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## > Carter Review

Lord Carter of Coles has published his review on legal aid procurement, to find out more, see the articles on pages 2 and 3.

## > LSC/DCA Consultation

A joint consultation has been issued by the LSC and the Department for Constitutional Affairs in response to the Carter Review, with proposals as to how the recommendations in the review should be implemented. See pages 2 and 3 for details.

## > Senior LSC Officials on Carter

LSC Chair, Sir Michael Bichard, gives his view on Carter and the consultation on page 4. Pages 4 and 5 look at the challenges ahead for the CDS and CLS with views from Derek Hill, Director of the LSC's Crime Change Programme, and Crispin Passmore, Director of the CLS.

## > CDS Act 2006

For the latest information on the implications of the CDS Act, which comes into force in October, please turn to page 7.

## > Outstanding Payments on Account

The LSC sets out its position on outstanding payments on account after recent media coverage – see page 12.

## > The Statutory Charge

For clarification of how the statutory charge is calculated where different aspects of a family case are dealt with separately by the courts, see page 14.



# Lord Carter's Review

On 13 July, Lord Carter of Coles published his review of legal aid procurement, 'Legal Aid: A market-based approach to reform', which recommends moving to a market-based approach to legal aid based on quality for clients and value for money for the taxpayer. The final version of Lord Carter's report makes 62 recommendations and comes after 12 months of detailed analysis of the existing legal system. Also on 13 July the Department for Constitutional Affairs (DCA) and the LSC launched a joint consultation paper 'Legal Aid: a sustainable future' which sets out proposals as to how Lord Carter's recommendations will be implemented.

The fully-costed proposals should deliver efficiencies within three years across the criminal legal aid budget of £100m against spend in 2005-06. This will allow a greater proportion of the overall legal aid budget to go to civil and family work. The key recommendations that Lord Carter makes include:

- > Best value tendering for legal aid contracts based on quality, capacity and price from 2009;
- > New responsibilities for the Law Society and the Bar Council to enhance quality of legal aid supplier market;
- > Fixed fees for solicitors carrying out legal aid work in police stations to encourage more efficient practices, including cutting costs related to waiting and travelling times;
- > Revised graduated fees for Crown Court advocates and a new graduated fee scheme for Crown Court litigators to reward earlier preparation and resolution of cases;
- > Tighter control of very high cost criminal cases;
- > Standard fees for civil and family legal help, and new graduated fees for solicitors in private law family and child care proceedings.

The joint consultation paper from the LSC and the DCA includes proposals to introduce, from April 2007, fixed and graduated fees for a variety of civil and family work; the introduction of a new fixed fee scheme in police stations; changes to standard fees for magistrates' court cases; an extension of the Graduated Fee Scheme to litigators in the Crown Court; and a unified LSC contract covering criminal and civil work and both solicitor and not-for-profit providers. The

consultation paper also encompasses the LSC unified

Lord Carter's report emphasises that fundamental change is necessary in the way legal aid is procured, as the current system is not sustainable, and the recommended reforms should lead to better control and forecastability of legal aid spending. Lord Carter believes that alongside the implementation of Sir David Clementi's recommended reforms to deregulate the legal services sector, procurement driven restructuring is likely to see an increase in the average size of firms through growth and mergers, rationalisation and harmonisation of the way separate services are delivered.

Lord Carter acknowledges that reform of legal aid procurement and restructuring of the legal services market will be challenging for all involved, but proposes a managed transition, which will give good, efficient suppliers time and support to adapt to the new arrangements by 2009-10. The transition period should be used to sustain and promote a diverse and sustainable service provider base – the LSC will be carefully looking at how best to achieve this. In line with legal services reform, Lord Carter also recommends that while the LSC should continue to set quality standards, the responsibility of quality assurance should pass to the legal professions through their relevant professional bodies.

To help service providers to deal with this change and become more efficient and capable of competing for contracts, Lord Carter suggests grant programmes to part fund specific growth, advice and assistance and investment in service providers' IT systems. A sum of £10m is proposed to help achieve this.

A full copy of Lord Carter's report has been sent to all contract holders, along with a copy of the consultation paper. Copies of his report can also be obtained from his website at [www.legalaidprocurementreview.gov.uk](http://www.legalaidprocurementreview.gov.uk). Further details of the joint consultation paper can be found in the articles right and on page 3.

## A Sustainable Future

The joint LSC/DCA consultation paper encompasses the LSC unified contract from 2007 and the following remuneration strategies:

- > Replacement for Tailored Fixed Fees (civil controlled work) Scheme
- > Care Proceedings Graduated Fees Scheme, covering public law family cases
- > Family Help – Private Scheme, covering private law family cases up to and including General Family Help
- > Immigration and Asylum scheme
- > Mental Health scheme
- > Crime – Police Station
- > Crime – Magistrates Court
- > Crime – Crown Court
- > Crime – Very High Costs Cases

We are consulting for 13 weeks and the consultation will close on 12 October 2006. We plan to publish the final schemes by January 2007 with implementation in April 2007. Providers are invited to send in comments and queries in relation to the Consultation Paper to:

Emma McGovern  
Legal Services Commission  
85 Gray's Inn Road  
London WC1X 8TX  
DX 450 Lon/Chancery Lane

Fax: 020 7759 0534  
E-mail: [contract.design@legalservices.gov.uk](mailto:contract.design@legalservices.gov.uk)

Providers with specific queries on their contracts should contact their regional offices in the first instance. The consultation paper is available on both the LSC and DCA websites at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) and [www.dca.gov.uk](http://www.dca.gov.uk). If you require a hard copy of the paper, please contact us at the above address provided.



# What does it mean for providers?

The joint LSC/DCA consultation paper 'Legal Aid: a sustainable future', lays out proposals for how Lord Carter's recommendations will be implemented – it is fully aligned with his recommendations, the LSC's strategy for the CLS and the proposed Preferred Supplier scheme. A key proposal is that we will introduce a single, unified contract for all legal aid service providers, which will cover crime and civil work and include both solicitors' firms and not-for-profit agencies.

We recognise that the reforms will present challenges to legal aid providers. We are committed to actively engaging with you during the consultation and then working constructively and closely together to deliver the new schemes. We would like to encourage as many service providers as possible to respond to the consultation. As part of the setting the context for the consultation, here are some responses to initial provider's questions.

## **The general response to London criminal competitive tendering was negative, so why is the LSC supporting Lord Carter's proposals on best value competition?**

We agree that we need to achieve the most competitive price for quality services to secure the long-term sustainability of legal aid. Many concerns regarding the earlier consultation regarded the speed with which changes were intended and quality issues. Lord Carter proposes various stages in getting to a fully competitive market, which should ensure that when managed competition is introduced, the market would be ready. It's also clear that our Preferred Supplier quality standards must underpin these changes.

## **The consultation paper proposes a minimum contract size of £25,000 or £50,000 for all providers and Lord Carter proposes a £50,000 minimum for crime providers – do small firms/sole practitioners have no future in legal aid?**

Even a single fee earner can bill that amount of legal aid work in a given year – only firms who take on occasional legal aid cases will be below those thresholds.

## **What impact will the Carter Review and the consultation have on black and minority ethnic (BME) firms?**

Lord Carter makes it clear that support should be provided to ensure that smaller firms can adapt to the market approach and the proposals offer the opportunity for BME firms to grow as much as any others. Vera Baird QC, MP, the Minister for Legal Aid, will be responsible for a full impact assessment for

BME groups. We have committed to making resource available to monitor, assess and promote provider diversity.

## **What can firms do to prepare for Peer Review?**

We will start the Peer Review process as soon as is practical (this will be at the end of the consultation at the latest). Firms can prepare by ensuring they have adequate supervision arrangements in place and they formally examine feedback from that supervision. They can supplement this with their own rigorous file reviews. To help, we are publishing generic findings from the Peer Review process which highlight common problem areas and suggested ways to improve. Also the LSC has been running Peer Review workshops with the Law Society. More information can be found on the article on page 9.

## **How will the LSC support firms through the implementation of the Carter recommendations?**

We will work closely with the Law Society to ensure firms have the support they need. Lord Carter has recommended that the Law Society establish a programme of financial and business support for firms. We will want to play a part in designing this.

## **NFP agencies are likely to find it more challenging to adjust to these proposals than solicitors' firms – how will you help them to move to the proposed new payment schemes?**

We have invested in, and want to continue working with the NFP sector. We know moving to being paid a fixed fee per case will be a challenge for some organisations, but our interim arrangements to implement the schemes will help NFPs to manage the transition.

## **The consultation says the LSC will be able to remove or reduce funding for civil legal aid services provided by existing contract holders that have not successfully bid for CLAC or CLAN contracts. How much notice will be given if you intend to do this?**

Under the unified contract, providers will be given at least three months notice. CLACs and CLANs will ensure a more holistic service is provided to legal aid clients, which can only benefit the client. Service providers will have the opportunity to bid to get involved in CLACs and CLANs.

## **In Crime, police station boundary areas will be set - what factors will the LSC take into consideration when forming these areas?**

Boundary areas will be set on the basis of the volume and value of historic claims, location of providers and location of police stations and magistrates' courts. Other principles to be considered are: creating larger areas; grouping schemes around location of providers and travel times; and access for clients. We plan to consult on the new areas early next year.

## **What is happening with CDS Direct and the Duty Solicitor Call Centre (DSCC)?**

We anticipate that the DSCC will continue to operate in the same way it currently does. From April 2007, it will also receive calls directly from the police where the client has requested their own solicitor. The main element of the CDS Direct project is expected to be implemented in full throughout the country and to apply to own client work.

## **What does Carter mean for the LSC?**

This is a challenging time for everyone involved with legal aid, and we will be working hard to transform our own organisation for the future. We will simplify our systems and processes so that we can work with the best providers in an effective and efficient partnership. As indicated in Lord Carter's report, we will be looking to achieve savings of 30% in our administration costs by 2010.

## **How will the LSC engage with service providers and other stakeholders on the consultation?**

We are currently working up our plans for this and we will be sharing them with providers very soon, via our website ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)) and LSC Account and Relationship Managers.

# Sir Michael Bichard on Carter



Sir Michael Bichard, LSC Chair, shares his thoughts on the Carter Review

The joint consultation by the LSC and the DCA on the implementation of Lord Carter's recommendations demonstrates the strength of our joint commitment to build a sustainable future for legal aid. I believe that the results of Lord Carter's efforts and approach during the past year give us an important opportunity to make that future work – for legal aid clients, for service providers and for taxpayers.

I am particularly pleased that quality is at the heart of the recommendations. As you know, the LSC has been working for some time to ensure the quality of services through the introduction of peer review and our proposed Preferred Supplier scheme which we

consulted on recently. These will provide the quality platform for the implementation of Lord Carter's reforms.

Building on that platform, the joint consultation covers the detail of the new schemes for buying criminal legal aid services proposed in Lord Carter's report and the further development of fixed and graduated fee structures for civil and family work.

The Civil proposals also build on our strategy for the CLS, published earlier this year. Together, the proposals will achieve a more efficient client-focused system, with providers commissioned to supply the services each community needs. Community Legal Advice Centres and Networks will play a key part in this as well as ensuring that the clusters of problems faced by many legal aid clients are dealt with effectively.

I do want to stress the importance of ensuring that our contracting and procurement schemes enable clients of diverse backgrounds to have confidence in their legal services. We will look carefully at how we can encourage a diverse and sustainable supplier

base to achieve this.

Providers who offer quality, efficiency and value for money will have great opportunities to grow in the future, solicitors and not-for-profit agencies alike. However, change is always unsettling and I want to emphasize that the change is not just for providers, but the LSC as well. We are working hard to transform the LSC for the future too. An important part of this is simplifying our own systems and processes so we can work with the best providers in a truly effective partnership for the benefit of clients.

This is going to be a challenging time for us all, and the joint LSC/DCA consultation is the first step in establishing how we will all work together to make legal aid sustainable, so it continues to help the most vulnerable people in our society. That is what I am committed to, and I know that our service providers, LSC and DCA staff and many other stakeholders are too. I urge everyone to get involved in the consultation so that we can move forward together with confidence, trust and respect.

## Challenges in the CDS



Derek Hill Director of the LSC's Crime Change Programme, gives his perspective on the Carter report.

Lord Carter's review of legal aid procurement presents a route to a sustainable future for legal aid which will necessitate significant changes to the funding of criminal legal aid. Change is necessary - all those who deliver or administer criminal defence services will acknowledge that the existing system does not fully provide what is expected from it. For some the administrative burden is felt to be too great, for others the plethora of payment systems are bureaucratic and lack consistency and control, while for others, the current structures for allocating work do not reflect the optimum model for a modern business.

Carter acknowledges these difficulties and we will work hard to consult on and deliver his recommendations. The goal of a sustainable legal aid scheme is too important not to. Our belief is that Carter offers the best opportunity to achieve it. The CDS and its providers exist to ensure that the fundamental rights of those subject to criminal investigation or prosecution are protected. We must continue to meet this objective within the context of a finite resource.

The Carter recommendations offer an opportunity for providers to change the way that they work and their relationship with the LSC. Combined with the effect of the Preferred Supplier initiative, providers will be able to exploit the proposals to maximize the new efficiencies that Carter offers. This will provide an opportunity to grow businesses in a way that has not previously been possible. The key to this will be the introduction of new police station boundary areas. Increasing the size of the areas to deliver certainty about the volume of work means that providers will

be able to plan more effectively to provide services at the police station and as cases progress through the courts.

With this opportunity for growth, Carter also offers flexibility for providers. Carter is not proposing a prescriptive blueprint for the whole of England and Wales. It is an approach that can respond sympathetically to the particular requirements of a region or particular client group. Carter allows providers to adapt and grow to deliver a competitive, quality service to all clients. The demand for criminal defence services will continue and statutory requirements mean that this demand will have to be met. Carter requires the delivery of best value for criminal legal aid by balancing the interests and concerns of all stakeholders. It is essential in these changes that suspects and defendants have their fundamental legal rights protected and that they are confident that they have been treated fairly by the Criminal Justice System (CJS).

The next few years will be challenging for all involved in the delivery of criminal defence services. We are committed to working with providers and our CJS partners in order to deliver a sustainable scheme that provides quality, cost effective and timely services to those that need them.

# CLS - Our Strategy and Carter



Crispin Passmore, Director of the CLS, sets out his perspective on the Carter report.

The LSC's five year strategy for the Community Legal Service, 'Making Legal Rights a Reality', set out a new way forward for commissioning legal services centred on clients. The draft of that strategy was published at the same time as the Lord Chancellor published 'A Fairer Deal for Legal Aid' and the post-consultation version was published in late March 2006 after Lord Carter had made significant progress in developing new procurement arrangements for civil legal aid.

Lord Carter's final report endorses the CLS Strategy, going as far as to recommend (Recommendation 3.8) that it 'should not simply set the way forward for the LSC, but should provide a good working framework for other funders of legal advice services, including local authorities and other government departments in England and Wales. [It] should lead to better overall legal services for local communities, especially the more vulnerable groups.'

So what does this mean for the future

of civil legal aid? There is a tendency to consider reforms of this scale from one of two perspectives: that of funder or that of provider. For the LSC, as a funder of the programme of change that Lord Carter recommends, it is very challenging – major reform to an important public service over a short period of time and within a tight budget. For providers, it can easily be seen as threatening despite

**“I have no doubt that the best suppliers will rise to the challenge these changes present”**

the huge opportunities that it presents. But it is the impact upon clients that interests me most.

We have heard much about advice deserts in recent years and about the decline of civil legal aid. Some have gone as far as to say that civil legal aid is in crisis and will no doubt seize Lord Carter's prediction that his proposals will

significantly reduce the number of providers as evidence of a further cut in access. But Lord Carter's proposals come at a time of growth for much of the civil legal aid scheme. The numbers helped under Legal Help has grown to an unprecedented 710,000 acts of assistance in 2005/06 with growth in solicitor matter starts, NfP cases and CLS Direct. Lord Carter offers us all a chance to build upon that increasingly strong foundation and improve access substantially. These proposals must be developed as the spur to delivering more client-centred services.

Community Legal Advice Centres and Community Legal Advice Networks will enable us to commission services across England and Wales to meet national priorities and varying local needs. Rather than leaving access as a function of provider preference and available resource we will be able to allocate the budget rationally and ensure that each geographic area (predominantly at county or metropolitan level) has the full range of social welfare law services, appropriate access to mental health, asylum, education and other low volume categories. Importantly, family law services will be fully integrated into other legal services. This will be a major step forward – away from a system where a woman fleeing domestic violence needs to visit a family law solicitor, a Law Centre and a money advice agency to get the legal advice that she needs.

I have no doubt that the best suppliers will rise to the challenge these changes present. The LSC will be able to reallocate resources towards providers that deliver the quality, access and value that clients need and thus legal service providers will be able to grow and expand. There is no doubt that some suppliers will not make the transition – but it cannot be right that the system of legal aid procurement supports firms and agencies that cost more and deliver less than their counterparts. I am confident that it is right for the LSC to better support the best suppliers to deliver. Lord Carter's endorsement of the LSC's Preferred Supplier scheme and his support for the CLS Strategy will, when combined with the push towards greater value for money and competition, ensure that clients have improved access.



## Mental Health Policy Update

Following Lord Carter's Review of Legal Aid procurement, the LSC will publish a policy paper 'Mental Health and the Community Legal Service' in the Autumn. This paper will set out the LSC's plans for improving services for clients with legal problems relating to mental health. Providing a background to the proposed new graduated fee remuneration scheme currently out for consultation (see article on page 2), the paper will set out challenges for the CLS in the area of mental health law, how we propose to tackle them, and the implications for practitioners.

In the context of research findings about legal problems and mental ill health, it will discuss drivers for change and policy developments relating to commissioning mental health legal services in a more strategic way; updating the specification of mental health legal services; procuring the services of independent experts; and ensuring that clients with mental health problems have access to social welfare legal services.

The paper will be available on our website at [www.legalservices.gov.uk](http://www.legalservices.gov.uk). Following publication any questions on the paper or its contents can be directed to [clspolicy@legalservices.gov.uk](mailto:clspolicy@legalservices.gov.uk)

### Reminder – E-mails

Remember that you can claim costs for e-mails in the same way that you would for letters or telephone calls and the same assessment rules will apply. Using e-mail could make your communication with other parties, particularly the Tribunal Service, easier. For more information, see vol 2 of the LSC Manual, Part E, Appendix E, section 6.6, paras 10 and 11.

## CLS Direct's 2nd Birthday!

On 14 July 2006, Community Legal Service Direct celebrated its second anniversary. Community Legal Service Direct is a free government-funded confidential advice service. It provides help and advice on a range of common legal problems through a national helpline, 0845 345 4 345, a website – [www.clsdirect.org.uk](http://www.clsdirect.org.uk) and a series of free legal information leaflets. Our second year has been highly successful as the statistics show:

- > over 400,000 calls were made to 0845 345 4 345;
- > over 2.1m visits were made to [www.clsdirect.org.uk](http://www.clsdirect.org.uk);
- > over 370,000 information leaflets were downloaded from our website;
- > over 2m printed information leaflets were distributed; and
- > 98% of helpline clients said they would recommend the service.

### Our new look

To celebrate our second birthday we are launching a new range of publicity materials in bright, engaging colours. We have made it clearer what the helpline offers and who should be calling it to get specialist advice. We have also produced an A3 poster, five postcards that cover the categories of law in which specialist advice is available and a pocket-sized booklet that contains more detail about Community Legal Service Direct. We are now preparing to extend our new look to the website and leaflets.



### How Community Legal Service Direct can help you

Signposting to Community Legal Service Direct can help relieve the pressure on advisers. We can help clients who are eligible for legal aid. We can take on their debt, employment, welfare benefits, housing or education case and help to resolve it. To help direct clients to the service you could put up our new posters and postcards in your reception; give out our pocket-sized booklet to clients; add Community Legal Service Direct contact details to your answer phone; and order free copies of the Community Legal Service Direct legal information leaflets, covering a wide variety of common legal topics. For more information about Community Legal Service Direct or to order publicity materials, please contact Judith Cripps on 020 7759 0314 or [judith.cripps@legalservices.gov.uk](mailto:judith.cripps@legalservices.gov.uk)

## Tendering Opportunities

We have updated our website to make it easier for current (and potentially future) suppliers to find out about tendering opportunities with the LSC. Suppliers who are interested in learning what tendering opportunities are available at any given time should check the website regularly. The tendering pages are accessible in a variety of ways. There is a link for 'Tenders' just below the search box on the home page ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)). In addition, you will find pages on 'Tendering Opportunities' under the Community Legal Service, Criminal Defence Service and About us sections.

We have advertised previous opportunities on our website as well as in the relevant publications, but now intend to use our website as the primary source of advertising. Although we will still advertise the majority of future opportunities in the relevant publications, these adverts will be small and will simply refer interested parties to our website for further details. All suppliers are advised to check our website regularly to keep up to date with new opportunities of working with us. There are currently three opportunities mentioned on our website: CLACs in Gateshead, CLACs in Leicester and the Community Legal Service Direct specialist telephone advice contracts.

# The CDS Act – Update

The Criminal Defence Service Act was passed this March. The regulations that underpin the Act have received Parliamentary approval and the Act can be implemented from 2 October 2006.

To help criminal legal aid solicitors understand and apply the new regulations, the LSC will hold training events throughout the country in late August and September. We wrote to all criminal legal aid firms recently to let you know about the event in your area.

Under the Act, responsibility for the granting of criminal legal aid is transferred from Her Majesty's Courts Service (HMCS) to the LSC. Although court staff will still carry out the day-to-day processing of straightforward applications under the supervision of the LSC, the LSC will process more complex applications. The objective behind this change is to deliver greater consistency in the processing of legal aid applications.

The Act also reintroduces means testing for criminal cases being heard in the magistrates' courts (the system will be rolled out to the Crown Court next year). The new process is transparent and streamlined (less supporting evidence is required than under the old means test system). As well as the training, the LSC are producing several aids so that solicitors can accurately apply the means test from day one. These aids include an online calculator, wallet card and desk aid.

The new system of criminal legal aid will ensure fair justice at a fair price. It will help control increasing criminal legal aid expenditure and the impact this has on our ability to help those with civil and social justice problems. Those that can afford to pay for their own defence, will pay, saving the taxpayer an estimated £35m each year. Those that cannot afford legal assistance, will receive legal aid. Collectively, the Department for Constitutional Affairs, LSC and HMCS will provide more information once our consultations on early cover and the hardship criteria for the means test are complete. A full pack of information for solicitors will be published on the LSC's website in August ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)). However, if you have any immediate questions, please e-mail [rebecca.tinker@legalservices.gov.uk](mailto:rebecca.tinker@legalservices.gov.uk)

## How will the new system work?

- > Clients will need to pass an interests of justice and financial means test.
- > The interests of justice test and the appeal

route to the court remains the same.

- > The court cannot override the means test.
- > The new client application form will need to be completed in full – there will be a strict rejection policy for incomplete applications and inadequate supporting evidence.
- > An early cover scheme will ensure that you are paid a set fee for any preparatory work you do before the first hearing, provided that the interests of justice test is likely to be passed and the completed application is submitted to the court administration office within two working days of charge.
- > The LSC is consulting on hardship criteria that will protect clients who fail the means test but are genuinely unable to pay for legal assistance.
- > Decisions on applications will be provided within two working days.
- > Magistrates' courts will inform you of their local arrangements.

## How we will support you

- > Each client's financial means will be calculated using the LSC's online calculator. A version will be made available to you so that you can find out the outcome of an application and advise your client quickly and appropriately.
- > The LSC will also provide you with quick guides that will help you to familiarise yourself and accurately apply the means test..
- > The LSC will post the full guidance, including the new application forms, on their website in August. They will also provide you with ongoing support to ensure that the new system works for you and your clients.

## Reform of LSC Committees

In May 2006 we launched a consultation paper on a number of proposed changes to the LSC's committees and appeals procedures. The key proposed changes are the replacement of three-member committees with single independent Adjudicators or Assessors and the removal of the general right of attendance. This would make both the Funding and Costs (including CCA) review processes largely paper based. The proposals made clear that there would be a residual power for the Assessor or Adjudicator to direct that a particular appeal be referred, in appropriate circumstances, to a three-member panel or that a particular appellant be allowed to attend in person (where the review could not be dealt with on the papers only).

It is hoped that the proposed changes will streamline the appeals process, allow for appeals to be listed before individuals with expertise and training in that particular field (eg a housing appeal would be listed before a housing adjudicator), and, by moving away from three-member panels, to create savings which, amongst other things, would allow us to increase the remuneration for the individual Assessors and Adjudicators.

As well as issuing the consultation paper we have sent questionnaires to all current committee members asking for details of their areas of expertise and also asking whether they would be willing to sit alone rather than in committees. At the date of writing, the responses received suggest that most of our current committee members would be happy to sit as Assessors or Adjudicators rather than in committee.

The consultation period formally closed on 28 July 2006 and subject to the number and detail of the responses finally received, our response to the consultation should be available on the Consultations section of the LSC website. If you have any queries about the proposed changes please contact Matthew Howgate at [matthew.howgate@legalservices.gov.uk](mailto:matthew.howgate@legalservices.gov.uk)

## CLS Strategy Information Papers

In 'Making Legal Rights a Reality: The Legal Services Commission's strategy for the CLS', published in March this year, the LSC stated that additional information papers would be published following the strategy. These will set out more detail on key issues in the strategy, and explain more about how the strategy will be implemented. Information papers covering the following areas will be published in August: Governance of the CLS and Development of Community Legal Service Direct. The following papers will be published later in the year – keep checking the website for the latest updates: Access Targets; Mental Health; The CLS in Wales; and Community Legal Advice Centres and Networks. For more information, please e-mail [clspolicy@legalservices.gov.uk](mailto:clspolicy@legalservices.gov.uk)

## Preferred Supplier Consultation Closes

The consultation on the LSC's proposals for a national Preferred Supplier scheme closed on 12 June 2006. We received 117 formal responses which included 69 responses from solicitors (eight were from pilot firms), 24 from NFPs, 15 from representative bodies and nine others. In addition, a considerable amount of feedback was gained from providers who attended a consultation event. Thank you to everyone who gave comments at the events and filled in a feedback form. All the information is being taken into consideration as part of the wider consultation. It will be useful for informing any future events held by the LSC. We understand that providers wanted more detail at the Preferred Supplier consultation events which was not available at the time. This should be available following the publication of Lord Carter's final report and our response to the consultation later this year. However, if you have any outstanding questions about the Preferred Supplier scheme then please speak to your LSC Account Manager. Questions and answers providing more information about the consultation proposals can still be found on the website at [www.legalservices.gov.uk/civil/preferred\\_supplier/consultation.asp](http://www.legalservices.gov.uk/civil/preferred_supplier/consultation.asp)

## Case Outcome Codes – Update

Further to the article in Focus 50, outcome codes reported by service providers form a substantial element of the Quality Profile reports. Quality Profile reports work by having a series of category specific indicators that are drawn from case information reported by service providers at the conclusion of every case, whether civil or crime.

Further development of Quality Profiles to ensure that it provides reliable monitoring for Preferred Suppliers is contingent on codes being reported consistently and accurately by service providers. The review of the codes, with the full involvement of peer reviewers, is developing more user friendly coding and guidance. The revised codes and guidance will be launched in April 2007. Once the simplified codes have been implemented we expect service providers will find it easier to code their work and thereby reduce concerns about data integrity. In the meantime, we recommend that you consider your own processes around reporting to ensure that you are sending in as accurate information as possible and to enable a smooth transition to the revised arrangements. It is also very important that whoever is doing the reporting is fully competent to do so.

Both the Peer Review and File Assessment tools will support the implementation of the revised coding arrangements. Whenever case files are requested for either form of review, the assessor will check the codes reported against the actions on the file. This will enable feedback where misreporting is occurring and will provide direct assurance that service providers are reporting their work accurately. The Quality Profiles team are pleased to receive feedback on all areas within the category specific codes, guidance and reporting arrangements. If you have any suggestions or comments please contact Jacqueline Potter by telephone on 020 7759 0380 or via e-mail at [jacqueline.potter@legalservices.gov.uk](mailto:jacqueline.potter@legalservices.gov.uk)

## LSC Annual Report

The recently published Annual Report shows that the LSC has helped more people with civil legal aid than at any point since 2000. Together with criminal legal aid, the LSC funded over 160,000 more acts of assistance than in 2004/05 – in total, legal aid funding helped more than two million people. The LSC also achieved or exceeded six out of nine corporate targets.

A highlight was delivering 708,510 acts of assistance through the CLS – an increase of 15% on the previous year – which were the most successful results in the LSC's history. 1.6m acts of assistance were delivered in the CDS, along with maintenance of 100% coverage of the duty solicitor scheme. The LSC improved or removed all service providers with whom we had quality or efficiency concerns as at 31 July 2005, thus improving performance standards. The number of service providers processing their claims online rose from 433 to 1,950 so boosting efficiency.

The cover of this year's report features assistant solicitor Claire Wiles of HCL Hanne & Co, one of the firms involved in the Preferred Supplier pilot. Inside, Claire talks about the pilot arrangements and how they 'have helped build a greater sense of trust and co-operation with the LSC'. She also says that: 'The simplification of forms ... shorter response time ... easy and direct access to named personnel ... have all helped to increase efficiency, which ... has freed up more time for substantive client casework.' The Annual Report is published by The Stationery Office and is available from their bookshops for £18.50. It is also available on the LSC website.





# Peer Review – Improving Quality

The focus of the delivery of legal aid is firmly on the provision of consistently good quality services for clients; the LSC is committed to enabling and supporting service providers to deliver this, and help them to achieve Preferred Supplier status.

As part of this commitment, the LSC is working with Peer Reviewers and the Institute of Advanced Legal Studies (IALS) to identify ways of disseminating the wealth of information relating to the quality of legal advice accessed through the peer review process. This has culminated in the development of Peer Review workshops and Improving Quality Guides.

## Peer Review workshops a great success

Over the summer Peer Reviewers have been delivering 'Improving Quality' workshops in Family, Crime and Immigration across England and Wales. The workshops have been run in conjunction with the Law Society's Best Practice Programme with the aim to promote good practice through the dissemination of peer review findings; encourage practitioners to critically review the legal services provided within their own firm; and share useful guidance for use within organisations.

These workshops have been very well attended, receiving overwhelmingly positive feedback from attendees. The majority of attendees have stated that the information provided by Peer Reviewers will enable them to improve their quality and achieve Preferred Supplier standards. The current 'Improving Quality' programme has now finished, however due to the positive reception from the profession it is expected that further workshops will be run throughout the Autumn and that the programme will be extended to cover other areas of law such as Mental Health. Peer Reviewers are also working closely with the Advice Services Alliance to develop similar workshops in Debt, Employment, Welfare Benefits and Housing – it is expected that these will be run from September.

## Peer Review Improving Quality Guides

The publication of the 'Improving your Quality – Crime' guide in April this year will be followed by the production of similar guides for Debt, Employment, Housing, Immigration, Mental Health and Welfare Benefits. The guides, produced by Peer Reviewers and published by IALS, identify common quality issues that frequently contribute to lower

ratings at peer review and are derived from the entire body of peer review reports. The guides consider the following areas such as why the issue is important; how it can be identified; and outline suggestions to assist improvement

These guides are not suggesting a standard approach, nor are they an exhaustive list of all quality issues, rather they are intended to support organisations by making available peer review findings and making suggestions on how firms may wish to approach improving in those areas.

## Further information

The 'Improving Your Quality' guides will be available from mid-August on the LSC website at [www.legalservices.gov.uk/civil/how/mq\\_peerreview.asp](http://www.legalservices.gov.uk/civil/how/mq_peerreview.asp). If you would like to request an electronic copy of the guides, or be put on our mailing list for information regarding the peer review workshops, please contact Maria Kapps by e-mailing [peerreview@legalservices.gov.uk](mailto:peerreview@legalservices.gov.uk) giving your contact details and categories of law you are interested in. If you experience problems downloading the guides from the internet we will have limited hard copies of the guides available which can be requested using the e-mail address above.

# Peer Reviewer Recruitment

From time to time the LSC and the Institute of Advanced Legal Studies (IALS), recruit experienced practitioners to act as independent Peer Reviewers in all categories of law covered by legal aid. Recruitment rounds are advertised in the Law Society Gazette and other relevant journals. We are currently accepting applications in the following categories:

- > Actions Against the Police
- > Community Care
- > Consumer General Contract
- > Debt
- > Education
- > Employment
- > Family
- > Personal Injury
- > Public Law
- > Welfare Benefits

For an application form and details of the essential and preferred requirements for Peer Reviewers, as well as background information on the process, please see our website at [www.legalservices.gov.uk/civil/how/mq\\_peerreview.asp](http://www.legalservices.gov.uk/civil/how/mq_peerreview.asp). The closing date for applications is 31 August 2006. If you would like to be informed about future recruitment rounds please e-mail [peerreview@legalservices.gov.uk](mailto:peerreview@legalservices.gov.uk) with your name, category of law and contact details (preferably including an e-mail address). The Peer Review Development team will send you an application pack when they are next recruiting in your category of law.

# LSC Review of Supplier Support Projects

As previously advised, the LSC is conducting a review of supplier support projects funded as part of the CLS. Following the review we will consult on the proposals for 12 weeks starting in October 2006. We welcome contributions to the consultation and the consultation paper will be on our website. Funding for the projects under review has been agreed at different times and for a range of purposes over the past five years. The review will assess whether any of the projects currently funded should continue to be and on what terms. Projects under review are either experimental in nature, for example, pilots of new ways of supporting the delivery of legal services or unable to be funded via the mainstream general civil contract because they do not provide face-to-face services to eligible clients. These projects include Specialist Support services and CLS Grants. Further information and the Terms of Reference can be found at [www.legalservices.gov.uk/docs/news/terms-of-ref-external.pdf](http://www.legalservices.gov.uk/docs/news/terms-of-ref-external.pdf)

# Immigration Round Up

The LSC's Immigration Policy Team can be contacted regarding any queries on this article, by telephone on 020 7759 1471, by post at 12 Roger Street, London, WC1N 2LJ or via e-mail at [immigration.services@legalservices.gov.uk](mailto:immigration.services@legalservices.gov.uk)

## Claiming costs for review and reconsideration hearings

We have concerns about the way that some providers have been claiming costs for onward appeals. When making claims in these cases you are reminded to consider the guidance set out in our letter of 29 March 2005 and the current SPAN Guidance, both of which are available on our website.

## The AIT – protocol for medical evidence

The Asylum and Immigration Tribunal (AIT) Policy Unit will shortly be publishing a Protocol for the Provision of Medical Evidence that will provide a guide on the best practice for obtaining medical evidence to place before the AIT. The protocol will be available on the AIT website [www.ait.gov.uk](http://www.ait.gov.uk) and from the Customer Service Section of AIT centres.

## The AIT – Procedure Rules consultation

The AIT launched a six-week public consultation on amendments to the AIT Procedure Rules on 24 July. Amendments have arisen from provisions in the Immigration, Asylum and Nationality Act 2006, from practical concerns raised by stakeholders, and from the findings of the AIT Review that was published in April 2006. The consultation document is published on the DCA website at [www.dca.gov.uk/consult/confrr.htm](http://www.dca.gov.uk/consult/confrr.htm), with an additional link on the AIT website. The intention is to make amendments to the Rules to be in force by October, to coincide with the relevant provisions in the Act.

## New asylum model – early legal advice pilot

From October we will be running a joint pilot with the Home Office to assess the impact of providing early legal advice to clients whose asylum application is processed in Solihull, West Midlands. The pilot scheme will allow providers to 'front load' legal advice before the Home Office makes a decision on the application and allow representation at a new interactive interview. We are currently running a bid round to award exclusive contracts to providers within a 30 mile radius of Solihull. See our website for further information.

## Performance indicator for Immigration and Asylum appeals

We recently concluded our consultation on the introduction of a Performance Indicator (PI) for success rates in Immigration and Asylum appeals where representation is funded through Controlled Legal Representation. A copy of our letter to stakeholders of 19 May 2006 and our post consultation report can be found on our website.

As a result of the consultation, we have decided to introduce a PI of 40% overall and a minimum of 35% in each of Immigration and Asylum from 2 October 2006. We will carry out further consultation on how we will measure the PI from April 2007 and what contract sanctions we may take where providers outcomes are below these levels. We will be using the existing devolved powers criteria to determine the type of contract that providers are awarded for 2007/08, ie those that fail to meet the criteria would only be awarded a temporary contract. All providers should recently have received a letter informing them how we measure success rates at appeal and what their performance was in 2005/06. If you have not received this information please contact your Account Manager.

## Police station telephone advice pilot

Further to the article in Focus 50, the pilot scheme started on 12 June 2006 and early indications are that the scheme is operating well. Clients who previously had little or no access to immigration advice while held at the police station are now receiving advice from one of the four providers who were awarded contracts.

## Advice in removal centres

The pilot scheme to provide on site advice in removal centres officially came to an end on 31 May 2006, although the scheme is continuing whilst we carry out the evaluation. Please contact us if you have anything that you would like to contribute to the evaluation process.

## Fast track

It is our intention to extend existing fast track

schedules to the end of the financial year and to carry out a bid round for new contracts for April 2007. We wrote to all fast track providers on 1 June 2006 to issue guidance in relation to the provision of advice to fast track clients and to introduce new reporting requirements from July. All fast track providers should now be submitting the new reporting form each month to the Immigration Policy Team. A copy of the letter and form are available on our website. We will also be funding an ILPA best practice guide for fast track cases as well as funding further courses for all publicly funded fast track advisers.

## Changes to accreditation work restrictions

We have recently amended the work restrictions of the Immigration and Asylum Accreditation Scheme (IAAS), following a period of consultation with stakeholders. In summary, the following amendments were implemented on 30 April 2006:

The range of tasks that Probationers and Level 1 Accredited Caseworkers are permitted to perform has been expanded.

A probationary period has been introduced for Accredited Caseworkers (Level 1) progressing to Senior Caseworker (Level 2).

We have also introduced a system that enable those who have passed a specified combination of assessments at Levels 1 and 2 to become accredited at Level 1. A full post consultation report and updated versions of the work restrictions document and the IAAS operational guidance will be on the website shortly.

## Web address

The website link to the documents referred to above is [www.legalservices.gov.uk/civil/immigration/immigration.asp](http://www.legalservices.gov.uk/civil/immigration/immigration.asp)

## STOP PRESS!

Further immigration news from the AIT can be found on page 14.



# CIVIL GUIDANCE/ DEVELOPMENT

# Outstanding Payments on Account

A number of recent articles in the legal press have caused concern about the LSC's approach to dealing with outstanding payments on account, particularly those made on cases which closed some time ago. The purpose of this article is to set out the LSC's intention with regard to payments on account and to make clear our position on the legal and practical issues involved.

Our vision is that in future we will work differently with our service providers, based on the Preferred Supplier model. It is against this background that the current focus on payments on account can best be understood. Before we introduce a Preferred Supplier scheme, it is important for us to work with contracted firms to ensure we share an understanding of the overall financial position of each firm relative to the LSC and to agree how any liability to the LSC will be managed. It is not our intention to make arbitrary financial recoveries or to cause hardship. Equally, if a firm has ceased to do publicly funded work and has withdrawn from the scheme, but has not properly reported to us on publicly funded cases as they closed, we have a duty to seek to recover any payment on account that has been improperly retained.

## How will we move forward?

Our intention is to begin a dialogue about payments on account with each of our contracted suppliers as soon as possible. This will be led by the Account or Relationship Manager, who will want to work with the firm to see how best the account can be balanced, taking into consideration not only payments on account but also annual turnover, work in progress, the balance of contract payments and any other relevant financial information. Our first priority however, is to finish reconciling the accounts of those suppliers who have already provided us with sufficient information to enable us to do so, or have been asked for the information but have not yet provided it. We will then contact firms on the basis of the amounts outstanding, the age of the payments made and other relevant considerations. Where it becomes clear that it is appropriate to make a financial recovery from a firm, we will discuss the position and seek to agree a repayment strategy.

## Limitation

Some recent press coverage has given rise to the misleading impression that the LSC cannot recover payments on account on cases where the certificate was issued more than six years ago, or where work on the case

ceased more than six years ago, because a statutory limitation applies. This argument is misconceived: it ignores the legal basis on which payments on account are made and can therefore be recouped. A limitation period starts to run only from the time when the LSC has a right to recover the payment on account, which is (as is made clear in reg 100(8) of the Civil Legal Aid (General) Regulations 1989, as imported into paragraph 6.6 of the Contract Specification):

- > once the Commission has assessed a bill; or
- > once the Commission receives a report or claim following an assessment by the court; or
- > where a practitioner, expressly or otherwise, makes it clear that a claim for work will not be submitted.

By implication, the vast majority of cases where an outstanding payment on account has been made will not have been through any form of assessment nor have been the subject of any claim or report made to the LSC

## Dealing with older cases

When asked to make a report on a case, the solicitor can either confirm that there is to be no claim on the fund (in which case the payment on account becomes repayable); or submit a claim for costs supported by the file (in which case the LSC will undertake an assessment and reconcile the payment on account position thereafter). In some older cases, suppliers have found it impossible to support a claim for costs with the file, because the file has been impossible to find or has been destroyed. In recognition of this, and in the absence of a file, we will consider a claim made without the file if, as a minimum, the financial ledger for the case and contemporaneous evidence of time recording can be produced as an alternative. If these are sufficient to demonstrate that the payment on account made was reasonable, we will not seek to recover the amount paid, but a claim for additional costs will be refused. Our intention is to make it as easy as is possible for solicitors to deal with older

cases without compromising our obligation to properly manage public funds. To ease the process and minimise the administrative burden, we have decided that where we have asked for a report on one of these cases and the solicitor wants us to do so, we will assess a claim for costs even in cases where proceedings have begun and the total claim exceeds £2,500, although we would normally insist that these are submitted to the court for detailed assessment. (Regulation 105(3)(a)(i) allows the LSC to assess costs even where proceedings have begun and the total claim exceeds £2,500 if there are 'special circumstances', where a detailed assessment would be against the interest of the funded client or would increase the amount payable from the fund.) In assessing any claim submitted 'out of time', we will apply our published costs assessment guidance and, other than in exceptional circumstances, will make deductions in line with the sliding scale detailed in Focus 41.

## Summary and further information

Our intention is to progress the reconciliation of supplier accounts and to recover, where appropriate, payments that have been improperly retained. Where possible, recoveries will be made by agreement and if necessary, in line with a repayment plan designed to balance the account over an appropriate period. The LSC is not statute-barred from making recoveries of payments on account made on cases in which the work was completed more than six years ago. To assist in circumstances where the file for a claim for costs on older case cannot be produced, the LSC may agree not to recover a payment on account, if alternative evidence can be produced to demonstrate that the payment made was reasonable. Further, the LSC may agree to assess the costs in cases where proceedings have commenced and the total claim exceeds £2,500, even though these would normally be subject to detailed assessment. For further information contact Joe Cowley at [joe.cowley@legalservices.gov.uk](mailto:joe.cowley@legalservices.gov.uk)

# Family – Help with Mediation is Available

Help with Mediation is presently available for solicitors to give advice that supports clients who are participating or have reached an agreement or settlement in Family Mediation. Uptake of this level of service is currently low. Figures from our annual report show that 4,958 Help with Mediation certificates were issued with a total of £1.4m claimed in 2004/05. In the same period, 21,280 publicly funded clients attended mediation, which means approximately only 25% of all clients that attended family mediation were supported through Help with Mediation.

Some mediators have reported that local solicitors are either not aware of or entirely clear about the use of Help with Mediation. Help with Mediation, using Form CLSAPP4, can be granted under devolved powers. It allows help to be given to eligible clients up to a limit of £200 where mediation relates to children only issues, £250 where financial issues are only covered and £350 where mediation covers both children and finance issues. Extensions to these limits are issued

where necessary through your regional office.

Where an agreement has been reached through mediation, the Help with Mediation certificate can be amended to include the necessary conveyancing work and implementation, as well as confirming the agreement in a court order. Work under Help with Mediation is exempt from the statutory charge and attracts a higher rate of remuneration than Legal Help (see below). Detailed guidance is at para 3C-176, of the LSC Manual. A leaflet for clients about Family Mediation and Help with Mediation is available through Community Legal Service Direct at [www.clsdirect.org.uk](http://www.clsdirect.org.uk) or by calling 0845 345 4 345 (leaflet 24, Family Mediation).

Changes to Help with Mediation have been proposed in the current consultation, 'Legal Aid: a sustainable future' and are proposed to come into effect from April 07. Under the proposals, Legal Help, General Family Help and Help with Mediation will be combined under a new level of service known as Family Help. Under the proposals solicitors will still be able to provide legal advice and information to clients participating in family mediation. This advice however, will not be exempt from the statutory charge. For further information on the consultation paper please look on our website. Queries about this article can be addressed to the Children and Family Services Division at [family@legalservices.gov.uk](mailto:family@legalservices.gov.uk).

## Payment Rates for work under Help with Mediation

	London Region	Outside London
Preparation	£64.10 per hour	£59.95 per hour
Travel and waiting	£28.05 per hour	£28.05 per hour
Letters written and telephone calls	£4.30 per item	£4.30 per item

## Points of Principle

### CLA 43, 15 March 2005

Remuneration rates for proceedings that, if issued, could only be issued in the High Court.

#### Point of Principle

If there is clear evidence on the file that litigation, if issued, could only or would have been issued in the High Court, then it should be paid at the High Court prescribed rates.

### CLA 44, 21 December 2005

Payment where work in the Family Proceedings Court is outside the scope of the certificate.

#### Point of Principle

Where a legal aid/public funding certificate contains a limitation that proceedings are to be issued in the Family Proceedings Court but the proceedings are in fact issued in a different court then no costs relating to the issue or conduct of the proceedings may be paid by the Commission as these would be outside the scope of the certificate granted. Solicitors must check the limitations on the certificate and seek an amendment if they wish to act outside them.

### CLA45, 25 April 2006

FGF Scheme – High Court uplift and court bundle payments.

#### Point of Principle

Article 5(1)(c) and (2) of the CLS (Funding) (Counsel in Family Proceedings) Order 2001 (as amended), provides that the High Court uplift is applied to the graduated fee, including any court bundle payment. This includes court bundle payments made within the provisions of art 11(1)(c). The High Court uplift therefore applies to any hours of special preparation certified by reason of the court bundle being over 700 pages. The High Court uplift does not otherwise apply to special preparation fees under art 11.

### CLA46, 22 May 2006

Copies of Costs Committee bundles.

#### Point of Principle

The paginated indexed bundle of documents which is before the Costs Committee should be provided to both parties in order that the Appellant, the Commission, and the Committee are working from the same bundle.

## Court of Appeal Decision

Family practitioners may be aware of the Court of Appeal decision in *Clayton v Clayton* [2006] EWCA Civ 878 which was reported on pages 28 and 29 of the Law Society Gazette, 13 July 2006. The appeal concerned the possible publication of information regarding private law Children Act proceedings. The LSC will be considering the judgment and publicising its position as appropriate. In the meantime, practitioners should note that it is currently considered that representation on applications/injunctions concerning publication/publicity do not currently constitute a usual step in proceedings and therefore require specified cover. Practitioners with specific queries on this issue should address them to [lynn.graham@legalservices.gov.uk](mailto:lynn.graham@legalservices.gov.uk)

## Immigration Guidance Note

Rule 54.29(2)(a)–(e) of the Civil Procedure Rules has ceased to apply to filter applications. As a result of this, applicants will no longer be required to file with a review application the documents they had previously served as part of the appeal, but under amended rules will instead be required to list the documents to be relied upon to support the application. The AIT will recycle the relevant documents from within the existing file and place listed documents before the SIJ dealing with the application. These changes have been implemented to reflect the concerns highlighted by stakeholders about having to fax over large bundles of papers already held by the AIT. The changes will stream line the reconsideration application process and remove the burdensome and unnecessary duplication of documents. All relevant forms, guidance and website references will be amended to reflect these changes and applicants will now be required to list all documents held on file that they wish to rely on in the reconsideration application. These will then be sent to the SIJ along with a proforma indicating all relevant documents to the reconsideration.

## NASS Support

Since 6 April, the guidance for court users lodging applications for reconsideration under s 103A of the Nationality, Immigration and Asylum Act 2002 has been amended in relation to applicants who are in receipt of National Asylum Support Service (NASS) Support. Further details, including the information required by the High Court Fees Office can be obtained at page 10 of the Administrative Court Office Newsletter March 2006. The newsletter can be found on the HM Court Service website at [www.hmcourts-service.gov.uk/cms/files/aco\\_newsletter\\_march\\_06.doc](http://www.hmcourts-service.gov.uk/cms/files/aco_newsletter_march_06.doc)

# The Statutory Charge

One issue which has been raised with increasing frequency is how the statutory charge is to be calculated in circumstances where different aspects of a family case are dealt with separately by the courts. This article clarifies how the LSC considers the charge should be calculated.

The statutory charge arises by virtue of s 10(7) of the Access to Justice Act 1999. This provides:

'10(7) Except so far as regulations otherwise provide, where services have been funded by the Commission for an individual as part of the Community Legal Service—

- (a) sums expended by the Commission in funding the services (except to the extent that they are recovered under section 11), and
- (b) other sums payable by the individual by virtue of regulations under this section,

shall constitute a first charge on any property recovered or preserved by him (whether for himself or any other person) in any proceedings or in any compromise or settlement of any dispute in connection with which the services were provided.'

The statutory charge under the 1999 Act is calculated by reference to the funded services. This is slightly different to the wording under the Legal Aid Act 1988 where the charge was calculated by reference to the costs of the proceedings in which recovery was made. However, following the House of Lords case *Hanlon v Law Society* [1981] AC 124, [1980] 2 All ER 199, all of the costs to the Fund in a matrimonial dispute attach as a charge to property recovered by a client in matrimonial proceedings. It follows that the costs of domestic violence injunction proceedings, a Children Act application and the costs of the ancillary relief application are treated as the same proceedings in which the recovery was made, and so the statutory charge is calculated by reference to the costs of those proceedings and by reference to all the connected funded services.

There have been a number of recent challenges to this approach where suppliers have argued that the costs of an ancillary relief application should be treated as separate proceedings from a Children Act application dealt with under the same, or a different certificate, for the purposes of calculating the statutory charge. This approach is not supported by the wording of s 10(7) of the 1999 Act.

Under s 10(7), the charge applies to property recovered or preserved '... in any proceedings ... in connection with which the services were provided'. Therefore the statutory charge is calculated by reference to all of the costs to the Fund of any connected proceedings, as well as the proceedings in which property is recovered (save for the costs of assessment, which are excluded from the statutory charge amount). There has to be a factual connection between the proceedings and the dispute that led to the property recovery. In family proceedings, all private law proceedings arising out of a relationship breakdown are connected proceedings.

So in the case of an unmarried couple, or a civil partnership, Children Act proceedings are connected to Trusts of Land and Appointment of Trustees Act 1996 proceedings. Consequently, the costs of the services funded for a client under a certificate (or two or more certificates if the factual connection is present) to pay for a Children Act application and a Trusts of Land Act application arising out of the same relationship breakdown, will usually constitute the amount of the statutory charge which attaches to property recovered or preserved in those proceedings.

The LSC also follows this approach in cases where it funds an inquest, after which it funds a civil action in which damages are awarded. Unless liability has been admitted before the inquest, there is likely to be a sufficient connection between the proceedings that any statutory charge which attaches to damages recovered is calculated by reference to the costs of the civil action and the costs of the inquest proceedings. Requests for further information and other queries should be directed to Michael Rimer at 85 Gray's Inn Road, London, WC1X 8TX. Tel: 020 7759 0345 or e-mail [michael.rimer@legalservices.gov.uk](mailto:michael.rimer@legalservices.gov.uk)

# CAFCASS - Disbursements and Rule 9.5

LSC regional offices have seen a number of cases where it appears that practitioners may not be clear as to the role and position of CAFCASS and the extent to which it is appropriate for costs and disbursements to be incurred under funded clients' certificates. This article is intended to clarify the position for practitioners so as to avoid both delay and an inappropriate liability for costs and expenses to the funded client (and, possibly, indirectly to the limited Community Legal Service Fund).

## The areas where there is an apparent lack of clarity are:

- > disbursements of CAFCASS officers/guardians, both employed and self employed, including for interpreters and for or in relation to travel outside England and Wales;
- > work undertaken at the request of CAFCASS officers/guardians, in particular to ensure their personal safety outside England and Wales;
- > the CAFCASS position in Rule 9.5 joined children cases; and
- > the availability of CAFCASS to supervise and assess contact (including outside regular office hours, in particular over weekends).

## CAFCASS disbursements and work outside England and Wales

CAFCASS accepts that disbursements incurred by its Family Court Advisers, if justified, are a matter for CAFCASS and not for the individual party or parties in the case. It is neither necessary nor appropriate to seek to treat such expenses as disbursements of individual funded parties. If such issues are raised the CAFCASS practitioner should be referred back to his or her CAFCASS Service Manager and in no circumstances should it be necessary to seek to treat such expenses as a funded client's disbursement.

Equally, should the CAFCASS practitioner request or require the conducting solicitor to undertake work or incur expenses to directly support the work of the CAFCASS practitioner, including by travelling or attending with them outside England and Wales, when that is not otherwise justified by the circumstances of the case and the legal work to be undertaken, then again this is a matter for CAFCASS and to be considered by the CAFCASS Service Manager. CAFCASS has confirmed the position to CAFCASS managers regarding the approach to be taken on work abroad, including through the use of International Social Services when any referral and referral fee will fall to CAFCASS if the work is commissioned by

them (or if appropriate the local authority). CAFCASS is to issue further policy guidance to its practitioners on cases involving enquiries abroad/overseas travel.

## Rule 9.5 joined children cases

In relation to Rule 9.5 joined children cases, the President has issued a Practice Direction [2004] 1 FLR 1188, dealing with the role and involvement of CAFCASS which is applied by the judiciary. It is expected that all potential Rule 9.5 appointments will be discussed in advance with CAFCASS but apart from the High Court Team CAFCASS has no local discretion to decline a Rule 9.5 appointment. Within CAFCASS, cases will be allocated to guardians in line with CAFCASS priorities for allocation. Potential delay in allocation is not in itself a reason for not referring a case to CAFCASS. Appointments outside CAFCASS will be exceptional based on the circumstances of the particular case, eg a complete breakdown of relations with CAFCASS as a whole. CAFCASS (England) has entered into a Protocol with the National Youth Advocacy Service (NYAS) which anticipates CAFCASS will be approached first and usually provide a guardian. Funding applications by children joined under Rule 9.5 with a non-CAFCASS guardian or with a view to the appointment of a non-CAFCASS guardian but without information as to the position of CAFCASS regarding the allocation of a guardian, are likely to be refused.

## Contact

So far as contact centre fees are concerned, the LSC's position is made clear in the LSC's decision making guidance in vol 1, section D, LSC Manual (para 1D-062.2). In short, contact centre fees are a client expense and not recoverable. Fees around supported contact cannot be charged as disbursements and costs of an assessment of supervised contact may only be met on an exceptional basis, including where CAFCASS cannot reasonably be expected to assist through a report or other support. Practitioners should note in particular that, following an assessment of suitability and where it is necessary and in the

child's interest, CAFCASS can be directed to supervise contact, including outside normal working hours. It is reasonable to expect this to be the first port of call – enabling CAFCASS to have a continuing, seamless role in assessing suitability, facilitating, supervising and assessing contact in cases where it already has an involvement.

Practitioners should also note that it should not be necessary and will usually be inappropriate to involve third parties such as independent social workers in facilitating contact arrangements, for example around contact re-introduction. All such cases should be referred to CAFCASS.

## Section 22(4), AJA 1999

Finally, we would remind practitioners of s 22(4) of the Access to Justice Act 1999. This makes it clear that the fact that a party is publicly funded in relation to any proceedings cannot affect the rights or liabilities of other parties to the proceedings or the principles on which the discretion of any court or tribunal is normally exercised. Costs and expenses cannot be transferred to a funded client on the basis that he or she is publicly funded and others in the proceedings are unable or unwilling to fund costs or expenses. Practitioners must take care not to accept that funded clients will, through their certificates, bear costs and expenses unless this would be appropriate in the case of a private paying client. It must also be remembered that a prior authority from the LSC is the only way that the ultimate costs assessor can be bound as to both the principle and amount of any costs or disbursements. Any queries on these issues can be addressed to jane.worsey@legalservices.gov.uk

# Public Interest Advisory Panel Summaries

The Public Interest Advisory Panel (PIAP) reports to the LSC on cases that are considered to raise public interest issues. These reports are then taken into account by the LSC 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](http://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 LSC'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 32-50. A summary of the cases that 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 that 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/05/306

### Nature of Case

Proposed personal injury proceedings against Brighton and Hove City Council in respect of injuries sustained by the applicant in a near-drowning incident on the beach at Brighton.

### Report of Panel

The Panel expressed sympathy for the applicant who has clearly suffered a tragic accident. However, the Panel considered that there was little likelihood of this case establishing any legal precedent in relation to the duties owed to visitors to public beaches, or any other benefit to others.

While the Panel acknowledged that a case that could lead to improved safety at the beach at Brighton alone would have significant wider public interest, the Panel considered that the issue of these proceedings would have achieved any benefit likely to be derived from this case. They therefore considered that there would be no significant benefit to others by the continuance of these proceedings.

### Conclusion

No significant wider public interest

## PIAP/05/311

### Nature of Case

Proposed actions under the Race Relations Act 1976 in respect of claims of unlawful race and/or religious discrimination and victimisation against the Birmingham Guild of Students and Birmingham University.

### Report of Panel

The Panel accepted that this case would benefit all students of Birmingham University, as it seeks to ensure that the University and the Guild abide by proper standards in the running of elections, including instituting proper appeal procedures. Should the case proceed to full hearing, the resulting judgment could have wider implications to other universities and similar bodies.

### Conclusion

Significant wider public interest  
Rating: Significant

## PIAP/05/312

### Nature of Case

An action for declarations and damages in respect of failures to follow the correct procedures in detaining the applicant under s 3 of the Mental Health Act 1983.

### Report of Panel

The Panel considered that this case had the potential to clarify the scope of s 6(3) of the Act in relation to when a hospital can rely on a mistake as to when detention is lawful. This is particularly salient in this case as the mistake arose from incorrect legal advice. While it appears that the s 30(4) point raised in the original application may be partly conceded, should it ultimately be continued in this litigation, judicial clarification of the effect to this provision would also have significant wider public interest.

### Conclusion

Significant wider public interest  
Rating: Significant

## PIAP/05/315

### Nature of Case

Proposed judicial review of the Prison Service's decision to uphold an adjudication contrary

to a recommendation of the Prisons and Probation Ombudsman.

### Report of Panel

The Panel did not consider that this case had significant wider public interest. In particular, they did not consider that this case would extend or develop the principle established in the Simms case. The Panel also considered whether this case could potentially clarify the interpretation of the rules relating to the use of another prisoner's PIN account. However, the Panel considered that any such clarification would hopefully have already been achieved through the Ombudsman's recommendation on the point and the Prison Service's commitment to review the rule in question.

### Conclusion

No significant wider public interest

## PIAP/05/316

### Nature of Case

Proposed claim for damages and declarations in respect of alleged breaches of art 5 of the European Convention on Human Rights (ECHR).

### Report of Panel

The Panel accepted that there was clear public interest in challenging the compatibility of s 70 of the Mental Health Act 1983, which affects all restricted patients, with the Human Rights Act 1998. In addition, the Panel considered that this case might explore the criteria for recall to hospital of a restricted patient, which would also have significant wider public interest.

### Conclusion

Significant wider public interest  
Rating: Significant

## PIAP/05/317

### Nature of Case

Application for Investigative Help in respect of proposed proceedings under the Consumer Protection Act 1987 in respect of a Hepatitis B vaccine.



**Report of Panel**

The Panel considered, on the information available to them, that this case did not have significant wider public interest. It appears from the information provided that the applicant suffered an extreme adverse reaction to the vaccination. However, there is no evidence in the information provided of other similar cases, nor of the frequency of such reactions. All such reactions are required to be reported under the Adverse Reactions Reporting Scheme ('Yellow Cards') operating under the Medicines Act 1968 and so the benefits of pursuing this litigation are limited in light of the investigations triggered by the reporting of the reaction.

In addition, it appeared to the Panel that in reality, the substance of the applicant's complaint related to the failure of the nurse to warn him of the possibility of such a reaction. Such a claim would be a clinical negligence action against that health professional, not a product liability claim against GlaxoSmithKline. Such a claim would turn on its own facts and would not establish any benefits for others.

**Conclusion**

No significant wider public interest

**PIAP/05/318****Nature of Case**

Proposed appeal seeking re-allocation of a case out of the small claims track.

**Report of Panel**

The Panel examined the possibility of significant wider public interest in relation to the appeal against allocation alone – since a successful appeal would result in funding continuing on the cost-benefit basis. The Panel accepted that there was a good basis of appeal as the district judge did not seem to have applied the appropriate rules in relation to allocation in this case. However, they considered that this appeal would not be determined in the Court of Appeal (as the solicitors were seeking) and would only be heard at county court level. As such, this case would turn on its own facts and would not create any binding precedent that would inform future cases.

While the Panel did not consider that the appeal against allocation had significant wider public interest in itself, they noted that allocation of this case to the small claims

track did raise art 6 implications in light of the applicant's capacity, which needed to be taken into account in the final funding decision.

**Conclusion**

No significant wider public interest

**PIAP/05/319****Nature of Case**

Proposed appeal to the Court of Appeal in respect of a homelessness application.

**Report of Panel**

The Panel accepted that this case had significant wider public interest. It is not clear how much further this case could develop the law in respect of the application of reg 8(2) of the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999 after the judgment in Hall. However, the Panel considered the second point at issue on appeal, that is, when a reviewing officer should refer new medical evidence back to the local authority's medical assessment officer before making a decision on review, and what weight should attach to the reassessment, had sufficient public interest on its own to meet this criterion.

**Conclusion**

Significant wider public interest

Rating: Significant

**PIAP/06/342****Nature of Case**

A claim for damages, including claims under arts 8 and 1, sch 1 to the ECHR, against the police for entering the applicant's property and allegedly causing damage, where it is alleged that the Police were negligent in obtaining the warrant.

**Report of Panel**

The Panel recognised the potential for apparent injustice suffered by someone in the position of the applicant, who had allegedly suffered loss because of suspicions concerning previous occupiers of the property from eighteen months earlier, but noted the difficulties she would face in alleging trespass to property where the search was carried out pursuant to a warrant lawfully obtained in respect of that particular property.

The Panel accepted that any case which could lead to a review of the current procedures for obtaining a search warrant, or which in particular might establish ECHR incompatibility of the current provisions

for obtaining a search warrant, would have significant wider public interest. However, the Panel was not satisfied that, on the facts of this case, it had such genuine potential.

**Conclusion**

No significant wider public interest

**PIAP/06/343****Nature of Case**

A proposed claim for damages for negligence against a social worker and local authority by an applicant who had been detained for a week under s 2 of the Mental Health Act 1983, where it is alleged that the social worker had breached a duty of care to the applicant in her application for a warrant under s 135 of the Act to enter the applicant's property and remove him to a place of safety. (This case had previously been before the Panel (PIAP/04/261) in relation to proposed claims for misfeasance/false imprisonment.)

**Report of Panel**

The Chair of the Panel considered the assertions made by the Applicant regarding her ability to deal with this matter. She did not accept there was any reason to withdraw from consideration of the application.

The Panel noted that counsel felt it likely that a claim in negligence in respect of the s 135 application might be possible, although in the present case the only potential basis for a breach of duty appeared to be the failure of the social worker to consult the applicant's GP before making the application. However, given the likelihood that, in the light of the terms of s 139 of the Act, a duty of care towards the applicant did exist, the present claim, even if successful, would effectively involve a determination only of the extent of that duty and whether it had been breached. Both these issues were fact specific and the claimant's case in relation to breach of duty of care was not a strong one. Nor was there any indication from the papers that misuse of the s 135 process was a more general problem.

The Panel further noted that the local authority in this case had undertaken a high degree of investigation and had acknowledged aspects of the applicant's complaint, and that a further level of redress was available through the Local Government Ombudsman.

**Conclusion**

No significant wider public interest

**PIAP/06/344****Nature of Case**

An application to fund the representation of the family of the deceased in an Inquest, where death resulted from protein deficiency, 14 months after the deceased had had a gastric band fitted to combat obesity.

**Report of Panel**

The Panel noted that, in general, it would be more difficult to establish a finding of Significant Wider Public Interest in Inquest cases because such wider public interest would have to lie specifically in the deceased's family being represented, beyond any benefits that might arise in any event from the Coroner's investigation. However, the Panel accepted that in this case representation for the deceased's family was likely to be of considerable benefit in enabling the Coroner to make recommendations to avoid this type of tragedy in the future.

The Panel considered that this case raised important issues regarding full disclosure of the risks involved in an operation of this type, in addition to the requirements in relation to post-operative care. The Panel were satisfied that the numbers of such operations taking place, and likely numbers in future in the light of current levels of cases of obesity, were such that this case would have Significant Wider Public Interest in terms of the Funding Code.

**Conclusion**

Significant wider public interest  
Rating: Significant

**PIAP/06/346****Nature of Case**

An application to seek a declaration of incompatibility of the Fatal Accidents Act 1976 with arts 2 and 13 of the Human Rights Act 1998, in relation to the exclusion of non-dependent children of the deceased person from the class of those entitled to claim a bereavement award under the 1976 Act.

**Report of Panel**

The Panel accepted that the restriction on certain categories of relative being able to claim compensation under the Act may well be subject to a human rights challenge, which might have significant wider public interest. However, the Panel, whilst sympathising with the applicant, did not consider that the circumstances of the case either in relation to

the excluded category to which she belonged or to the facts disclosed by the papers, would achieve a change in the law as it stands.

**Conclusion**

No significant wider public interest

**PIAP/06/347****Nature of Case**

An application for permission to bring judicial review proceedings against a local authority for their refusal to allow at any time residents, including those aged over 16 years, of a children's care home to smoke on or off site, seeking a declaration of breach of human rights in respect of art 8 of the ECHR and damages.

**Report of Panel**

The Panel considered it to be questionable whether art 8 was engaged by the prohibition on smoking, although it recognised that attempts had been made to extend the scope of art 8 to encompass lifestyle issues. In any event, the Panel considered the position of the local authority, who referred to their rights and responsibilities acting in loco parentis, to be strong, and correspondingly considered that this claim had no realistic prospects of success. Even if the claim were to have any prospects of success, the Panel did not consider that establishing a right to smoke for residents of children's homes aged 16 and over could be considered to be of public benefit.

**Conclusion**

No significant wider public interest.

**PIAP/06/348****Nature of Case**

Proposed judicial review of the refusal of the Child Support Agency (CSA) to recalculate the applicant's required payments for child maintenance under the new scheme for child support, which currently is being applied to newer cases only.

**Report of Panel**

The Panel took the view that this application had disclosed insufficient work on the legal basis of the potential claim, in terms of the regulations governing the new scheme and any transitional arrangements, to enable the Panel to determine the likelihood of the case establishing any benefits for any other persons. The Panel considered that, although

issues regarding possible maladministration of the CSA were generally of public importance, nothing in the present application suggested that the proposed claim would have significant wider public interest. The fact that the applicant might be treated differently to others in calculation of his liability for maintenance did not in itself imply a valid discrimination claim. The potential for a defence on the part of the CSA of justification for a delay in transferring existing cases to the new scheme, which had required a new computer system, had not been addressed. Nor was there a realistic possibility of a claim under art 8 of the ECHR, particularly in the light of Secretary of State for Work and Pensions v M [2006] UKHL 11.

**Conclusion**

No Significant Wider Public Interest

**PIAP/06/349****Nature of Case**

Proposed application for judicial review proceedings and a declaration of incompatibility with art 6 of the ECHR in relation to cases within the magistrates' courts where the defendant is deemed unfit to plead.

**Report of Panel**

The Panel noted that, whilst the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 made provision for cases in the Crown Court where a defendant was deemed unfit to plead, within the magistrates' court the only procedure for avoiding a normal trial in such cases would be for a Hospital or Guardianship Order to be made under s 37(3) of the Mental Health Act 1983. The Panel considered that the present application highlighted the potential inadequacy of this process, in that medical evidence indicated that neither order provided by s 37 of the 1983 Act was appropriate for the applicant's condition. Further, some offences with which the applicant was charged were not punishable with imprisonment, such that the s 37(3) procedure would not have been available in respect of those charges in any event.

The Panel accepted that for a defendant who was deemed unfit to plead to be forced to undergo a normal trial so as to avoid an inappropriate order under the 1983 Act raised issues under art 6. In respect of non-

imprisonable offences, there was a policy issue of whether such charges should be continued against such a defendant where there was no alternative to a normal trial available under the 1983 Act.

Given the general importance of defendants not being dealt with inappropriately within the criminal courts, the Panel considered that the issues raised by the present case, involving an a defendant with learning difficulties and behavioural problems rather than serious mental illness, should be allowed to be explored fully.

#### Conclusion

Significant Wider Public Interest

Rating: Significant

#### PIAP/06/351

##### Nature of Case

A proposed claim for damages against the Home Office for breach of art 5(1) of the ECHR in respect of alleged delays by prisoner authorities in their handling of the applicant's application for release on Home Detention Curfew (HDC).

##### Report of Panel

The Panel had some concerns at the lack of information as to the likely numbers of prisoners affected by delays in release on HDC. Whilst not considering that any novel legal principle would be established in the award of damages for such delays, however, it was noted that there was currently no decision on this specific point likely to ensure that prison authorities dealt with applications for release expeditiously. Further, because the level of damages was likely to be low, any such claims were likely to be refused public funding on cost benefit grounds if they were considered solely on an individual basis.

The majority of the Panel accepted that it was unlikely that, in fact, the present case was an isolated example of delay and that, given the importance of this issue and the probable numbers affected, the case was likely to have significant wider public interest within the terms of the Funding Code Guidance.

#### Conclusion

Significant Wider Public Interest

Rating: Significant

#### PIAP/06/353

##### Nature of Case

A proposed claim for damages against the

Home Office for breach of art 8 of the ECHR and misfeasance in public office through the opening of the applicant's Rule 39/legal correspondence by prison officers.

##### Report of Panel

The Panel noted that this case provided an opportunity to look again at the issue of opening of prisoners' legal correspondence, following the decision in *Watkins v Home Office* [2006] UKHL 17, which had held that the tort of misfeasance in public office was not actionable without proof of material damage, since the incidents complained of in the present case had occurred after the coming into force of the Human Rights Act 1998.

The Panel accepted that this was an issue that was likely to arise on a frequent basis. The Panel considered that on the evidence presented there was an at least arguable breach of the applicant's art 8 rights in the opening of his correspondence. Accordingly, the case raised important issues concerning the availability and extent of damages for a violation of art 8, rulings on which could benefit substantial numbers of prisoners and be of more general public importance. The Panel noted further that the defendant itself had successfully applied to transfer the claim to the High Court, stating that it involved complex issues of constitutional significance and might have an important outcome for the public in general, and referring to a large number of other claims raising similar issues.

#### Conclusion

Significant Wider Public Interest

Rating: Significant/High

#### PIAP/06/354

##### Nature of Case

Application for funding at an Inquest touching on the death of the applicant's wife who had died after giving birth, having refused blood transfusions as a Jehovah's Witness.

##### Report of Panel

The Panel noted this case raised a number of issues in terms of the quality of treatment provided to the deceased, the potential for a clinical negligence claim and questions arising from statements subsequently made to the Coroner by medical staff at the hospital.

Regarding potential wider public interest, the Panel accepted that the case raised

questions as to whether specific drugs and techniques that could be of importance in treating patients who refuse blood products were sufficiently widely available and understood within hospitals. Given the numbers of those whose beliefs led them to refuse such products, the Panel considered that any recommendations on these matters by the Coroner under Rule 43 of the Coroners Rules would have the potential to be of significant wider benefit. Further, in view of the medical evidence involved, the Panel accepted that legal representation of the deceased's family was likely to be an important factor in establishing such recommendations.

#### Conclusion

Significant Wider Public Interest

Rating: Significant

#### PIAP/06/350

##### Nature of Case

A matter previously before the Panel. A proposed appeal against the refusal of permission for judicial review in relation to alleged delays of the Secretary of State for the Home Office in listing the applicant's Parole Board review, in alleged breach of the applicant's rights under art 5(4) of the ECHR.

##### Report of Panel

At the previous meeting the Panel had noted that this case raised the issue of disproportionate delays in listing Parole Board reviews for prisoners with short tariffs, and had considered that there was potential for wider importance in the challenge if the justification put forward for the delay had been by way of a general reference to the terms of the Parole Board Rules. The transcript of the judgment refusing permission, however, indicated that the court had considered the necessity for the timescales provided by the Rules, in terms of their role in ensuring procedural fairness, and the apparent delays in this case. Accordingly, the Panel considered that an appeal was likely turn on the specific facts of this case, rather than establishing any general principle in relation to the timing of Parole Board reviews.

#### Conclusion

No Significant Wider Public Interest

# Payment Dates

The proposed payment dates for the second half of 2006 are set out below. These dates may be subject to amendment, but we will inform you of changes in advance where possible.

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.

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Contract Payments	1st Settlement of the Month	2nd Settlement of the Month
Thursday 6 July	Thursday 13 July	Thursday 27 July
Friday 4 August	Thursday 10 August	Thursday 24 August
Wednesday 6 September	Thursday 7 September	Thursday 21 September
Thursday 5 October	Thursday 12 October	Thursday 26 October
Monday 6 November	Thursday 9 November	Thursday 23 November
Wednesday 6 December	Thursday 7 December	Thursday 21 December

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