

PAYMENT DATES *for the second half of 2004*

The payment dates for the second half of 2004 are set out below. These dates have been amended since the last issue of *Focus*, number 44, in April.

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.

CONTRACT PAYMENTS	1ST SETTLEMENT OF THE MONTH	2ND SETTLEMENT OF THE MONTH
MONDAY 5 JULY 2004	THURSDAY 8 JULY	THURSDAY 29 JULY
WEDNESDAY 4 AUGUST 2004	THURSDAY 12 AUGUST	THURSDAY 26 AUGUST
FRIDAY 3 SEPTEMBER 2004	THURSDAY 9 SEPTEMBER	THURSDAY 23 SEPTEMBER
TUESDAY 5 OCTOBER 2004	THURSDAY 14 OCTOBER	THURSDAY 28 OCTOBER
WEDNESDAY 3 NOVEMBER 2004	THURSDAY 11 NOVEMBER	THURSDAY 25 NOVEMBER
FRIDAY 3 DECEMBER 2004	THURSDAY 9 DECEMBER	THURSDAY 23 DECEMBER

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 are also available in PDF format on the LSC website at www.legalservices.gov.uk

To order back issues of *Focus*, please contact Neil McLeavey on 020 7759 1838 or neil.mcleavey@legalservices.gov.uk

FOCUS IS PRODUCED BY THE LEGAL SERVICES COMMISSION'S COMMUNICATIONS DIRECTORATE, 85 GRAY'S INN ROAD, LONDON, WC1X 8TX (DX 450 LONDON)

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Community
Legal Service

Focus

www.legalservices.gov.uk
AUGUST 2004

- **NEW COMMISSION CONSULTATION PAPERS**

The Legal Services Commission recently issued two consultation papers entitled 'A New Focus for Civil Legal Aid' and 'A Tailored Fixed Fee Scheme for Civil (Non-Immigration) Controlled Work'. For details of the contents of these papers, please see pages 04 and 05.

- **LAUNCH OF CLS DIRECT!**

On 14 July, Community Legal Service Direct went live, delivering free information help and advice direct to the public. Details of the service are available on page 06.

- **PREFERRED SUPPLIER PILOT**

The Commission's Preferred Supplier Pilot is now underway. For the firms selected for the pilot and details of the incentives available, turn to pages 10-11.

- **EMPLOYED IMMIGRATION SERVICE**

The Commission is to set up a directly employed immigration and asylum service in Birmingham. For information see page 17.

- **CRIME AND CIVIL CONTRACT CHANGES**

The most significant changes to the General Criminal and Civil Contracts, from 1 July, are listed in the table on page 22.

- **PAYMENT DATES**

Since Focus 44 was issued in April 2004, the payment dates for the second half of 2004 have since altered. The new dates are listed in the table on the back cover of this Focus.

legal services

COMMISSION

FOREWORD

CLARE DODGSON CHIEF EXECUTIVE

In the April issue of *Focus*, I commented on some of the changes we were introducing in order to ensure that we use our limited fund of public money for the highest priority work which meets the very real needs of vulnerable people. This objective continues to lie at the heart of absolutely everything we do and it is with this in mind that we have been driving forward some important changes over the last few months.

We have looked at our own organisational structure and asked some searching questions about how it should be shaped to ensure that we deliver quality services for our clients. I firmly believe that the shape of an organisation must be determined by the work that it does. We have therefore introduced a new structure which is built around the processes we need to excel in: identifying client needs (Policy and Planning); designing and developing services to meet those needs (Service Design); and delivering services which provide clients with consistent high quality outcomes (Service Delivery). These three areas of work will each be led by a member of our new Executive Team. A fourth Executive Director will ensure the provision of high quality, cost-effective support for our organisation (Corporate Services). The structure is clear and simple, matching our clarity of purpose and our ambitions for the future.

We have also continued to focus on controlling costs so that our limited fund goes further in meeting clients' needs. We have taken action to control our spend on Very High Cost Criminal Cases (VHCCCs), which has been increasing by 12% each year, significantly reducing the amount we can spend on countering social exclusion. Since September 2003 we have been bringing all new eligible cases into our VHCCC contracting system. This includes the agreement of a plan for managing each case and set rates of pay. You will no doubt have heard a lot about the discussions over the introduction of this system. These discussions involved the DCA, LSC, the Bar, the Law Society and the CPS

(which will be introducing a similar system to embrace control over prosecution costs). I am pleased to say that we have arrived at an agreement which will continue to deliver a significant reduction in the cost of VHCCCs and improved control over future spending. The agreement will reduce the level of savings from that originally estimated, but I must stress that the result is a reduction in savings and not an increase in remuneration. There will be a further consultation in the autumn to bring trials that end in a guilty plea within the graduated fees scheme. We expect the introduction of this scheme to make a significant additional saving.

A second initiative on cost control is designed to tackle an absolutely critical issue: the continued increase in average case costs. We have published a consultation paper on A Tailored Fix Fee Scheme for Civil (Non-Immigration) Controlled Work, which proposes the introduction of fixed payments based on average case fees, tailored for each solicitors' office, in each category of law. Those solicitors who join the voluntary scheme will benefit from no longer having to undergo contract compliance audits and will also be able to plan more accurately based on known income. Perhaps the most important benefit of all is that better control of the fund will allow us to consider increasing the number of new case starts available.

In a second consultation paper, entitled 'A New Focus for Civil Legal Aid', we are proposing reforms to the funding of civil cases which will refocus Community Legal Service expenditure on priority areas and the most deserving cases. In order to reduce the

serious pressure on the CLS budget, these proposals include reducing eligibility in some areas, removing certain types of case from the scope of public funding and discouraging unnecessary litigation. Of course, these proposals will not be universally popular, but the savings would help us to avoid cuts with greater impact on the vulnerable and socially excluded. The consultation paper also proposes an important shift towards encouraging the early and amicable resolution of publicly funded cases, which I am sure we all wholeheartedly support.

Finally, I would like to update you on our pilot of a new Preferred Supplier scheme, which has now been launched. I am really excited about this important drive to establish a strong, mutually-beneficial partnership with providers of high quality legal services. The very high level of interest shown by firms wanting to take part in the pilot demonstrated that many of you are excited by it too. Participating firms will receive ongoing support from an LSC relationship manager which will include developing incentives to suit the firm's needs, providing training and offering an efficiency review. The scheme will reduce bureaucracy and LSC intervention as well as improving payments on account and devolving the power to self-grant new Civil cases. We will also be encouraging participating firms to identify new incentives, either for introduction during the pilot or during its planned roll-out from next April. We will then be encouraging all of our legal aid partners to work towards preferred supplier status so that, together, we can make a real difference for our clients.

REVIEW OF THE VERY HIGH COST CASES (VHCC) CONTRACTING SCHEME

In April 2004, the Lord Chancellor agreed with the Bar Council and the Law Society that a review would be set up to look at the procedures and the remuneration structure of the Very High Cost Cases (VHCC) contracting scheme. Various changes to the scheme have been proposed as a result, which at the time of writing are subject to consultation and which we hope will take effect in early August 2004. The main changes proposed are:

1. To amend the definition of a Very High Cost Case. The current definition is any case whose trial (if there were one) would be likely to last for 25 days or longer, or whose defence costs are likely to exceed £150,000. The proposed new definition is any case whose trial would be likely to last for 41 days or longer (the costs condition would be removed). As a result of this change the Unit would not in the future enter into any new contracts for cases whose trial would be likely to last for fewer than 41 days.
 2. To extend the Graduated Fee System. This is currently used to pay the fees of counsel and solicitor-advocates in shorter cases. The proposal is that it would be used to pay such fees in all cases whose trial would be likely to last for fewer than 41 days.
 3. To assign any Very High Cost Case that fits the definition of a 'terrorism case' automatically to Category 1. This category is currently reserved only for complex fraud cases. As a result of this change the relevant cases would be remunerated at higher rates than were previously allowed.
 4. To amend the rates payable in Very High Cost Cases. The most significant of these amendments for solicitors' purposes is that the rates for Category 4 cases would be raised so that they are the same as those for Category 3 cases. The new rates would apply to all work done after the changes take effect, including for cases that began before that date.
 5. To allow, in certain limited circumstances, payment for work that has not been pre-authorised by the Unit. Broadly speaking this should cover work that arises unexpectedly and where prior authorisation by the Unit would be impractical, particularly at the trial stage of the case. This change would only apply to work done under the contracts in their amended form.
- Further details of these changes, including transitional arrangements, will be announced following the consultation period when the necessary amendments are finalised.

Changes to BACS Statements and Debit Notes

To ensure that BACS statements and Debit Notes are printed, sorted and dispatched efficiently, the Legal Services Commission will now print these on A4 sized paper. This will result in the following benefits:

- ¥ Printing by laser printers to achieve better quality print and faster print times
- ¥ Automatic sorting and enveloping to improve accuracy in sorting and faster dispatch times

There will be no change to the content of your BACS statement or Debit Note. You will notice that the A4 Debit Note will now have a separate page for you to attach to your cheque when sending us your remittance. This replaces the tear-off slip on the current A3 sized Debit Note.

These changes took effect from the settlement run on 5 July 2004. There will be no changes to the way cheques with statements are printed. If you have any queries please contact the Master Index Section at Head Office on 020 7759 0261.

A NEW FOCUS FOR CIVIL FUNDING

We have published our consultation paper on the future of the Funding Code and other aspects of civil funding. The consultation paper, 'A New Focus for Civil Legal Aid: encouraging early resolution; discouraging unnecessary litigation' is available on our website at www.legalservices.gov.uk. Copies of the Executive Summary of the Consultation have also been sent to all suppliers along with our parallel consultation on a Tailored Fixed Fee Scheme for Controlled Work (see page 05). The Funding Code consultation runs to Friday 15 October 2004.

The consultation paper covers a wide range of reform options, most specific to particular categories of case. However the theme of the consultation as a whole is to re-focus the legal aid scheme away from contested litigation and towards early effective dispute resolution. Historically, legal aid has always been dominated by contested court proceedings, indeed many of the incentives of the system have tended to push clients towards litigation. Whilst litigation funding will continue to be a vital part of the scheme, we are taking this opportunity to address the incentives of legal aid and to find ways of identifying those cases where better solutions may lie outside the court process.

For Family cases we are proposing a major restructuring of Funding Code Levels of Service. Building on our FAlNS pilot we wish to invest in the early diagnostic work of Family solicitors by creating a new level of service, Family Help. Family Help will cover all non-adversarial services which under the present scheme could be covered either by Legal Help, General Family

Help or Help with Mediation. We propose to pilot Family Help initially through certain FAlNS providers. We also wish to tighten up the funding of private law financial disputes in Family, in cases where there might be a private funding alternative and to introduce better controls over multiple or repeat contact applications. In response to budget pressures, drafting divorce pleadings may be taken out of the scope of Legal Help and the £3,000 statutory charge exemption in Family cases may be discontinued.

For Non-Family cases we need to consider whether there are cases which should pursue complaints schemes or other forms of ADR before funding should be considered for litigation. This is particularly relevant to Clinical Negligence claims and Actions Against the Police. Other topics covered by the consultation include the impact of conditional fee agreements on public funding and the future of legal aid cost protection.

We have also been asked by the Department for Constitutional Affairs to

consider financial eligibility changes in response to severe pressures on the fund. Whilst reductions in eligibility levels are always regrettable, the proposed changes seek to target those clients most likely to be able to pay legal costs from their equity or income. It is proposed to raise the income eligibility level for Legal Help (which was frozen in April) in line with inflation but to lower the upper income eligibility limit for Legal Representation to match the limit for Legal Help. This will produce uniform upper income limits for all funded services. Safeguards will be built in for the most vulnerable clients, such as victims of domestic violence. It is also proposed to reform the current £100,000 capital disregard of equity in the home. It is suggested that vulnerable clients and persons on passported benefits or the lowest incomes will still enjoy a full £100,000 exemption, with a sliding scale of allowances for other clients on low incomes. See the consultation paper on the website for full details.

COMMISSION CREATES CHILDREN AND FAMILY SERVICES DIVISION

A new division has now been formed within the Legal Services Commission – Children and Family Services. This new division will provide a central focus for all matters relating to children and families within the Commission.

It will encompass the development of the FAlNS and Mediation pilots, with the current Family Law and Mediation team becoming part of the Children and Family Services Division.

This change will improve co-ordination within the Commission. It will also put the Commission in a better position to handle

developments in government policy at a time of heightened focus on the justice system, so far as it affects children, young people and the family.

A Programme Board within the Commission, made up of senior representatives from all areas of the Commission, the Department for Constitutional Affairs and the Department for Education and Skills, has been working on the proposal and strategy for the Children and Family Services division in recent months. The division itself will be led by

Angela Lake-Carroll, who becomes Acting Head of Children and Family Services.

This is an exciting and progressive development within the Commission, assisting coordination with Government departments and key partners to contribute to policy development in areas such as child protection, domestic violence and the wider social inclusion agenda as it affects children and families.

For further information, please contact Sara Kovach Clark on 020 7759 0382 or e-mail sara.clark@legalservices.gov.uk

A NEW APPROACH TO PAYING FOR CIVIL CONTROLLED WORK

The Legal Services Commission recently published a consultation paper proposing a new approach to paying solicitors for civil Legal Help, Help at Court and Controlled Legal Representation cases entitled **A Tailored Fixed Fee Scheme for Civil (Non-Immigration) Controlled Work**.

How fees will be calculated

Under the new scheme, we propose to pay fixed fees per case based on firms' average case costs from 1 April 2003 to 31 March 2004 plus an increase of 2.5% for work within scope of the scheme. We have written to firms eligible to join the scheme, setting out the amounts payable if they join.

The 2.5% increase in the fixed fee is payable for all work reported as closed since 1 April 2004. In order to receive the increase suppliers must agree to, and be eligible, to join the voluntary scheme, although different rules apply to firms participating in the FAInS pilot and these are set out in detail in the consultation paper.

Scope of scheme

The scheme will apply to all civil categories of work including Family, but excluding Immigration and Mental Health cases where the client is sectioned following criminal proceedings. Also excluded is Family work done under the FAInS pilot.

What we hope to achieve

Fixing fees per case will enable the Commission and firms to budget more effectively, as we will know from the outset the price for each case. This will allow us to plan increases in New Matter Starts, secure in the knowledge that expenditure will fall within overall limits. At a time when we are under financial pressure, this level of control will be essential if we are to maintain or increase numbers of clients accessing publicly funded legal services.

Timing

As we believe that the scheme offers significant benefits to firms and the Commission, we intend to introduce it as quickly as possible.

Firms eligible to join the scheme will be able to sign up voluntarily from the date of publication of this paper, without waiting for the conclusion of consultation and the implementation of the mandatory scheme. The closing date for joining the voluntary scheme is 17 September 2004, and firms wishing to join will need to return their signed agreements to their regional office by 4pm on that date.

We propose to make the scheme mandatory from 1 April 2005.

Key benefits of the scheme

The scheme offers a number of benefits to firms and the Commission:

- 2.5% increase on average case costs for work within the scheme
- No costs compliance audits for work within the scheme, subject to satisfactory performance against a range of indicators
- Certainty of income without risk of reduction, save in limited circumstances
- Firms can increase profitability by making efficiency savings, up to certain limits
- Firms' New Matter Start allocations will not be reduced on the basis of rising average costs as prices are fixed
- Firms no longer required to seek authority to extend financial limits for cases within the scheme.

The scheme has been designed to enable firms to begin preparing for future changes in our approach to remuneration, which are likely to include some form of managed competition on quality and price.

Ceasing contract compliance audits for firms within the scheme will also allow us to focus our audit activities on firms excluded from the voluntary scheme (including those with category 3 costs compliance ratings) or who decide not to sign up to it.

Key dates

17 Sept 2004: Closing date for joining the voluntary scheme, or (category 3 suppliers in appeal only) registering interest in doing so.

20 September 2004: Voluntary scheme operational (for claims submitted on or after 1 April 2004).

1 November 2004: Consultation closes.

December 2004: Final version of mandatory scheme published.

1 April 2005: Mandatory scheme operational.

Where to find out more

Copies of the consultation paper are available on the Commission's website at www.legalservices.gov.uk. Please contact your regional office for further information, or to discuss how the scheme will apply to your firm.

LAUNCHING COMMUNITY LEGAL SERVICE DIRECT

Launched on 14 July 2004, Community Legal Service Direct is an easy-to-use service that helps people deal with their legal problems. It provides free information, help and advice direct to the public on a range of common issues.

CALL OR CLICK FOR FREE LEGAL HELP AND INFORMATION

People can call **0845 345 4 345** to:

- Get free advice from a qualified legal adviser about welfare benefits, debt or education, if they qualify for legal aid. The service is available between 9am and 5pm weekdays (if they call outside office hours, they can leave a message and will be called back).
- Find quality local advice services for other types of problems.
- Order legal information leaflets.
- Listen to recorded messages about common legal problems 24 hours a day.

People can click www.clsdirect.org.uk (formerly the JustAsk! website) to:

- Search for a quality local legal adviser or solicitor.
- Ask a question or choose a topic and be directed to the right place on the best advice websites in the UK.
- See if they are eligible for legal aid using the online calculator.
- View or print legal information leaflets.

BUILDING ON PAST EXPERIENCE

In launching Community Legal Service Direct, the Legal Services Commission is building on past experience. Our research into telephone advice has shown that:

- A significant number of people prefer telephone advice, as it is quicker and easier than travelling to see an advice supplier.
- Telephone advice can deliver a full casework service of a quality equivalent to face-to-face advice.
- An average case dealt with via the telephone can be completed up to two-thirds faster than with face-to-face advice. This allows the Community Legal Service to help more people.

The success of JustAsk! has demonstrated that the internet is an accessible channel for the delivery of legal information. A 'Plain English' award-winner and the most popular UK-based legal information website, it has over 50,000 visitors a month. It also rates as one of the Government's five most easy-to-use websites.

Telephone advice and online information is intended to complement face-to-face legal help, not replace it. When face-to-face help is more appropriate, Community Legal Service Direct will provide valuable assistance in finding it.

MAKING IT EASIER TO FIND QUALITY LEGAL HELP AND INFORMATION

The new service brings together a new national helpline with the popular JustAsk! website and CLS Directory Line under one, easy-to-identify brand. Visitors to the former JustAsk! website will be automatically redirected to www.clsdirect.org.uk. The old CLS Directory

Line number will no longer be marketed, although initially callers will still be able to get through to the existing number.

The new service is a key part of the Commission's strategy to deliver improved access to justice and combat social exclusion. Available to anybody, it will be particularly welcomed by people who find it difficult to access traditional legal services. This includes people with mobility problems, those living in rural areas and those with caring responsibilities or young children, who find it difficult to leave home.

Anyone that uses Community Legal Service Direct can get information about legal problems and find sources of help. People eligible for legal aid can also get free telephone advice from a qualified legal adviser about welfare benefits, debt and education.

Community Legal Service Direct can help the people that you or your colleagues cannot. Just refer them to the national helpline on 0845 345 4 345 or the website at www.clsdirect.org.uk. We would be happy to provide you with free materials for this purpose and if you would like to order some, or have any questions about the service, please contact:

Hannah Chaplin
Community Legal Service Direct
Telephone: 020 7759 1171
Fax: 020 7759 1170
E-mail: hannah.chaplin@legalservices.gov.uk
Post: Legal Services Commission,
12 Roger Street, London, WC1N 2JL.

THE NEW LSC MANUAL

The new LSC Manual has now been published. The Legal Services Commission and TSO apologise for the delay, caused by a technical hitch with the table of contents, and hope it has not inconvenienced you. However, this is a vastly improved and updated work, driven by comments from our suppliers, and replaces in its entirety Release 11, which was published in December 2003.

Since we published the first LSC Manual over four years ago, a number of you have made various comments regarding possible changes to the Manual, in order to enhance its usability. Some of these comments were ad hoc, while others came from a focus group held in September 2002.

Since appointing TSO (The Stationery Office) to handle the publishing of the Manual in December 2003, we have been working to ensure that as many of these improvements as possible have been incorporated into the new release. In particular, we have made the following improvements:

What you said:	What we've done:
The Manual isn't portable enough; we have to carry the entire volume(s) with us.	Both CD and web versions have the facility to enable specific sections of the text to be printed, so users can print a hard copy of relevant information or even build up their own reference work.
The page numbering is difficult to understand and too similar to the paragraph numbers.	This has now been changed, so the page numbering runs sequentially throughout each volume and is distinct from the style of the paragraph numbering.
It's hard to work out where in the volume I am.	We have added more information into the headers and footers to help resolve this issue.
There are too many updates; this is a drain on our resources, meaning sometimes the update doesn't get incorporated into the binder.	We have reduced the frequency of updates to twice yearly. Urgent interim updates will be made by means of special bulletins or, as now, via <i>Focus</i> and the Commission's website.
The CD-ROM isn't very user friendly.	Working with TSO, we have produced an enhanced CD that features a better search facility and the ability to print discrete areas of the guidance, as required.
The indices are too detailed/inaccurate.	The indices have been completely rewritten and are now much smaller and feature more useful references.
Can you produce a web-based version?	A subscription-based web version is now available, starting at under £100 (please see below).
There is just too much content!	We have begun a process of rationalising and condensing the content. We very much welcome your assistance in this process (please see below).

In addition to these improvements, the cost of subscriptions has been kept below 2003 prices.

We will be reviewing the new Manual on an ongoing basis and welcome comments and suggestions. Please contact Alison Macnair with your feedback, either by telephone on 020 7759 0359 or e-mail alison.macnair@legalservices.gov.uk

You can see the online version of the Manual and subscribe at www.lscmanualonline.co.uk

If you have any questions regarding ordering the Manual and subscriptions, please contact TSO, by telephone on 0870 607 2468 or e-mail at lscmanual@tso.co.uk

CONTRACT MANAGEMENT REVIEW CRITERIA GUIDANCE NOW AVAILABLE

Since April 2003, the Legal Services Commission has been operating a revised audit and management approach. Central to this approach is the Contract Management Review Criteria (CMRC) Report.

The CMRC is a management information report that pulls together data from our case management system and is available on a firm-by-firm basis. The sections of the report include among others fund take, Specialist Quality Mark history, civil and criminal bill assessment rates and average case costs.

We use this report to help us understand your business and the way you work. When combined with our account managers local knowledge, the report gives us a holistic view of your firm. We also use the report to monitor performance on a monthly basis allowing us to identify any potential issues and problems that might affect you or your clients.

Full guidance on the report, the way we use it and how it may be useful to you is available on our website in the Contracting section (www.legalservices.gov.uk/contract/index.htm).

NEW SPECIALIST SUPPORT SERVICES

Following on from the article 'Specialist Support to go Mainstream' featured in Focus 44 (April 2004), three new Specialist Support services were launched on 1 June 2004. The new services provide expert support and training in the fields of Debt, Housing and Welfare Benefits and will operate alongside the existing national services.

Specialist Support services continue to provide help and advice to solicitors and legal advisers dealing with complex or unusual client problems. The service provides free telephone advice, mentoring and subsidised training in nine categories of law. Legal caseworkers from any organisation with a Specialist or General Help with Casework Quality Mark can access the Specialist Support services wherever they are in the country. The three new services are available nationally and will be provided by highly specialist and experienced organisations.

The Citizens Advice Specialist Support Unit (0808 808 2575, Mon/Tue/Thurs 10:30am-1pm and 2-4pm) will provide debt advice. The unit has over 15 years experience in supporting advisers at all levels in Debt related issues. The dedicated team of qualified specialists are able to advise on all aspects of debt law and procedure.

1 Pump Court (020 7842 7027, Mon-Fri, 2-5pm) will work alongside Shelter and Two Garden Court Chambers in delivering Housing advice and training. 1 Pump Court was established in 1978 and has a strong reputation for providing a first class service to all through legal aid and pro bono work. Their housing team specialises in possession work, homelessness and in the interface between housing and other needs, such as mental health. Their experience will serve to compliment existing services in delivering an expert and comprehensive Specialist Support service in Housing.

Specialist Support services in Welfare Benefits law will be provided jointly by CPAG (020 7278 2100, Mon and Tue, 2-4:30pm and Wed 10:30am-1pm) and LASA (020 7247 8935, Wed and Fri, 2:30-4pm and Thurs 10:30am-1pm). Both organisations bring extensive knowledge and experience of Welfare Benefits law to the service and have been delivering advice and training to the sector for many years. LASA currently run the Rightsnet website for advice workers and provide advocacy and training. CPAG have a strong reputation in delivering quality training to Welfare Benefits advice workers throughout the sector.

In total there are 17 expert providers delivering Specialist Support services across England. A further three providers will continue to provide Specialist Support Services throughout Wales. A table listing details of all Specialist Support services in England and Wales can be seen opposite. Specialist Support providers will also be delivering various training courses throughout the country during 2004-05. For up-to-date details of which courses are being carried out and where please visit our website at www.legalservices.gov.uk/cls_developments

For further details on Specialist Support, including details on future training courses, please visit the above website or e-mail lily.loke@legalservices.gov.uk or charlotte.lagoa@legalservices.gov.uk

COMMUNITY LEGAL SERVICE SPECIALIST SUPPORT SERVICES (ENGLAND)

CATEGORY OF LAW	ORGANISATION	ADVICE LINE OPENING TIMES	PHONE NUMBER
Community Care	Disability Law Service	Mon & Wed 2-5pm	020 7791 9809
	Public Law Solicitors	Tues & Thurs 2-4.30pm	0121 256 0334
Community Care including Public Law	Christian Khan	Wed & Fri 2-5pm	020 7693 0215
Debt	Citizens Advice Specialist Support Unit	Mon, Tues & Thurs 10.30am-1pm and 2-4pm	0808 808 2575
Employment	Citizens Advice Specialist Support Unit	Mon to Thurs 10.30am-1pm and 2-4pm	0808 808 3681
	Two Garden Court Chambers	Wed-Fri 2-5pm	020 7415 6360
Housing	Shelter	Mon-Fri 9am-5pm (answerphone 1st & 3rd Weds mornings of the month)	020 7505 4688
	Two Garden Court Chambers	Tues-Thurs 2-5pm	020 7415 6340
	1 Pump Court	Mon-Fri 2-5pm	020 7842 7027
Human Rights and Public Law	Doughty Street Chambers	Mon-Fri 9.30am-5.30pm	020 7411 2700
	Liberty/Public Law Project	Mon & Wed 2-5pm, Tues & Thurs 10am-1pm***	0808 808 4546
Immigration	Joint Council for the Welfare of Immigrants	Mon-Fri 10am-1pm	0845 602 1020
	Two Garden Court Chambers	Mon-Fri 2-5pm	020 7415 6350
Immigration (HIV/AIDS)	Terrence Higgins Trust	Tues & Fri 10am-1pm and 2-5pm**	020 7816 4605
Mental Health	MIND	Tues & Thurs 11am-1pm*	020 8215 2345
	Scott-Moncrieff, Harbour & Sinclair	Mon-Fri 9am-5pm* (24 hour answerphone)	020 7428 5927
Welfare Benefits	Child Poverty Action Group	Mon & Tues 2-4.30pm, Wed 10.30am-1pm	020 7278 2100
	LASA	Wed 2-4.30pm, Thurs 10.30am-1pm & Fri 2-4.30pm	020 7247 8935

*Callers can leave a message and will be called back within 24 hours. **Service can also be contacted by e-mail at specialist.support@ttht.org.uk ***Email enquiries can be submitted via www.liberty-human-rights.org.uk

COMMUNITY LEGAL SERVICE SPECIALIST SUPPORT SERVICES (WALES)

CATEGORY OF LAW	ORGANISATION	ADVICE LINE OPENING TIMES	PHONE NUMBER
Debt	Citizens Advice Cymru	Tues-Fri 10am-12.30pm and 1-3.30pm	0845 602 3450
	Morgans	Mon 10am-12.30pm and 1-3.30pm	0845 602 3450
Housing	Shelter Cymru	Mon, Thurs & Fri 10am-12.30pm and 1-3.30pm	0845 602 3449
	Morgans	Tues & Weds 10am-12.30pm and 1-3.30pm	0845 602 3449
Welfare Benefits	Citizens Advice Cymru	Mon, Wed & Fri 10am-12.30pm and 1-3.30pm	0845 602 3451
	Morgans	Thurs 10am-12.30pm and 1-3.30pm	0845 602 3451

PREFERRED SUPPLIER PILOT LAUNCH

Since January 2004, individuals from across the Legal Services Commission have been working together to develop the preferred supplier pilot structure, scope and rewards. In April, we invited suppliers to submit formal expressions of interest to participate in the pilot and the applications were assessed in preparation for the commencement date of 14 June.

We have now identified the 25 suppliers, from across the five regions involved, who will be participating in the pilot over the next six months. We are pleased to announce that the following firms will be taking part:

BIRMINGHAM	BRIGHTON	LONDON	MANCHESTER	NOTTINGHAM
Baches Solicitors	Brighton Housing Trust	Ashley Smith & Co	Burton Copeland	Bhatia Best
Owen Nash & Co	Edward Hayes	Fisher Meredith	Forbes Solicitors	Cartwright King
Rotherham & Co	Francis Lovett	H C L Hanne & Co	Green & Co	Fraser Brown Solicitors
Terry Jones Solicitors & Advocates	Hamnett Osborne	T V Edwards	Platt Halpern Solicitors	The Emery Johnson Partnership
Williamson & Soden	Wannop & Fox	White Ryland	Pluck Andrew & Co	The Johnson Partnership

These firms met and, in many instances, exceeded all the performance criteria in terms of their financial assessment, the initial selection criteria and their Peer Review outcomes. They have also been selected on the basis of the requirements of the pilot structure, as they provide us with a real representative mix of supply in terms of spread of work, size of firm and location. This will allow us to conduct a fully comprehensive evaluation in December, and enable us to recommend an operational approach that considers the needs of our broad and varied supplier base.

This is an exciting and innovative pilot, and we were overwhelmed at the large number of suppliers who expressed an interest in participating. We had over 100 written expressions of interest, from where we selected approximately 60 suppliers to take through to Financial Assessment and Peer Review.

We would like to take this opportunity to thank each and every supplier who applied to be in the pilot. We fully appreciate the level of work involved in participating in the application process. Although we endeavoured to streamline the process where possible,

inevitably there was some necessary work required by suppliers.

All the pilot performance criteria used will be fully evaluated prior to the planned operational rollout next year. Without pre-empting the results of this evaluation, it is likely that the operational criteria will be less exacting than for the pilot. Given the work involved in applying for what was to be a very limited pilot, the criteria at this stage were deliberately set to identify just a small proportion of our highest performers. With this in mind, we would encourage all suppliers who were not successful in being selected for the pilot, to re-apply next year as part of the planned operational rollout.

We will be providing regular updates on the pilot progression through articles in *Focus* and other legal publications. We will also post regular updates and information on the 'Preferred Supplier Pilot' web page (www.legalservices.gov.uk/supplier/index.htm).

PREFERRED SUPPLIER PILOT REWARDS AND INCENTIVES

We are pleased to announce details of the rewards and incentives we will be piloting with

suppliers over the next six months. This is not an exhaustive list, and we will be working with our pilot suppliers to identify new areas we can bring on stream during the next six months or for the planned operational rollout.

INCENTIVES FOR ALL PILOT PARTICIPANTS

• Relationship Management

This is the centrepiece for the pilot and all pilot participants will be entitled to access it. Through this new partnership based approach we hope to develop an effective and strategic, two-way relationship with suppliers over the next six months.

• Priority for Training Contracts

Each supplier will be entitled to access a Commission training contract grant to sponsor a legal aid trainee lawyer.

• KAIZAN Efficiency Reviews

All suppliers will be able to access a process efficiency review led by a team of experts from the Commission. This can help streamline systems considerably with the potential for efficiency savings to be made.

- **Automated Claims for File Review**

This will facilitate a more streamlined and less bureaucratic process.

- **Assured Payments**

Pilot participants with a civil contract will benefit from guaranteed payments, of up to £1,000, for each time they use an expert (licensed work only). Suppliers with a criminal contract will be able to access guaranteed payments, of up to £500, for all disbursements (magistrates' court work only).

INCENTIVES FOR CIVIL CONTRACT HOLDERS

- **Enhanced Devolved Powers**

Pilot participants are entitled to extended devolved powers in Family and Non-Family Matters. This will include an increased cost limitation for certain certificated cases, with the firm's category supervisor monitoring spend and use of devolved powers within this.

- **Self allocate new matter start increases**

Suppliers can self allocate new matter starts by up to 50% of their original contract

schedule per contract category of work, in line with guidance on national and regional strategic priorities.

- **Enhanced Payment on Account (POA) for cases identified as settling before hearing**

Where a supplier believes that at the start of each case there is a realistic chance that a matter will be settled without the need to go to a hearing, we will provide an enhanced payment on account at the start of the certificated case (£500), which will assist with cash flow during the matter.

INCENTIVES FOR CRIMINAL CONTRACT HOLDERS

- **Submission of Non-Standard Fee Claims**

Simplified claiming process for the majority of non-standard fee claims.

- **Removal of Upper Financial Limits**

Upper financial limits will be removed for preferred suppliers for Advice and Assistance and Advocacy Assistance.

- **Consolidated Police Station Claims (Telephone Advice Only)**

This will enable pilot participants to submit a single consolidated claim for all matters where only police station telephone advice has been provided.

- **Criminal Investigations Consolidated Claim**

This will enable pilot suppliers to submit consolidated claims in the Criminal Investigations Class where more than one client is advised or assisted in respect of the same investigation.

- **Enhanced Reconciliation Process**

Relationship managers will be able to negotiate enhanced monthly payments with suppliers where it will assist their cash flow and/ or business development.

- **Duty Solicitor Call Centre**

Relationship managers will be able arrange for visits to the Duty Solicitor Call Centre and provision of reports providing information to enable preferred suppliers to improve level of call acceptance.

TRAINING SUPPORT GRANTS – FURTHER FUNDING

The Legal Services Commission recently announced that it will be providing a third round of training grants for new legal aid solicitors, building on the success of the previous two rounds.

A further 100 grants, worth almost £3million, are to be made available to solicitors.

Welcoming the announcement, Commission Chief Executive Clare Dodgson said:

"This third round of training grants that we are making available takes the LSC's investment in the next generation of legal aid solicitors to nearly £10 million. In total, our training grants will translate into nearly 400 newly qualified solicitors working in legal aid. Each of these new solicitors will make a difference to the lives of the most vulnerable people in society."

As with the previous training support schemes, the grants will be offered to organisations that hold a contract with the Commission. These organisations will then be able to recruit an individual who will benefit from the grant.

For organisations who wish to apply, application packs are available on the Commission website (www.legalservices.gov.uk), and the grants will be awarded in October. The application packs will include full details

of the scheme, including the criteria for receiving funding; the nature and scope of the funding, as well as details on how to apply. If you wish to register your interest, please contact a member of the Remuneration Team, either through e-mailing civil.remuneration@legalservices.gov.uk or by writing to Charlotte Lagoa, Remuneration Team, Legal Services Commission, 85 Gray's Inn Road, London WC1X 8TX, DX 450 London.

QUALITY MARK DEVELOPMENTS

The Specialist Quality Mark (SQM) has now been in existence for just over two years. When the SQM was originally developed it concentrated on services delivered 'face-to-face' at a main site.

However, over the last few years the delivery of legal services has broadened to include alternative methods of advice delivery, with specialist telephone advice more widespread. In addition, the Legal Services Commission is beginning to focus more directly on the actual quality of advice clients receive. One initiative to help ensure that clients receive the most appropriate advice, especially where complex cases are concerned, has been the development of second tier support services otherwise known as 'Specialist Support'. This enables organisations that have a contract with the Commission and those with the Quality Mark at General Help with casework, to obtain expert support in specific areas of law from specifically qualified experts.

The Commission has recently let contracts for specialist telephone services and specialist support services. Organisations that hold these contracts will also have met the SQM Standard and the additional requirements for either Specialist Telephone Services or Specialist Support Services, as appropriate. The additional requirements have been identified to help ensure the quality of these services. (Further details are given below.)

Why is the Specialist Quality Mark Important?

The Quality Mark is structured around a set of standards designed to ensure that a service is well run and has its own quality control mechanisms in place. The principal requirements of business planning, supervision, equalities, file review and having a complaints process, have been designed to help organisations put in place systems to ensure services are well run, in terms of supporting staff and ensuring that clients receive a good quality service.

MAKING THE MOST OF THE SQM GUIDANCE

One of the aims of the SQM was to reduce some of the bureaucracy (which can often be associated with quality standards). This was achieved by minimising the number of written and operational procedures an organisation must have in place and by adding flexibility to how the quality criteria can be achieved. Last year, the Commission surveyed over 80 suppliers nationally (both in crime and civil) in the private and NFP sectors, as well as a sample of Commission regional audit staff. The aim was to identify what elements of the SQM audit and assessment process were critical, what people found to be bureaucratic and what was missing. The responses showed that the majority of suppliers valued their audit because of the supportive relationship they have with their Commission regional office.

Overwhelmingly, the results illustrated that suppliers are doing more work than is required in order to ensure that they fully meet the standard. Suppliers appear to be relying on the knowledge of the old LAFQAS systems without fully utilising the simplicity and flexibility afforded in the SQM. The majority of SQM over-reporting resulted from suppliers not using the SQM Guidance to its full advantage, leaving suppliers feeling frustrated by what they regarded as 'bureaucracy' without benefits. The Supplier Development Group will be helping to redress these misconceptions over the coming months by providing guidance and a more joined up approach to supporting suppliers through working with the Law Society, Legal Aid Practitioners Group and the Advice Services Alliance. Through this we will be re-stating the core values and purpose of the SQM Standard, to enable all stakeholders to recognise what benefits it has for supplier development.

New Methods of Advice Delivery

Specialist Quality Mark Standard—Additional Requirements for Telephone Services

At the end of March, following a three-month consultation, the Commission published additional requirements to the SQM for telephone services. These were developed in response to requests for a Quality Mark that recognised organisations that offer dedicated specialist advice over the telephone, for example, a telephone advice line that is open at the same time each week.

In order to develop these requirements, we worked with the Law Society and a number of solicitor and NFP organisations to enable us to identify the additional areas of quality that were relevant to this method of service delivery. As a result, we have developed additional quality requirements which cover areas such as having a call handling procedure, signposting clients who are not suitable for telephone advice, telephone skills training for staff, and issues surrounding confidentiality and telephone advice.

We consulted with a range of organisations on the final document. All respondents generally welcomed the additional requirements and found them to be clear and emphasise good practice. One area which a number of respondents commented on related to incorporating the additional requirements for telephone services into the main SQM Standard. The Commission agrees that these requirements should form part of the main SQM Standard and aims to publish an electronic copy of the integrated requirements later in the year. A separate booklet containing the additional requirements is available now electronically on our website at www.legalservices.gov.uk. If you would like a hard copy, please contact your regional office.

Specialist Quality Mark Standard—Additional Requirements for Specialist Support Services

The consultation on the new Quality Mark Standard for Specialist Support Services finished at the end of March. The draft standard once again built upon the SQM framework. Many of the requirements reflected those of the SQM, with specific definitions and guidance tailored to the needs of specialist support services. We consulted with a range of organisations, including the Law Society, the Advice Services Alliance, barristers chambers, solicitors and NFP organisations. The majority of respondents supported the requirements and the new areas identified. Several respondents felt that it was not necessary to have a separate Quality Mark Standard for specialist support and suggested that the SQM should form the basic standard with the additional requirements for Specialist Support services incorporated into the existing standard. The Commission supports this proposal. Having one standard with additional requirements for specific types of service will reduce bureaucracy and help streamline the

application process for suppliers. This will be of particular benefit to organisations that operate more than one service. As a result additional requirements to the SQM for Specialist Support Services will be published later this summer.

In the Spring of 2004, the Commission let 18 Specialist Support contracts in the following categories of law: Community Care, Debt, Employment, Housing, Human Rights and Public Law, Immigration, Mental Health and Welfare Benefits. Organisations that hold either a contract or have the General Help with casework Quality Mark, are eligible to use the service free of charge. A list of these services and their contact telephone numbers are available on our website at www.legalservices.gov.uk/cls_developments

All organisations with a Specialist Support contract must meet the Specialist Support Quality Mark requirements. An application pack for non-contracted organisations that wish their service to be quality marked at specialist support level will be available on our website.

If you have any questions regarding any Quality Mark standard, please e-mail QualityMark@legalservices.gov.uk

LSC CONTINUES TO INVEST IN THE NOT-FOR-PROFIT SECTOR

The Legal Services Commission has appointed Shelter Training to deliver management training to not-for-profit (NFP) agencies with Commission contracts, following an open tender process.

Currently, the Commission has approximately 420 contracts with NFP organisations and each one will be offered one place on the course. The Commission's investment in this training totals nearly £200,000.

Shelter is an important NFP provider of publicly funded legal services which, with over 30 years of experience in providing quality training, is well placed to respond to the sector's training needs.

A training needs questionnaire was sent to all managers of contracted agencies early in June, seeking their views on what should be included in the two day training course. A small number of pilot courses, involving a minimum of 20 agencies, took place this July.

The training will then be rolled out nationally from September and will be held in convenient locations throughout England and Wales. An information pack will be sent out in early August and will invite one manager from each agency to attend.

Karl Demian, Head of Remuneration for the Commission, said: 'This is an exciting development and one which demonstrates our continued commitment to the NFP sector. We are delighted to be working with Shelter Training to develop the skills base of the advice agencies with which we contract. This training will help to ensure that people who turn to the sector for help always receive the quality advice that they need.'

If you would like further information about the course please contact Sara Wilcox on 020 7759 0344 or e-mail sara.wilcox@legalservices.gov.uk

FUTURE OF THE CLS / CDS DIRECTORY

Over 11,500 organisations across England and Wales have the CLS Quality Mark. Just over 6,000 of these have the Quality Mark at Specialist level. All organisations that have the Quality Mark at Assisted Information level and above are listed in the CLS/CDS Directory. A further printed edition of the CLS/CDS Directory will not be printed in 2004. This decision was taken following a full review of the directory, which concluded that the existing format was too unwieldy, goes out of date too quickly and is not being used in sufficient numbers to justify the cost.

In order to continue supporting signposting and referral, a CD-Rom version of the directory will be produced and distributed in Autumn 2004 to all Quality Marked suppliers.

PLEASE NOTE

In order to evidence the Quality Mark requirement for operating a seamless service you need to have access to the CLS/CDS Directory. This requirement can now be met if you have access to the Community Legal Service Direct website at www.clsdirect.org.uk or the CD-ROM directory when it becomes available later in the year. If access to these is not possible clients should be directed to the Community Legal Service Direct national helpline: 0845 345 4 345. For more information about Community Legal Service Direct please refer to the article on page 06.

ASSESSING QUALITY

The Legal Services Commission revised its approach to supplier management in 2003 to begin to focus on prioritising and targeting audits on the basis of risk. In December 2004 it will be extended to include off and on-site monitoring of quality of advice and client care, by integrating two key tools; Peer Review and Quality Profiles. These tools form part of a development process that will also include a new approach to file assessment, taking into account quality and value on case files.

PEER REVIEW

Over recent months, the Commission has expanded its Peer Review programme. Independent, experienced practitioners have been recruited and trained to assess closed files across all major contract categories and are carrying out peer reviews for a variety of projects. The Peer Review process was developed in conjunction with the Institute of Advanced Legal Studies (IALS) and provides a direct, independent assessment of the quality of work done by organisations. Peer Reviewers are recruited for the experience and skills that they have within practice and maintain an ongoing caseload.

Our current applications of peer review include:

- **Preferred Supplier Pilot** – where it has been used to assure the quality of suppliers entering the pilot (*Focus 44*)
- **Supervisor's competence** – where it can be used as an alternative assessment to the Specialist Quality Mark supervisor requirements, for suppliers who operate in a location with a high priority need for advice, but who have a low case-load.

- **Benchmarks** – here we have reviewed random samples of suppliers to begin to establish the level of quality of advice across the supplier base. This data is also used for research purposes and to assess other quality indicators.

- **FAlNs** – where we are embarking on a programme of reviews to assure the quality of family suppliers taking part in Family Advice and Information Services (*Focus 44*).

- **PDS Research** – where peer review is being used by independent researchers to compare the quality of work of those in the Public Defender Service Offices and private practitioners.

In addition to the above uses for Peer Review, from December 2004, Peer Review will be integrated into supplier management as a definitive assessment of quality of advice. Using tools such as Quality Profiles (see below) and in the future, file assessment, we will be able to target those suppliers where most will be gained from the detailed and independent assessment about quality of work that peer review provides.

The peer reviews are rated on 1 to 5 scale, where 3 is the threshold of competency. The IALS validates all of the peer review results. So far, approximately 84% of the peer reviews where suppliers are randomly selected for the benchmarks or research, have been found to be threshold competent or above (this includes approximately 30% of peer reviews rated higher, at 1 or 2).

Background information about the peer review process and copies of the criteria are on our website at www.legalservices.gov.uk/contract/peerreview

For further information please e-mail tina.greenley@legalservices.gov.uk

QUALITY PROFILES

Quality Profiles will cover all main contracted areas of Crime and Civil work (Legal Help and Legal Representation) and will be a vital component for managing supplier performance, principally for quality of advice. Every category (and for Family, sub-category) has a range of indicators, which have been drawn from case data reported to the Commission at the conclusion of every funded case, since the

new outcome codes were implemented in April 2003. See further *Focus* articles in issues 41, 42 and 43.

Using an independent statistical methodology, we have identified category-specific indicators that cover, for example, substantive client outcomes, case duration, case mix and how cases were concluded. When viewed together, these indicators provide an initial assessment of the quality of work in the category for each supplier. Again, using a statistical method, we can then identify suppliers that have an unusual profile that may indicate some degree of risk to the quality of advice being given. We are in the process of validating the indicators and associated guidance for dealing with results that appear 'out of profile' through comprehensive discussions with practitioners and correlation against Peer Review to thoroughly refine and validate the process.

Quality Profiles will provide the ability to risk assess suppliers on the basis of quality of advice and client care. In particular this will allow us to determine that suppliers achieving Preferred Supplier status (see *Focus* 44 and this issue) maintain the necessary standard of work without recourse to further peer review. It should also allow the Commission to identify firms as they progress to the 'preferred supplier' standard and initiate peer review for confirmation. Sanctions, either on the Contract or the SQM will not directly flow from the Quality Profiles. Instead, Quality Profiles may provide a trigger for further targeted investigation through audit, file assessment II or Peer Review.

REPORTING CASE INFORMATION TO THE COMMISSION

In order to maximise the value of Quality Profiles to suppliers and for the Commission, it is important to ensure that all information that is submitted to the Commission, at the closure of the case accurately reflects the type of case and outcome achieved. Up-to-date information and guidance on matter types and case outcomes can be found in the 'Forms' section of our website at www.legalservices.gov.uk/misl/forms.htm

For further information please e-mail clare.powell-evans@legalservices.gov.uk

COMPLETE AND ACCURATE CASE DATA MORE IMPORTANT THAN EVER

The Legal Services Commission is fully committed to the timely and accurate processing of case data that is sent in by suppliers.

The large majority of data that the Commission receives is in very good order, but if unexpected or missing information is submitted this can sometimes lead to delays when processing bills or applications. Misinterpretation of the information required by the Commission can also lead to misleading results when conducting analysis of information for the Supplier Management Process, and from December 2004, Quality Profiles.

These initiatives are partially dependent on having the correct case details such as matter types and outcome codes reported to us, both for Legal Help and for Legal Representation (including final and interim bills). Suppliers' help in continuing to provide accurate and complete data is essential for providing management information that the Commission can use to shape the future of legal services.

To ensure that case information can be submitted as quickly and easily as possible, we are investigating how the forms that we require suppliers to complete can be made more user friendly. Processes to identify areas of potential misinterpretation have already been put in place. These will allow the Commission to further assist suppliers in understanding the data they are supplying.

These measures will enable us to form a clearer picture of the services we provide to those who need us, and how we can build upon them for future successes.

legal services

COMMISSION

A NEW LOOK FOR THE COMMUNITY LEGAL SERVICE DIRECT INFORMATION LEAFLETS

The CLS Information Leaflets are now a key element of Community Legal Service Direct and have been given a new look to reflect this.

Members of the public can now order free copies when they call the Community Legal Service Direct helpline on 0845 345 4 345 and can view or download them from the website at www.clsdirect.org.uk

The leaflets are regularly updated by independent authors to ensure that they remain accurate and relevant. Nine leaflets have recently been amended and the remaining 15 will be reviewed by Autumn 2004. The version date for each leaflet is now clearly shown on the front of each leaflet and the correct version date for each leaflet is printed on the leaflet order form and is available on the website.

Updated Welsh, Braille and Audio versions of all 24 leaflets will be available in September 2004.

To order bulk orders of the leaflets please contact the LSC Leaflet Line:

tel: 0845 3000 343

fax: 01732 860 270

e-mail: LSCleafletline@stivesdirect.com

If you have any queries or comments concerning the leaflets please contact Ian Philpott, CLS Direct, 12 Roger Street, London, WC1N 2JL or e-mail ian.philpott@legalservices.gov.uk

PAY INCREASE FOR HOUSING LAWYERS WORKING UNDER THE SOLICITORS' CONTRACT

In May 2004, the Secretary of State announced plans to increase remuneration rates for some aspects of housing Controlled Work – namely homelessness reviews prior to proceedings being issued and possession proceedings in the county court. The increase is from current Legal Help rates to the relevant Controlled Legal Representation rates, currently payable only in mental health or immigration cases.

The increases will apply to:

Legal Help on a homelessness reviews carried out by the local authority in relation to a decision not to classify a person as homeless. The increased rate will apply to those cases where the application for a review is actually made. Thus, while preparing and submitting the review will be included, simply advising the client on whether or not a review is to be pursued will not attract the higher rate where it is concluded that no action should be taken.

Legal Help and Help at Court provided to a defendant to a possession summons. The increase is intended to apply to those situations where the client is facing possession proceedings in the county court, but the solicitor is providing Legal Help and Help at Court rather than Legal Representation, because there is no defence to the claim that would meet the merits test.

The increase will only apply to those carrying out the work under a specific housing contract and not to cases carried out in a tolerance. The increase is therefore targeted at specialist housing suppliers that carry out this high priority work for clients that are homeless or at risk of losing their home.

The Department for Constitutional Affairs will now be consulting with Law Society and Bar Council on an amendment to the Community Legal Service (Funding) Order to bring the pay increase into effect. Implementation is likely to be in October 2004.

CONTRACT MANAGEMENT: INCREASES IN AVERAGE COSTS

Under the General Civil Contract the Commission is entitled to reduce a supplier's matter starts where the average costs of those matter starts in any category has increased by at least 10% over the previous period. The previous period is determined by the Commission and is normally between six and twelve months. This is provided by clause B16(c) of the Schedule under the General Civil Contract (Solicitors).

During the 2004-5 Schedule period, we will take the relevant period for the purposes of this clause as the 12 months from October 2002 to September 2003. We will therefore be reviewing increases in average costs in 2003-4 and will apply clause B.16(c) in appropriate cases. The first review took place in July 2004, and we may reduce matter starts for firms whose average costs of claims in any category for the period April to June 2004 have increased by 10% or more over their Standard Matter Cost for the period October 2002 to September 2003.

We will no longer need to apply this clause to firms in the voluntary Tailored Fixed Fee Scheme (see page 05 of this issue) as we will already be assured that their average costs will not be increasing during the Schedule period.

SALARIED IMMIGRATION SERVICE TO BE CREATED

Birmingham is to be home to a new directly employed immigration and asylum legal service being established by the Legal Services Commission.

Birmingham has large dispersed asylum and resident black and minority ethnic communities, and also offers the existing Public Defender Service as a base and model on which to build.

The service will initially employ two solicitors and a paralegal/caseworker, with the additional early recruitment of a trainee solicitor and caseworker. Delivering services across Birmingham and the Black Country, the service will work with other solicitors, not-for-profit suppliers and groups working with refugees and more established local communities, to deliver services that are relevant and accessible to people needing legal advice.

The service will work to the same quality and time standards, audit and compliance structures and standards of independence that apply to other practitioners funded by the Commission and working in private practice or NFPs. By providing a service to clients first hand, the Commission expects to acquire reliable data on the drivers of quality, value, cost and time within the asylum and immigration process. This information will act as a benchmark for

evolving and improving the contracting relationship between the Commission and its suppliers, as well as helping the Commission shape future public policy regarding asylum and immigration. Like the Public Defender Service, this service will stand or fall on its ability to attract clients by offering a quality service.

Whilst there are no current plans to expand the service, if it is successful in offering a high quality, good value service, it will provide an additional useful model for the Commission to meet needs across the country where other contracting arrangements are either unattractive or not working.

Over the coming months, the Commission will be seeking to work with a wide range of partners to make the service a success and to ensure that referrals for other areas of law, and private clients, are handled well to ensure that clients receive a seamless service.

Any enquiries from suppliers wanting to work with the new service, which is expected to open in the Autumn, should be directed to Paul Newell on 0121 665 4731 or e-mail: paul.newell@legalservices.gov.uk

IMMIGRATION AND ASYLUM ACCREDITATION SCHEME – UPDATE

We can now confirm that the Law Society has appointed Central Law Training (CLT) to run the independent assessments for the new accreditation scheme.

CLT has recently published details of the dates and venues that assessments will be available and these can be found on their website at www.immigration-and-asylum.co.uk. Brochures have also been sent out to all immigration suppliers.

All those giving publicly funded immigration advice should now have registered with the Legal Services Commission (the deadline for this was 31 May 2004). CLT will ensure that there are sufficient assessment opportunities so that all who have registered with us can be assessed and accredited by 1 April 2005. We strongly advise however, that you book assessments as soon as possible so that you are able to attend on your preferred date at your chosen venue.

Now that CLT has published its assessment fees, the Commission has also been able to confirm the amounts that will be reimbursed to successful candidates. Full details of this and all other aspects of the accreditation scheme can be found on our website at www.legalservices.gov.uk/contract/g_civil.htm

If you have any queries about the scheme please contact Rebecca Bowry on 020 7759 0339 or e-mail rebecca.bowry@legalservices.gov.uk

Asylum Support Cases and Accreditation

We are aware that a number of organisations, both solicitor and not-for-profit, currently undertake work in connection with asylum support issues other than under an immigration contract.

These cases will generally be limited to those involving issues under s 55 of the Nationality and Immigration Act 2002 or s 21 of the National Assistance Act 1948. These cases do not involve the basis of the client's application for leave to enter or remain in the United Kingdom, and hence are not limited to practitioners with an immigration contract.

Work involving issues of asylum support may be undertaken by those suppliers with Welfare Benefit, Community Care, Housing or Public Law contracts and who have expertise in community care issues or judicial review.

Where the matters relate solely to asylum support issues and not to the substantive nature of the client's claim for asylum, then representatives undertaking this work outside an immigration contract will currently not be required to apply to be accredited under the Legal Services Commission's Immigration and Asylum Accreditation Scheme. However, the normal expectation that work is not undertaken beyond the limits of competence remains and suppliers should refer cases to specialist advisors where necessary.

If you have any questions regarding this, please contact Zoe Farrant on 020 7759 0338 or zoe.farrant@legalservices.gov.uk

Exclusivity at Oakington Reception Centre

As you will be aware, the Legal Services Commission decided to award contracts for publicly funded advice and representation at Oakington only to the Immigration Advisory Service (IAS) and Refugee Legal Centre (RLC).

This means that from 1 April, clients detained at Oakington should only receive publicly funded advice from the on-site representatives from IAS and RLC, unless one of the limited exceptions apply.

The change to the contract to introduce this was notified to all contracted suppliers when the revised Immigration Specification was issued in February, and was also publicised in *Focus 44*. The reasons for introducing this change were twofold; firstly to eradicate unnecessary duplication of work by having more than one supplier working on a case and secondly, to help prevent some of the touting and poaching practises that had developed at Oakington.

There are two exceptions allowed under the contract; where an outside representative had already carried out five hours substantive work on a case and attended on the client in the UK, or had conducted a case for a close family relative whose case was material to the client. These are the only circumstances where outside representatives should act for clients

at Oakington under contract unless they had a formal referral from IAS or RLC.

Although there has been a significant reduction in the number of clients instructing outside representatives since 1 April, the number still remains at a much higher level than we anticipated. We are therefore taking this opportunity to remind suppliers of the arrangements that came into effect on 1 April. Group 4 is providing us with information about suppliers that are attending Oakington, and we will ensure through our audit processes that suppliers are representing clients under the provisions allowed under the contract. We will disallow any claims made that were outside the scope of the contract. Where suppliers continually operate outside the terms of the contract, sanctions will be taken and these ultimately could lead to the termination of their contract.

Any questions about this article should be directed to Paul Newell on 0121 665 4731 or paul.newell@legalservices.gov.uk

HARMONDSWORTH FAST TRACK CONTRACTS

The bid round outlined in the article in *Focus 44* has now been completed and new contracts awarded.

From 1 July 2004, only Approved Advisers working for suppliers with a fast track schedule may provide Controlled Work to clients subject to the fast track process at Harmondsworth, unless their client satisfies the exceptional circumstances detailed in the Immigration Specification of the General Civil Contract.

The exceptions are where the client is a close family member of an existing client and knowledge of the family's circumstances is

material to the new client's case, or where the client is an existing client on whom you have attended in the UK and carried out at least five hours' work. Full details are in the Immigration Specification at rule 12.2.13 for solicitors and para 13.2.4 for NFPs.

Should you have any queries about the fast track scheme please contact Rebecca Bowry on 020 7759 0339 or e-mail rebecca.bowry@legalservices.gov.uk

FURTHER CHANGES IN IMMIGRATION – DISPERSED CLIENTS AND STAGE BILLING

Dispersed Clients

Following representations received from immigration practitioners, the Legal Services Commission has decided to introduce the following concession to Rule 12.2.2 (para 13.2.2 for NFPs) relating to previous legal advice. From 1 July 2004, suppliers may claim up to 30 minutes in addition to the Legal Help Cost Limit for an initial interview where the client has been dispersed and the relevant Cost Limit has been exhausted by the client's previous supplier. Subject to consultation, a formal amendment will be made to the General Civil Contract in October 2004.

Stage Billing

The Commission wrote to all immigration suppliers in April 2004 requesting their views on introducing a new Legal Help stage bill at the initial Home Office decision. The majority of respondents welcomed the proposal (78 out of 96 responses received) and the Commission intends to introduce a new compulsory stage bill to implement this by formal amendment to the General Civil Contract in October 2004. The Commission also intends to simplify the arrangements for Controlled Legal Representation stage billing and to clarify SPAN guidance for stage billing in general. These changes will be subject to consultation in the usual way.

APPEAL FORMS

The Immigration and Asylum Appeals (Procedure) Rules 2003, SI 2003/652, introduced new forms for lodging appeals to an adjudicator or the Tribunal. These forms, N1, N2, N3, T1, T2, C1, B1 and G1 include a section on source of funding. You MUST ensure that the question: 'Have you been granted Controlled Legal Representation?' is answered and your details supplied if CLR has been granted. If there is any change to the funding source this should be reported on form G1.

Bar Asylum Advocacy Scheme

Need a barrister to provide representation on appeals in publicly funded asylum work? Would you like to instruct one who has successfully completed a training course and assessment at the College of Law?

USE OF INTERPRETERS IN PUBLICLY FUNDED IMMIGRATION AND ASYLUM CASES

In June, the Legal Services Commission issued a consultation paper on the use of interpreters in publicly funded immigration and asylum cases. Our proposals have three key aims: to set guidance on fee rates appropriate for publicly funded legal services, to require that only suitably qualified interpreters may be instructed and to develop procedures relating to the instruction and payment of interpreters.

This paper will form the first stage of a very open consultation exercise that seeks the views of all interested bodies and individuals. We hope to meet and work with the key respondents in order to develop our proposals. Any alternative approaches that are suggested will be fully considered before any decisions are reached.

For further information about this consultation exercise, please contact Chris Handford on 020 7759 0340 or e-mail chris.handford@legalservices.gov.uk

If the answer is yes then you may wish to contact one of the barristers listed on pages 26 and 27.

As a minimum, each of these barristers has successfully undertaken a dedicated immigration and asylum course which included an assessment of their skills and knowledge. This dedicated course and assessment was funded by the Legal Services Commission and designed in partnership with the College of Law and the Bar Council.

The Commission hopes this initiative will make it easier to find good quality barristers willing to take on this type of work. In particular, referring to this list may assist suppliers in finding local counsel as required

by 12.4.1(8) of the Immigration Specification of the General Civil Contract. This rule provides that: 'Where counsel is instructed then you should seek to ensure that they are where practicable from local chambers near the Hearing Centre where the appeal will take place, unless they do not charge for the travel time or travel costs.'

The barristers listed will add to the pool of barristers already doing valuable work in this complex and important area of law and in particular, to those barristers who participated in this scheme in 2003.

Please note that these barristers will not be paid directly by the Commission and will invoice you in the usual manner.

The Commission hopes this initiative will make it easier to find good quality barristers willing to take on this type of work.

STATUTORY CHARGE: REVISED GUIDANCE

LAND REGISTRATION ACT 2002 – THE COMMISSION'S NEW RESTRICTION

As many practitioners will be aware, the Land Registration Act 2002 has abolished cautions against dealings. As a result, the Legal Services Commission has been obliged to change the way in which it protects the statutory charge in cases where the client recovers or preserves an interest in a jointly owned property, and the other joint proprietor does not consent to a contractual charge in the Commission's favour.

Happily, following discussions with the Land Registry, we no longer need to take enforcement proceedings to protect the Commission's statutory charge in these circumstances. As an alternative, the Commission can now apply for a new form of restriction which gives us similar protection to that which used to be provided by cautions. The new restriction states that:

No disposition of the registered estate is to be completed by registration without a certificate signed by the applicant for registration or his conveyancer that written notice of the disposition was sent by post to the Legal Services Commission, Land Charge Department, at 85 Gray's Inn Road, London WC1X 8TX.

In future, practitioners should still try to obtain the consent of the other joint proprietor to a contractual charge in the Commission's favour. But if that is not possible, the regional

office should be advised in the CLS ADMIN 1 Form, so that we may apply for the new form of restriction to be registered against the property without delay.

Practitioners will be aware of regulation 52(4) of the Community Legal Service (Financial) Regulations 2000 which provides: '... all conveyances and acts done to defeat, or operating to defeat, any charge shall, except in the case of a bona fide purchaser without notice, be void as against the Commission.' It is our view that once the restriction has been registered, this will place any such purchaser on notice and the charge will be protected; however, practitioners should also ensure that the funded client is clear about the nature of their duty to the Fund to avoid any difficulties arising in practice.

Any queries in relation to this article should be sent to Michael Rimer, Policy and Legal Department, Legal Services Commission, 85 Gray's Inn Road, London WC1X 8TX or by e-mail to michael.rimer@legalservices.gov.uk

PROCEEDS OF CRIME ACT 2002 – UPDATE

Proceedings Involving the Assets Recovery Agency

As mentioned in *Focus 44* (page 17), the Legal Services Commission has been working closely with the Assets Recovery Agency to develop new procedures for handling applications from respondents in proceedings brought by the Agency under the Proceeds of Crime Act 2002.

A document setting out this new process and containing specific guidance for solicitors acting for respondents in proceedings under the Proceeds of Crime Act 2002 involving the Assets Recovery Agency, is now available in the guidance (CLS funded work) section of our website at www.legalservices.gov.uk. It provides information on the availability of CLS funding for these proceedings, the specific criteria used to determine eligibility in these cases and the procedures followed in considering these cases.

Where to Submit Applications

All applications for civil funding for proceedings under the Proceeds of Crime Act 2002 should be submitted to the London regional office, except for applications for proceedings involving the Assets Recovery Agency, which should be submitted to the Special Cases Unit at London Regional Office, 29-37 Red Lion Street, London WC1R 4PP, DX 170 London/Chancery Lane.

The paragraph above replaces the bold text on page 17 of *Focus 44* which wrongly stated that all cases under the Proceeds of Crime Act 2002 should be submitted to the Special Cases Unit. We apologise for any confusion caused.

Secretary of State's Direction on Proceeds of Crime Act 2002 Proceedings

On 24 May 2004, the Secretary of State issued a scope direction that authorises the Commission to fund services on behalf of a respondent in certain Proceeds of Crime Act 2002 proceedings, despite the fact that the case arises out of the carrying on of a business. This will further streamline the processing of applications as it will no longer be necessary for Proceeds of Crime cases which arise out of a business to be dealt with under the exceptional funding procedure.

CRIME AND CIVIL CONTRACTS – SIGNIFICANT CHANGES – 1 JULY 2004

On Thursday 1 July 2004, following extended consultation, the new General Criminal Contract came into force. The new contract terms are the old terms with amendments. On the same day, similar amendments to the General Civil Contract (Solicitors) came into force.

The Legal Services Commission has sent all contractors details of the amendments. Few of them affect the day-to-day performance of Contract Work. As an aid to contractors, CDS Managers and Contract Managers, the table below sets out the most significant amendments.

DESCRIPTION OF AMENDMENT	CLAUSES
KEY AMENDMENTS	
Emphasis of three key contract terms – standard of services, SQM and payment claiming rules	Foreword
LSC and Contractors to work together to achieve best possible value for money	Clause 2.1
Amendments to Specification normally confined to April and October	Clause 11
To enable piloting different methods of contracting, if DCA directs, LSC may terminate all contracts in a specified geographical area, or in specified categories or classes of law, on at least six months notice	Cause 20
CLIENT AND PUBLIC INTEREST AMENDMENTS	
Complete ban on all referral fees for publicly funded work	Clause 12A
LSC may disclose information about contractors (not about clients) where it is in the public interest to do so	Clause 13
LSC has right to access information held on IT system for an Official Investigation	Clause 3
TECHNICAL AMENDMENTS	
Technical changes to cover LLPs, incorporated practices and automatic novations for most changes of partnership (but not for changes of more than one third of membership in past 12 months). Provision for annual “constitutional statements” to verify membership	Clause 18
Where there is an intervention or a receiver is appointed with a view to closing a contractor, a list of open and closed cases must be provided, open cases must be promptly transferred and bills for assessment and outstanding claims for payment must be submitted	Clause 16
LSC has no obligation to pay for work outside the limitation on a certificate even where a court assessment has overlooked the limitation	Clause 16
Where contractor fails to pay a third party without good reason, LSC may pay, and deduct from contractor’s payments	Clause 12A
Contract ends immediately if there is an intervention by The Law Society	Clause 20
LSC (as well as contractor) may make oral representations at a CRB review	Clause 23
AMENDMENTS TO CIVIL CONTRACT ONLY	
Basis for the introduction of payment by ‘average case costs’	Schedule Annex A
Contractors must submit court-assessed Licensed (Certificated) Work claims for payment promptly – normally within 1 month of assessment	Clause 12B
AMENDMENTS TO CRIME SPECIFICATION	
Removal of some performance standards	Part D Rules 5.1 to 5.5
Specific obligation to notify LSC of very high cost cases	Rule 7.12
AMENDMENTS DEFERRED TO 1 OCTOBER 2004 The amendments below – though shown in the new contract documents – will not come into effect before 1 October 2004 and, in the meantime, further discussions with the representative bodies are underway	
Amendments to the Costs Assessment and Appeals procedure	Specifications Rules – Civil 2.14 to 2.18 Crime C1.1 & C10 to C.13
Second technical amendment described above (list of open and closed cases etc) will not apply to interventions before 1 October	Clause 16

Any crime contractor that has not received a new General Criminal Contract and any civil contractor that has not received a notice of amendments to the General Civil Contract (Solicitors) should contact the CDS manager or contract manager in their regional office. Any questions about the amendments should also be raised with them. All amendments will be included in the first available update to the LSC s Manuals—likely to be December 2004. In the meantime, the new General Criminal Contract and General Civil Contract (Solicitors) are available on the Commission’s website at www.legalservices.gov.uk

Funding Code Guidance: Housing Anti-social Behaviour Act 2003

Part 2 of the Anti-social Behaviour Act 2003 came into force on 30 June 2004 and is addressed by the new Part 65 of the Civil Procedure Rules. We are, therefore, updating the guidance in Volume 3 of the LSC Manual.

Injunctions under the Housing Act 1996 will continue to be covered by the existing guidance on anti-social (behaviour) injunctions on page 239, para 12, of the new version of the LSC Manual (19.7: Cases Concerning Possession of the Client's Home).

For demotion claims and proceedings related to demoted tenancies, we have added a new paragraph to the guidance on page 238, para 6, as follows:

Where a demotion order is claimed in the alternative to a possession

order or other than in a possession claim, the same considerations as set out in paragraph 6 above will apply to the grant of Legal Representation to defend those proceedings.

Unfortunately, this amendment post-dated the print deadline for the first issue of the new LSC Manual but will be included in the December update.

Orders under the Crime and Disorder Act 1998 are already covered by the

guidance on page 246, paras 12 and 13 (19.11: Miscellaneous Proceedings).

As part of our commitment to improve the LSC Manual (see article on page 07), we will be reviewing the whole of the housing guidance in Volumes 2 and 3 during the course of the next year. Any comments or queries in relation to this article, or suggestions for guidance on housing, should be sent to Ruth Wayte, Deputy Legal Director, 85 Gray's Inn Road, London, WC1X 8TX or by e-mail to ruth.wayte@legalservices.gov.uk

COSTS APPEALS COMMITTEE POINTS OF PRINCIPLE

CLA 40, 12 March 2004

Consequences of Solicitor's Failure to Comply With Regulations or Contract

Point of Principle

If a solicitor fails to comply with a requirement in regulations or a contract governing the conduct of publicly funded cases, with the result that the Fund incurs loss, the Legal Services Commission may defer, or withhold payment of, the solicitor's profit costs. The loss resulting from the solicitor's act or default must be quantified. If there is a series of breaches, the loss flowing from each must be identified separately.

Guidance

The Commission's powers to withhold payment of profit costs are in reg 102 of the Civil Legal Aid (General) Regulations 1989 (as amended) in relation to licensed work and rule 1.14 of the General Civil Contract Specification in relation to work performed under that contract.

The default referred to above may take a number of forms. Common examples are failure to report:

- (i) that costs have exceeded a pre-CIS costs condition, or are no longer justified in the light of the prospective benefit and the prospects of success. The Costs Appeals Committee considers that grossly inaccurate reporting on the amount of costs incurred constitutes a failure to report; or
- (ii) that property has been recovered or preserved and that the Commission's charge should be registered before it is put at risk.

The regional office must be able to show:

- (i) that there was a breach of a requirement imposed on the solicitor by regulation or the contract; and
- (ii) that as a result of that breach, the Fund has incurred a loss (such as a liability to pay the solicitors) when there would have been no such liability but for the solicitor's breach.

CLA 41, 19 April 2004

Definition of a 'Main Hearing'

Point of Principle

A 'main hearing', as defined in art 2 of the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001, involves determination and consideration of the principal issues in dispute between the parties. In ancillary relief proceedings, it is unlikely that the hearing of an application for an injunction will amount to a 'main hearing'. In proceedings solely for an injunction, neither an application without notice, nor one for enforcement, can constitute the 'main hearing'.



PUBLIC INTEREST ADVISORY PANEL SUMMARIES

The Public Interest Advisory Panel reports to the Legal Services Commission on cases which are considered 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

Summaries of Panel reports are no longer included in the Manual. They are however available on the guidance section of the Commission's website on the page headed "Public Interest Reports". New reports will continue to be published in *Focus*.

Summaries of cases considered by the Panel were contained in *Focus* 32–44. A summary of the cases which have since been referred to the Panel is set out below. These 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/04/215

Nature of Case

Proposed judicial review of the National Rail Standards Drugs and Alcohol Policy.

Report of Panel

The Panel were very concerned about the lack of information provided to the applicant by Network Rail in relation to his case, and any rights of appeal. However, the Panel considered that this case had no reasonable prospects of success.

The Panel considered that the only possible way forward in the applicant's case was to challenge the operation of the policy, based on the inflexibility of the wording used within it and the disproportionality of the penalty imposed. There did not seem to be any argument that the policy had been misapplied in the applicant's case. This challenge faces severe difficulties due to the lengthy delay in bringing it and the unlikelihood of a

determination being made that the policy was irrational, bearing in mind the need for a strict approach to drugs matters where public safety was involved. In light of this view, the Panel consider that significant benefits were unlikely to flow from funding this case.

Conclusion

No significant wider public interest.

PIAP/04/223

Nature of Case

Proposed action for damages for false imprisonment and breaches of articles 5 and 6 of the European Convention on Human Rights.

Report of Panel

The Panel noted that the Prison Service may well have misinterpreted the effect of the judgment of the European Court of Human Rights in *Ezeh v UK* (App No 39665/98). It did not follow from that case that compensation should never be awarded in similar proceedings in this jurisdiction. In addition, this misinterpretation had been applied in the applicant's case and was likely to be relied on in other cases. The Panel considered that it was concerning that people who may have been unlawfully detained due to a breach of their human rights, were then being universally denied compensation on the basis of a restrictive interpretation of the above case.

Conclusion

Significant wider public interest.

Rating: Significant

PIAP/04/140

Nature of Case

The applicant seeks funding to bring a claim for damages against the UK government for failing to properly implement the provisions of EC

Directive 89/391 concerning health and safety at work, thus depriving her of a cause of action in earlier litigation against her employers.

Report of Panel

The Panel originally considered this case at its meeting on 9 October 2002. At that time, the Panel accepted that if a *Francoovich* claim in this case could establish the right of an employee to bring a claim against the employer for breach of the duty contained in the framework directive, then the case would clearly be of wider public interest. However, the Panel considered that as the government had accepted that the domestic law should and would be changed, albeit only prospectively, to afford employees a civil right to claim damages for breach of the duty laid out in the directive, it was not convinced that sufficient numbers of people would benefit from a court allowing a *Francoovich* claim in this case. In addition, the Panel expressed doubts about the applicant's prospects of succeeding in her claim under the directive in light of the Court of Appeal's views regarding her ability to establish the chain of causation between her injury and the stress she suffered at work. The Panel sought further information on these points from the applicant's solicitors.

After consideration of further submissions on behalf of the applicant, the Panel was satisfied that this case had significant wider public interest. The Panel accepted counsel's contention that the applicant's difficulties in establishing causation in proceedings under common law, meant that this case was a stronger case on which to challenge the failure to implement the Directive, as there was clearly no other cause of action available to the applicant than what should have been available under the Directive. The Panel also considered that the Government's subsequent

approach to the implementation of the directive was such that success in this case still had the potential to benefit significant numbers of people. Finally, the Panel considered that this case had the potential to encourage proper implementation of such directives in the future.

Conclusion

Significant wider public interest.

Rating: Significant

PIAP/04/226

Nature of Case

Proposed counter-claim in possession proceedings for a declaration that a credit agreement is unenforceable due to improper execution, on the basis that it fails to state the actual rate of interest, even though it does set out the formula by which the rate is calculated.

Report of Panel

The Panel considered that the key question to be determined in these proceedings was whether a statement in the agreement specifying the interest rate as the base rate plus 10% is a 'statement of the rate' for the purposes of the Consumer Credit (Agreement) Regulations 1983, SI No 1983/1553. The Panel considered that determination of this question would not lead to any wider clarification or change in the law in this area, but would be limited to deciding, on the particular facts of this case, whether the lender in this case had correctly filled out the loan agreement.

Conclusion

No significant wider public interest.

PIAP/04/227

Nature of Case

Proposed action in clinical negligence against a local health authority arising out of the treatment provided to a pregnant teenager.

Report of Panel

The Panel agreed that a case that could provide greater guidance on interpreting *Gillick* competency would have wider public interest. However, the Panel did not consider that this was such a case. It appeared from the evidence before the Panel that the applicant received excellent care from the Primary Care Trust and that there was no indication that they were in any way negligent in treating her. In particular, it did not appear to the Panel that the Trust applied *Gillick* in a blanket fashion.

The Panel therefore considered that a clinical negligence action against the Trust would be unsuccessful. As it appeared that the Trust had applied the existing law correctly, the Panel considered that a court would not provide any additional guidance on the interpretation of *Gillick*, as such guidance would seem unnecessary. It was therefore unlikely that this case would further develop the law.

Conclusion

No significant wider public interest.

PIAP/04/228

Nature of Case

Proposed action pursuant to the Human Rights Act 1998, seeking a declaration of breach of arts 8 and 14 of the ECHR, an injunction and damages against the police for unreasonably and disproportionately, and without due consideration and consultation, circulating documents containing personal information about the applicant to estate agents and other businesses in the applicant's local area.

Report of Panel

The Panel considered the applicant's contention that this case would clarify the law surrounding the police's obligations when considering whether and how to disclose criminal conviction and related information, and that such clarification has the potential to amend police procedure accordingly. However, the Panel did not consider that this case would result in such a clarification.

The Panel considered that the merits of this case were weak and that the applicant had no genuine claim for damages. In addition, the Panel considered that the procedural requirements set out in *Ellis* were sufficiently clear, and this case would not develop them further. Police procedure should be informed by the *Ellis* decision. Any determination that the police in this case did not comply with the requirements set out in that decision would be unlikely to benefit anyone other than the applicant.

Conclusion

No significant wider public interest.

PIAP/04/229

Nature of Case

Proposed permission application to the House of Lords to appeal a decision of the Court of

Appeal in relation to the applicant's claim that maladministration in the handling of his application for asylum and its impact on the financial support available to him, breached his rights under arts 3 and 8 of the ECHR, causing him stress and psychiatric injury.

Report of Panel

The Panel considered that this case raised an important principle of law that had the potential to impact significantly a great number of people. There is a clear conflict between the decision of the High Court and that of the Court of Appeal in this case and the Panel considered that the House of Lords should be given the opportunity to express its view. Any reinstatement of the first instance decision might benefit large numbers of persons with potential claims for breaches of art 8. However, even if the applicant were unsuccessful in this case, any guidance provided by the House of Lords on the nature of public authorities' duties to take positive action in relation to art 8 of the ECHR, especially in cases where such failures caused psychiatric injury, would be of significant wider public interest.

Conclusion

Significant wider public interest.

Rating: Significant to High

PIAP/04/231

Nature of Case

Proposed action for damages for personal injury under the Consumer Protection Act 1987, in relation to the death of the applicant's mother following the implantation of a prosthetic heart mitral valve coated in a newly patented substance.

Report of Panel

The Panel noted that there was widespread public concern in relation to the testing of medical devices and that this case had the potential to clarify the law in this area. In addition, the Panel considered that as 1,300 valves with this coating were imported into the United Kingdom, these proceedings could directly affect a number of people. Finally, the Panel considered that any development of the law surrounding the requirements of the Consumer Protection Act 1987, in relation to medical equipment, was likely to benefit the wider public.

Conclusion

Significant wider public interest.

Rating: High

Need a barrister to provide representation on appeals in publicly funded asylum work?

List of barristers referred to in the article on page 20.

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