly chaired by Sheila Hewitt, Chair of the Eastern Legal Services Committee and Councillor John Sheppard, Chairman of Norfolk County Council.

This was a unique event in that it brought together all the key players in the development of the Community Legal Service in Norfolk for the first time. Present were the Chief Executives and leading councillors from councils within the County as well as solicitors and not-for-profit suppliers of legal services.

The Community Legal Service in Norfolk takes the form of three independent Partnerships covering West Norfolk, Central Norfolk, and North & East Norfolk, comprising seven local authority areas, as well as a countywide Strategic Funders Forum. The three Partnership Steering Groups have produced strategic plans that will be presented to funders and will help ensure that local needs are recognised in the future development and funding of legal services. The Funders Forum brings together representatives from the National Lotteries Charity Board,

the Anglian Water Trust Fund, the East of England Development Association, Local Authorities and the Legal Services Commission. It was established to give funders an opportunity to share their funding intentions.

Representatives of the Steering Groups presented their draft strategies to the Lord Chancellor. Their speeches emphasised the high need for legal services in Norfolk in the social welfare law categories, such as housing, debt and welfare benefits which is not apparent from the "chocolate box" view of coastal and rural life of Norfolk.

The Lord Chancellor then moved on to the village of Hethersett, just outside Norwich, to award the Community Legal Service Quality Mark at Information Level to the ten library services in the East of England (Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Norfolk and Suffolk County Councils and Luton, Peterborough, Southend and Thurrock Unitary Authorities).

The event was co-hosted by the Legal Services Commission and "Living East" and was chaired by Graham Creelman, chair of Living East (formerly East of England Cultural Consortium) and Managing Director of Anglia Television Limited.

Peter Watson of the LSC, spoke about the importance of libraries as part of the Community Legal Service's objective to improve people's access to legal information and help.

He was followed by Terry Turner, Director of Cultural Services, Norfolk County Council, who said "We are very proud to be associated with this development and we are confident that library staff



Lord Chancellor at Hethersett Library

everywhere will be able to track down the relevant information, and signpost enquirers to sources of legal advice under the Community Legal Services scheme. Library Authorities in the Eastern Region have a track record second to none for co-operation and collaboration and it is pleasing that this is recognised by the award of the Community Legal Service Quality Mark to all the public libraries in the Region."

The Community Legal Service Quality Mark has been developed to help people have trust in the system. Libraries that display the Quality Mark logo have passed a quality check to ensure that they meet an agreed standard of service as a Community Legal Service Information Point.

The Lord Chancellor commented, "It is excellent, nothing short of excellent, that public libraries across the East of England have become Quality Marked Information Services, and we are very very keen to encourage as many other public outlets as possible to become Quality Marked Information Points."

Following the presentation of the Quality Mark certificates to the library services, the Lord Chancellor presented Hethersett Community Library with its very own Information Quality Mark sticker. Lord Irvine took the opportunity to browse the shelves as well as the Just Ask website and talk with the library staff.

Hethersett library was chosen for the event as it is a small community library, thus emphasising the value of libraries as access points to public services. ■



Lord Chancellor presenting Quality Mark certificates

Public Interest Advisory Panel Reports

The Public Interest Advisory Panel reports to the Commission on cases which are alleged to raise public interest issues. These reports are then taken into account by the Commission in decisions under the Funding Code. For more information on the Panel see the article in *Focus 31* (page 2) and Section 5 of the Funding Code Decision-Making Guidance in Volume 3 of the LSC Manual and on the website at www.legalservices.gov.uk.

A summary of the first cases to be considered by the Panel was contained in *Focus 32* (pages 16-17) and are set out in Section 5.8 of the Guidance.

A summary of the cases which have since been referred to the Panel is set out below. These details are taken from the full reports of the Panel, but omitting individual client details. In each case the Panel gives an opinion as to whether or not the case has a significant wider public interest. Cases which have a significant wider public interest are usually assessed in one of three categories, namely “exceptional”, “high” or simply in the general category of “significant” wider public interest.

PIAP/0010

Nature of Case

Multi-party personal injury proceedings (asbestosis). Claims made against English parent company (Cape Plc) on behalf of South African miners. New applications out of scope unless having significant wider public interest.

Report of Panel

The Panel considered that the Cape litigation raised public interest issues in a number of ways. Firstly, the litigation would directly benefit not just the current clients in the case but potentially thousands of other South African miners with potential claims. The allegations of failure to operate safe systems of work were very serious indeed. For each individual client suffering from asbestosis and other conditions, the claims would have great importance and the damages would be substantial. The Panel considered whether or not the fact that the clients

were South African residents should affect the assessment of public interest. The starting point is that the definition of wider public interest in the Funding Code depends on the case showing real benefits for “individuals other than the client”. The Panel agreed with the advice of the Policy and Legal Department that “individuals” must mean any individuals and could not be interpreted as referring only to individuals present or resident in the United Kingdom. Further, neither the means nor merits tests for funding legal representation (nor the rules for Civil Legal Aid under the 1988 Act) contained restrictions as to the residence or nationality of eligible clients, once the courts have determined that proceedings can legitimately be brought within this jurisdiction. Neither the Commission’s, nor Lord Chancellor’s current guidance specifically addresses the issue.

The Panel’s view was therefore that under the current scheme the foreign element of claims was not relevant to deciding whether a case had a significant wider public interest. However, a range of views were expressed by Panel members as to whether the foreign element was relevant to any assessment of the extent of public interest, for example, for the purposes of applying cost benefit, or affordability criteria. That question might need to be addressed in the future in this or other litigation.

Quite apart from the direct benefits to clients or potential clients within this litigation, the Panel considered that the action raised very important issues of fact and law as to the liability of parent companies for the actions of subsidiaries. This aspect of the case might be dealt with as a preliminary issue in the litigation. Whilst it was difficult to predict whether new law would be established and what its ambit might be, anything which made it easier for employees, consumers and others to proceed against a parent company when a subsidiary could not be pursued for some reason had wide implications. The benefits of such an

issue of law would not necessarily be limited to clients wishing to bring claims against UK parent companies with foreign subsidiaries. It might well also benefit cases wholly within this jurisdiction.

The Panel also considered wider issues such as the desirability of UK companies adopting safe and consistent health and safety standards whether they were operating in this country or overseas. Making parent companies accountable might discourage British companies from deliberately choosing on economic grounds to operate in countries with low health and safety standards. However, the Panel recognised that these wider considerations may well fall outside the Funding Code definition of wider public interest which excludes “benefits to the public at large which normally flow from proceedings of the type in question”.

Conclusion

Significant wider public interest.
Rating: High to exceptional

PIAP/0011

Nature of Case

Housing proceedings. Legal issue as to whether a portable heater can constitute an “installation” for the purposes of the Landlord and Tenant Act.

Report of Panel

The Panel accepted at the outset that there must be a large number of tenants with portable heaters in their property and were concerned only as to whether the legal issue in this case would be likely to significantly increase the rights and remedies of such tenants. The Panel was satisfied that it may well do so. Some tenants may benefit directly from Section 11, although only in circumstances where the landlord has had notice of the defect in the installation. In addition, establishing that a portable heater is an installation within Section 11 of the Landlord and Tenant Act 1985 may help to found a claim based on the Defective Premises Act 1972.

However, the Panel had some concerns about the extent of benefit to tenants which might arise from the legal issue in this case and some Panel members retained concerns as to whether some tenants might already have adequate remedies under the common law, especially in relation to dangerous defective equipment.

Conclusion

Significant wider public interest.

Rating: Significant

PIAP/0012

Nature of Case

Multi-party personal injury proceedings. Oral contraceptive pill litigation. New applications out of scope unless having significant wider public interest.

Report of Panel

The Panel agreed that this is important litigation concerning the safety of widely available contraceptive pills. For those already involved in the litigation and all future clients the cases are extremely important and the harmful effects complained of are serious and likely to result in substantial damages if the claims succeed. It is understood that Femodene and the other pills are still being prescribed. It is important for the public to know whether they can have full confidence in the product licensing system.

The Panel went on to discuss the position of individual claims applying under the new funding scheme to join this litigation. Even where funding for a group action has been granted under the 1988 Act, new applications after April 2000 must be considered under the new scheme and Funding Code. The Lord Chancellor's direction on scope allows personal injury and other excluded issues to be funded in "cases that have a significant wider public interest". The Panel agreed with the advice of the Policy and Legal Department that in this context "cases" should be taken as referring to the litigation as a whole, not merely the individual application.

Conclusion

Significant wider public interest.

Rating: High

PIAP/0013

Nature of Case

Personal injury proceedings. Claim for damages against referee for injury sustained during rugby match. Proceedings out of scope unless having significant wider public interest.

Report of Panel

The Panel considered the existing legal position following the previous decided case of Smolden and considered the circumstances of the present case as to whether there was potential to develop or expand this area of law. Although the Panel recognised that the factual circumstances of the present case were different in a number of respects from Smolden, the Panel considered it unlikely that they were of such a kind as to make it likely that this case would develop the law. The general principles likely to apply in these circumstances were set out in Smolden and the Court made it clear that the specific level of care required by a referee is that which is appropriate in all the circumstances; those circumstances will clearly vary from case to case. If this case proceeds it is therefore likely that it will be determined on its own particular facts. Whilst the case is, of course, of great significance to the client, bearing in mind the severity of the injuries involved, it is unlikely to bring benefit to others.

Conclusion

No significant wider public interest.

PIAP/0014

Nature of Case

Clinical negligence proceedings. Legal issue as to whether surrogacy costs recoverable as a head of damage.

Report of Panel

The Panel recognised that there is much public debate and interest in a number of issues surrounding surrogacy. The Panel accepted the argument that clarifying the legal principles to define the circumstances in which surrogacy costs may be recovered is an important issue. In a sense, this appeal does not so much raise a pure issue of law, but

an issue of law and fact as to what likelihood of success in surrogacy may allow for recovery. One can only speculate as to whether the Court of Appeal will lay down useful broad guidelines in this area, rather than simply deciding this case on its individual facts, which are somewhat unusual. Either way, it is difficult to predict the number of women who might benefit from the outcome of this appeal. But even if that number is small, the importance of the issue to each client will be substantial.

Conclusion

Significant wider public interest.

Rating: Significant

PIAP/0015

Nature of Case

Representation at inquest. Death of mental patient who walked from hospital and committed suicide. Application for exceptional funding under Section 6(8)(b) of the Access to Justice Act 1999.

Report of Panel

The Panel recognised at the outset that the care and supervision of persons detained in hospital under the Mental Health Act is a matter of public importance. The fact that the Coroner decided to appoint a jury for this case is also an indication of the importance and sensitivity of this area.

However, the issue for the Panel under the 'wider public interest' test as set out in the Funding Code is whether, in this individual case, representation for the clients would be likely to produce benefits for other persons. Potential benefits might flow if the Coroner were to make any general recommendations to the Secretary of State arising from the circumstances of this case, but it is unclear whether this is likely and in particular whether representation for the clients at this inquest is necessary to ensure that the full circumstances emerge.

It may be that this inquest will deal simply with the particular tragic circumstances of this case and whether the death could have been prevented. There is, however, very

little evidence in the papers before the Panel to suggest that this case arose out of a systemic problem at the hospital or within the procedures for the supervision and care of mental health patients more generally. Although there were references to concern within the community there was little evidence to support this or to indicate that the Coroner is likely to consider such wider issues. The Panel suggested that expert bodies such as Inquest or Mind might be able to help the clients.

Conclusion

No significant wider public interest.

PIAP/0016

Nature of Case

Judicial review proceedings. Legal issue as to affect of earlier fraud on entitlement to future welfare benefit.

Report of Panel

The Panel considered that the case raised important legal issues involving wide numbers of people who might be affected. This group not only includes those convicted of benefit fraud, but also those who have innocently over-claimed benefit. However, it is uncertain how many people may be affected, especially as there is reference in the papers to the relevant regulations being changed in April 2001.

Conclusion

Significant wider public interest.
Rating: Significant

PIAP/0017

Nature of Case

Judicial review proceedings. Challenge to decision of Mental Health Review Tribunal to adjourn a case.

Report of Panel

The Panel considered the issue of law, which it was said gave rise to the public interest of this case. This related to the contention that the case concerned general issues about the appropriate approach of the tribunal to adjournments. Whilst the Panel had much sympathy for the client, they considered it very unlikely that

the court in a judicial review in this individual case would lay down any general principles in relation to this point. It is also very probable that a judicial review hearing would not take place until long after the adjourned hearing.

In the light of this the Panel considered that it was unlikely that this individual case would lead to any significant changes in the law or that it would produce benefits for persons other than the client.

Conclusion

No significant wider public interest.

PIAP/0018

Nature of Case

Judicial review proceedings. Legality under European law of social security legislation affecting married women.

Report of Panel

The Panel was concerned that the legal arguments being put forward in this case were complex and somewhat speculative. However the Panel's main concern was whether, even if the argument was established, there would be sufficient benefit to the public to amount to a significant wider public interest as defined in the Code. There was no clear evidence of numbers affected but the impact of any changes appeared to be limited to married women who had chosen to pay reduced contributions prior to 1977. More significantly, even if the legislation was unlawful at best those affected might only benefit from the net effect of the decision. In other words the additional contribution the married women affected would have had to pay might well have to be set against the benefit in question. There was no clear evidence that large numbers of women would be significantly better off if they had not chosen to pay reduced contributions. Further, the fact that other claimants would, because of the anti-test case rule probably only benefit from the future further reduces the general significance of the case.

In all the circumstances whilst the Panel accepted that there might be

some public benefit in pursuing the issues raised in the case it could not be said that the importance of the issues and the likely benefits to the public were such that there was any significant wider public interest.

Conclusion

No significant wider public interest.

PIAP/0019

Nature of Case

Judicial review proceedings. Challenge under Human Rights Act to procedure for imposing penalties on driver of lorry containing illegal immigrants.

Report of Panel

The Panel remained concerned that this potential challenge appeared premature since there had been no final decision by the Secretary of State on whether to waive the penalty imposed in this case. Nevertheless the Panel's concern was to consider the importance of the legal issues raised by the case assuming that the challenge proceeded.

The Panel agreed that this was one of many areas where statutory procedures needed to be analysed for compliance with Article 6. The central argument, namely whether the penalty in question constituted criminal proceedings for the purpose of Article 6(3), is a very important issue. If successful there would no doubt need to be significant changes to the ways such penalties are imposed and administered. This would affect a large number of people especially hauliers.

Although the issues raised by this case were very important, the actual impact in practice on those affected was difficult to gauge. The main effect of a successful challenge might be to change the procedure involved in such penalties without necessarily changing the likelihood of the penalty being avoided by clients in circumstances such as the present case.

Conclusion

Significant wider public interest.
Rating: Significant to High

PIAP/0020**Nature of Case**

Action against the police. Police present at unlawful eviction.

Report of Panel

The Panel was of the view that the role of the police in this type of case is an important public issue. The case raises the issue of the extent of the duty of the police in relation to unlawful evictions, in particular in the wider context of the protection of property. The Panel's view is that there is a need to clarify the scope of the police's duties in this area particularly in the light of the Human Rights Act. A significant number of people may be affected in this way.

Conclusion

Significant wider public interest.
Rating: High

PIAP/0021**Nature of Case**

Personal injury proceedings (asbestosis). Asbestosis arising from a certain type of housing. Proceedings out of scope unless having a significant wider public interest.

Report of Panel

The Panel considered carefully the circumstances of this case but was not satisfied that it demonstrated any significant wider public interest in the absence of evidence of large numbers of people in a similar situation. The Panel considered whether this case would clarify or expand the existing law. As it stands there is already established law that will allow action to be taken provided causation can be made out and the present case is unlikely to establish an earlier date at which local authorities could be expected to know about the asbestos risk. With regret the Panel concluded that the mere possibility of similar cases arising in future was not sufficient to conclude that this case had a significant wider public interest.

Conclusion

No significant wider public interest.

PIAP/0022**Nature of Case**

Judicial review proceedings. Challenge to prison disciplinary procedures under the Human Rights Act 1998.

Report of Panel

The Panel considered that the case raised important issues under articles 5 and 6 of the European Convention of Human Rights. If the procedures adopted at disciplinary proceedings of this type were found to be deficient a large number of people facing such proceedings would be affected.

Conclusion

Significant wider public interest.
Rating: High

PIAP/0023**Nature of Case**

Judicial review proceedings. Entitlement to statutory Home Loss Payments.

Report of Panel

The Panel considered the issue of law, concerning entitlement to Home Loss Payments. Whilst the Panel had some sympathy with the position of the client, it was not persuaded that the case was likely to lead to any significant change in the existing law. Existing case law was already reasonably favourable to clients and indicated how the relevant powers should be interpreted. Further, the Panel had no evidence that other local authorities were interpreting the law in the same way as the Council had done in this case. It was therefore not clear who might benefit from the case.

Conclusion

No significant wider public interest.

PIAP/0024**Nature of Case**

Action against the police. Statutory powers to detain at a distant police station.

Report of Panel

The Panel agreed that police procedures for travelling to and detention at police stations was a

topic of general public importance. However the Panel considered it unlikely that the outcome of this case would lead to any significant change in those procedures. Given the short period of alleged unlawful detention and the fact that the client was never charged, this action would be unlikely to lead to a successful challenge to the interpretation of the relevant provisions of PACE. In any event the Panel was concerned that in the circumstances, a favourable ruling from a court, particularly a precedent court, seems very unlikely.

Conclusion

No significant wider public interest.

PIAP/0025**Nature of Case**

Representation before Social Security Commissioner. Entitlement to payment in respect of an overseas burial. Application for exceptional funding under Section 6(8)(b) of Access to Justice Act 1999.

Report of Panel

The Panel considered that the case raised important issues which might bring benefits to others particularly to people with significant religious, cultural and/or family ties overseas as well as raising significant points of law in regard to the Human Rights Act.

Conclusion

Significant wider public interest.
Rating: Significant

PIAP/0026**Nature of Case**

Judicial review proceedings. Need for public enquiry into decommissioning of nuclear submarines.

Report of Panel

The Panel agreed that the subject matter of this case, namely the regulation of radioactive discharges arising from decommissioning of nuclear submarines, is a matter of general public interest and concern. However the central issue in this case is the extent to which, under the Human Rights Convention, the public have a right to have an input into

decision-making on these matters. The case raised not just public health issues but important legal issues. If the Article 6 arguments were successful in this case that might have ramifications in other areas of activity.

Conclusion

Significant wider public interest.

Rating: High

PIAP/0027

Nature of Case

Representation at inquest. Young child killed on live railway line. Application for exceptional funding under Section 6(8)(b) of the Access to Justice Act 1999.

Report of Panel

The Panel recognised that this was a particularly tragic death and the inquest is of course of immense importance to the family. However the Panel had only a limited role, namely considering whether representation for the family at the inquest would have a significant wider public interest.

The mere fact that public bodies were involved in this accident which could be called to account for their actions did not in the Panel's view establish a wider public interest as that term is defined in the guidance and the Funding Code. It would be necessary to show specific benefits to individuals other than the clients in this case.

The Panel considered whether anything might come out of this inquest which would help to improve safety on the railway, for example general recommendations to avoid similar occurrences in future. The Panel took into account the views of the Coroner and considered in particular the issues which were likely to be relevant to the scope of the inquest. A range of views were expressed by members of the Panel as to the likelihood of wider public benefits flowing from this inquest. However the majority view of the Panel was that the investigation in this case would essentially be concerned with the circumstances of this individual event and on the evidence available it was unlikely that anything flowing from the inquest would bring benefits to other members of the public.

Conclusion

No significant wider public interest

PIAP/0028

Nature of Case

Proceedings before Social Security and Child Support Commissioners. Legal issue as to whether Child Support Tribunal was bound by previous decisions. Application for exceptional funding under Section 6(8)(b) of the Access to Justice Act 1999.

Report of Panel

It was clear to the Panel that this case raised significant legal issues. The

more difficult question for the Panel was whether those legal issues were sufficiently important, in terms of benefiting significant numbers of clients in future Child Support cases, that they constituted a significant wider public interest.

It is clearly desirable for the legal issue as to *res judicata* for Child Support Tribunals to be resolved. There is however no obvious substantial benefit to clients in general from resolving the issue one way or another. There are always competing arguments as to the desirability of decisions being final as against allowing them to be reopened.

On balance the Panel accepted that there were likely to be a significant number of clients who might benefit if the arguments being put forward in this case are established. In the Panel's view those benefits were enough to conclude that this case has a significant wider public interest as defined in the Code and guidance. In accordance with the Commission's general guidance the existence of competing interests on behalf of other clients will not generally be regarded as depriving a case of having a significant wider public interest. Nevertheless, this was a borderline case.

Conclusion

Significant wider public interest.

Rating: Significant. ■

Note to Solicitors and Barristers regarding Legal Aid Payment Demands (Debit Notes)

These typically arise when the final bill submitted has a lower value than the sum of previously paid payments on account or when a case is settled after one or more payments on account have been made. The result is that a legal services supplier becomes liable to repay this net overpayment to the Legal Services Commission. When this first happens, as part of the Settlement run, a payment demand is sent to the supplier as advice of what is due to the Commission and how this figure has been arrived at. Subsequent payment

demands only show the amount brought forward and any movements since the last settlement.

In the normal course of events payment demands are cleared by recovery from sums that fall due to the legal services supplier for other legally aided work. However, where this money is likely to be outstanding for some time, prompt repayment would be expected on receipt of the payment demand. If this is not forthcoming the Commission

undertakes formal credit chasing. Therefore, please ensure payment demands are dealt with.

Advice on how to repay sums due to the Commission is set out on the computer generated tear-off payment demand (Form SE/1). Remittances should be made payable to the "Legal Aid Fund" (or "Legal Services Commission") and sent together with the Form SE/1 to: Legal Services Commission, Financial Services, 85 Gray's Inn Road, London WC1X 8TX. ■

Proposed Payment Dates

The proposed payment dates for January to June 2001 are set out below. These dates may be subject to amendment, but we will inform you of changes in advance where possible. From 1 April payments for criminal cases will be made to firms with general criminal contracts in the General Civil and Crime Contracting payment run at the start of each month.

If you are paid by BACS (Bank Automated Clearing System) the proposed payment date shown is the date on which you will receive a

payment in your bank. 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 the Financial Services Settlement section. Remittance advices are despatched using DX or first class post.

If you are still being paid by cheque, we recommend that you change to BACS, which is a more efficient payment method. With BACS, the payment is made directly into your bank account avoiding cheque handling and you also receive a remittance advice. BACS provides immediately cleared funds, unlike cheques which can take four to six days to clear. If you have any queries about payment by BACS, please telephone the Master Index section on 020 7759 0261.

Details of the amount due to you may be obtained by contacting either the regional office or the Solicitors/Counsel Settlement section on 020 7759 0260 but no earlier than the day before the proposed payment date. However, if you have a query regarding an individual item shown on a remittance advice, you should contact the relevant regional office, which authorises and processes all such bills.

Keeping us up to date

Names, addresses, DX, fax and telephone numbers and bank details for BACS payments are held on the Commission's Master Index database. Please send any relevant changes relating to your firm or chambers to the Master Index section at 85 Gray's Inn Road, London, WC1X 8TX, or at DX 328 London. ■

Proposed Payment Dates for January 2001 - June 2001

General Civil Contracting Payment	First Settlement of the Month	Second Settlement of the Month
Thursday, 4 January 2001	Wednesday, 10 January 2001	Wednesday, 24 January 2001
Monday, 5 February 2001	Thursday, 8 February 2001	Friday, 23 February 2001
Monday, 5 March 2001	Tuesday, 13 March 2001	Wednesday, 28 March 2001
General Civil and Crime Contracting Payment	First Settlement of the Month	Second Settlement of the Month
Wednesday, 4 April 2001	Thursday, 12 April 2001	Friday, 27 April 2001
Thursday, 3 May 2001	Monday, 14 May 2001	Wednesday, 30 May 2001
Tuesday, 5 June 2001	Wednesday, 13 June 2001	Wednesday, 27 June 2001

Focus

Focus is sent automatically to all LSC account holders, free of charge. It is usually published four times a year. It is not strictly quarterly as it is produced whenever we need to communicate important information to the profession, rather than according to a rigid timetable.

Focus is distributed using the names and addresses of all LSC account holders, details of which are held on our Master Index database. If you have not received a copy of *Focus* it may be because you have not alerted the Master Index Section to changes to your name, address or DX. Please make sure you send any relevant changes to them at 85 Gray's Inn Road, London, WC1X 8TX or fax them to 020 7759 0525. Please quote your LSC account number.

It is important that *Focus* is seen by everyone in your firm who is involved in LSC work. To help you circulate *Focus*, you may make as many photocopies as you need. Issues from number 26 to 33 are also available in PDF format on the LSC website at www.legalservices.gov.uk.

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