Peer review process consultation scheduled for late 2007

NEWSPAGE8

Focus to become an online publication from January 2008

NEWSPAGE3

Issue # 54
August 2007

The service provider newsletter of the **Legal Services Commission**

www.**legalservices**.gov.uk

focus

Inside >>

Unified Contract Specification

All civil providers will now have received the Contract Notice outlining the changes to the Unified Contract Specifications (Civil and Family Mediation) from 1 October 2007.

All the contract documentation is available to download from the LSC website.

In addition to the introduction of the new fee schemes, the main change is the replacement of the Unified Contract Specifications (Solicitor and Not-for-Profit) in force from 1 April 2007 with a new Civil Specification (applicable to all providers) for all categories of law apart from Mental Health, which will continue under the 1 April 2007 Specifications until further notice. Similarly, there will be a new Family Mediation Specification (applicable to all providers) from 1 October 2007.

Over the last few months, the LSC has listened to the concerns of providers and their representative bodies, and has delayed implementation where it makes sense to do so. The schemes have also been amended to take full consideration of the concerns and issues raised.

The LSC will continue to work closely with providers and representative bodies in the future to discuss proposals and share data as soon as it is possible to do so. Although reform has to start now to safeguard the legal aid budget, implementation in some areas will be staged.

Specifications and the new fee schemes

The new fee schemes that come into force from 1 October 2007 are detailed in the Specifications and set out in the Funding Order. All the new fees are set out in the Payment Annex to the Specification. The rules on when

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A new Family Mediation Specification will soon be available.

legal services COMMISSION

<< P1

a case falls within the remit of an Exceptional Case are set out in the general and category specific rules. Payment rates for all other cases and matters are also contained in the Payment Annex.

The schemes to take forward civil legal aid reform were recommended in *Legal Aid: A market-based approach to reform* in July 2006, and announced in *Legal Aid Reform: the Way Ahead* in November 2006. The new schemes are the first step in the move towards competition that will allow good quality and efficient practitioners the opportunity to grow through access to increased volumes of work.

What service providers should do next

The LSC encourages all providers to become familiar with the new Specification rules and fee schemes (which apply to all new matters and cases from 1 October 2007). In particular, providers should take note of the changes in relation to:

Immigration Controlled Work

> Applies to all immigration cases opened by providers and mainstream asylum cases initially lodged with the Home Office from 1 October 2007.

Family Care Proceedings Fee Scheme

> Level 1 (Legal Help) covers all public law children cases and where a case progresses beyond this, the fee scheme covers Care and Supervision Proceedings and Related Proceedings only.

> Level 2 (Family Help Lower) and Level 3 (Legal Representation) of the scheme covers Care and Supervision in public law children cases.

> The interim arrangements for the use of General Family Help in Care and Supervision Proceedings for cases started before 1 October 2007 (see article on page 4).

Family Help – Private Fee Scheme

> Covers all private family work at Legal Help and most private family work where there are further negotiations (Level 2 - Family Help Lower of the scheme).

Implementation of Level 3 in Family Help – Private Scheme

The LSC has delayed implementation of Level 3 (Family Help – Higher) in the Family Help - Private Scheme, which covers work from the issue of proceedings prior to the final hearing. Delaying implementation of this scheme has allowed the LSC more time to consider the consultation responses and hold further discussions with representative bodies. A consultation will also be held on fixed fees for Level 4 (Legal Representation), which covers the final contested hearing and family advocacy in due course. For family advocacy, the LSC intends to move towards a system that would pay the same amount for the same work, regardless of whether a solicitor or counsel carried it out.

Mental health

Until further notice, the April 2007 Unified Contract Specification and the current payment arrangements will continue for mental health cases, subject to an amendment removing payment for file reviews undertaken after 30 September 2007.

The fee scheme for mental health work has already been announced and the consultation on the mental health category section of the Specification concluded on 3 August 2007. Following finalisation of this section of the Specification, a further notice of amendment will be issued to bring these provisions into force from 1 January 2008.

Equality and diversity guidance

The LSC's Equality and Diversity Guidance, which will assist providers to comply with the requirements of the Unified Contract, is now available now on the LSC website.

Not-for-Profit providers

Not-for-Profit service providers have been subject to different specification and payment provisions. They will now be covered by the same specification and payment provisions as solicitors, subject to transitional arrangements which are set out in *Nfp Unified Contract Transition Process*. This document is available on the LSC website.

Unified Contract judgment

Finally, the LSC has carefully considered the judgment of Mr Justice Beatson of 27 July 2007 on R (aoa the Law Society) v LSC and the Lord Chancellor and Secretary of State for Justice, and has taken the advice of leading counsel. The LSC is satisfied that its current approach is lawful. It is also the right course to maximise the number of people helped within the available resources and to protect the legal aid fund. This limits the prospect of cuts in scope and eligibility, which may otherwise have become necessary.

For more information, contact your Account Manager or Relationship Manager in the regional office responsible for your contract.

@ **Contact & Information**

web: lsc website > cls > consultations

The introduction of best value tendering

The introduction of best value tendering for criminal legal aid work was among the recommendations published in *Legal Aid: A market-based approach to reform*.

The LSC believes that the fundamental direction recommended in *Legal Aid: A market-based approach to reform* is the right path for the LSC and providers.

The move to a more market-based approach to buying legal aid services that enables bidders to set their own prices will ensure a fair reward for good quality and efficient service providers.

It is an important change for providers and the LSC recognises the need to communicate as much information as possible so that providers can begin preparing their businesses for best value tendering once the principle and initial detail has been determined through consultation.

As such, a consultation paper on the best value tendering of criminal defence work is being prepared. It will ask for views on the principle of tendering and outline initial plans. It will also seek feedback on the following key areas:

> how work could be tendered

> possible entry requirements

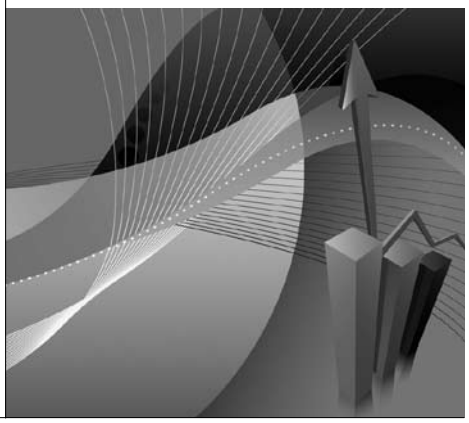
> working arrangements

> the bidding process.

The paper is expected to be published later this year and to form part of a 12-week consultation exercise.

@ **Contact & Information**

web: lsc website > cds > consultations



Readers have their say on changes to *Focus*

The December 2006 edition of *Focus* invited readers to put forward their views on the new layout and format, and to provide general comments.

Readers were asked to respond to three questions using five possible scores, ranging from 'very helpful' to 'not helpful at all':

> Question 1 - When asked if the news, comment and legal sections help readers to find information, 67% of respondents said the new sections were 'quite' or 'very helpful'.

> Question 2 - When asked how helpful the new layout was in terms of attractiveness and readability, 66.5% of readers said it was 'quite' or 'very helpful'.

> Question 3 - When asked how helpful the comment pieces were for understanding the LSC's priorities and how the LSC will work with providers in the future, 59.4% of readers said they were 'quite' or 'very helpful'.

A number of responses highlighted concerns about the cost of the redesign. *Focus* was redesigned in-house by the LSC's Communications Department. The cost associated with the re-design project and the logistics of conducting the readership survey was £500.

Many respondents commented that the new format of *Focus* is an improvement over the old, however some suggestions were made for further improvement. One reader suggested that "*Focus* should be split into sections – criminal, family, immigration etc." while another asked that the edition number on the front page be enlarged to improve readability. Due to page layout and available content, it is not always possible to separate all areas of legal aid law, however this edition does include a crime section. This edition also includes a larger number on the front page, as will future editions.

Respondents also felt that in addition to commentary from the LSC's senior leaders, *Focus* should include alternative points of view from providers and others working in legal aid. While *Focus* does not presently contain such opinion pieces, a strategy is being developed to broaden the scope of *Focus* so that it features alternative points of view.

A number of survey responses requested that "useful information should be published on the website". The LSC's website remains the primary repository for information, and consideration of what further information should be made available on the website is ongoing. For example, payment dates were recently added to the LSC website under cls or cds > pay rates and schemes > payment dates. This means providers no longer have to wait for an edition of Focus to find out when they will be paid. A final request was for email updates, and in response the LSC has introduced the *LSC Update*.

LSC Update

The *LSC Update* is a new fortnightly email alert that summarises the latest news from the LSC. At present the update is sent to each firm holding a contract with the LSC. Many readers have already sent in their comments on the *LSC Update*, and these are helping to tailor the email to meet providers' needs.

Website refresh

The LSC website has been refreshed to make it easier for people to find what they're looking for. The project aimed to make information on the website more concise, to more clearly delineate between separate sections and reorganise the related documents panel.

Site navigation was improved – drop-down lists were removed to improve accessibility and encourage exploration, new menus make it easier to see which page users are on and metadata was increased to make the site more responsive to search engines.

The look and feel has also been brightened and new images of real people getting real help have been added to pages. Further refinements will continue to be made over time.

Comments and feedback

Feedback on *Focus*, the LSC website and the new *LSC Update* is encouraged, so please email suggestions and comments to the editor.

Contact & Information

email: janine.mccarthy@legalservices.gov.uk

Focus to move online

From January 2008, *Focus* will be designed and produced as an electronic publication.

A number of comments received through the Focus Survey raised concerns about the cost of producing *Focus*. Many respondents also requested a more regular publication schedule.

The cost of producing and distributing hard copies of *Focus* is significant, and to date the schedule has remained roughly quarterly because more frequent publication would substantially increase production costs.

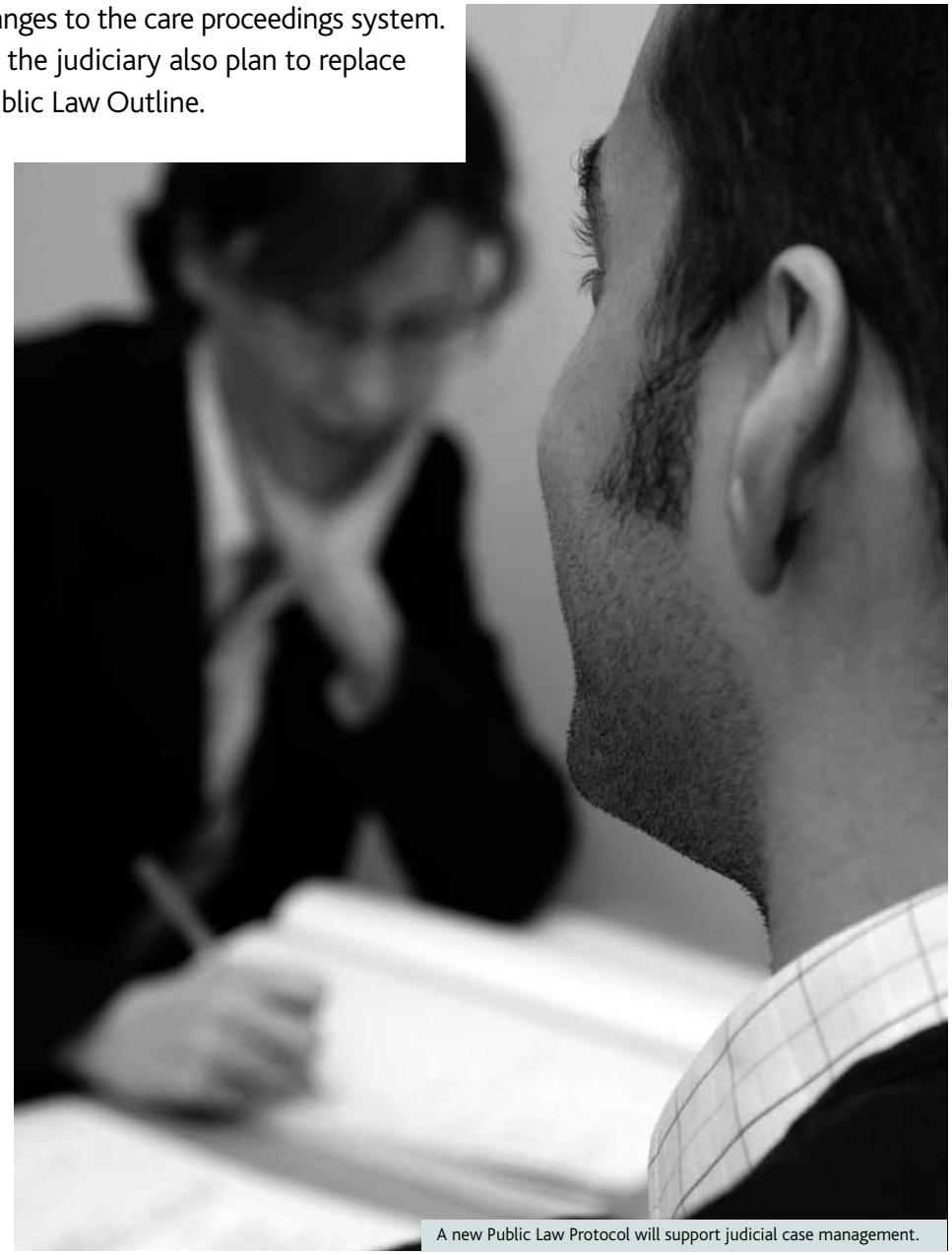
However, the reform programme aims to maximise access to legal aid for the future, achieve best value for money and rebalance the overall budget to allow the LSC to continue to increase the number of people helped. Reducing administration costs internally is one aspect of the programme, as is the LSC's move to becoming a more e-enabled operation.

In response to these drivers, *Focus* will continue to be produced as a hard copy publication until December 2007. While *Focus* is already available for download as a PDF from the LSC website, after this time *Focus* will become an online publication available only through the LSC website.

As a result, it is anticipated that *Focus* will be produced more regularly so that providers have access to information as soon as it becomes available. This means that comments, feedback and opinion from legal aid providers and those working in the legal aid system can be incorporated into *Focus*, and *Focus* can become a vehicle for dialogue between readers and the LSC rather than simply an information delivery mechanism. More information on this change will be available in the next edition of *Focus*.

Reforms to the care proceedings system

The LSC is progressing work around changes to the care proceedings system. To support judicial case management, the judiciary also plan to replace the Public Law Protocol with a new Public Law Outline.



A new Public Law Protocol will support judicial case management.

The LSC is working with others on plans to make changes to the care proceedings system. Since publication of *Review of the Child Care Proceedings System in England and Wales*, work has been ongoing with the President of the Family Division, the Ministry of Justice and Her Majesty's Courts Service (HMCS), as well as the Department for Children, Schools and Families (previously the Department for Education and Skills), and the Children and Family Court Advisory and Support Service (CAFCASS).

The Department for Children, Schools and Families (DCSF) and the Welsh Assembly Government (WAG) are consulting on new statutory guidance for local authorities. The guidance is entitled *Children Act 1989 Guidance and Regulations Volume 1 Court Orders* (see paragraphs 3.16 and 3.17), and is available on the DCSF website at www.dfes.gov.uk. The WAG guidance will shortly be available on the WAG website at www.wales.gov.uk. The guidance will set out steps to be taken before a care application is made to court, for example to ensure that all potential kinship opportunities are explored and relevant assessments completed before a care application is made. Once published, the guidance is expected to improve the quality of applications that are made to court. The guidance will also expect local authorities to work with parents and those with parental responsibility before issuing proceedings. A written notice of the local authority's intentions will be given, triggering non-means tested publicly funded legal advice for the parent(s) and others who have parental responsibility (see article on facing page).

To support judicial case management, the judiciary also plan to replace the existing Public Law Protocol with a new Public Law Outline (PLO) from April 2008. The draft PLO will also be issued for consultation with key stakeholders over the summer. Information on the PLO is now available on the LSC website.

The PLO will underpin the revised guidance by clarifying the minimum standards that the court will expect in care applications. It will also simplify the process by reducing the number of stages from six to four, and will improve case management by ensuring the key issues on cases are identified and narrowed down as the case progresses.

An inter-agency steering group with representatives from the LSC, HMCS, CAFCASS, DCSF, WAG and local authorities has been established to coordinate implementation and ensure that all family justice participants embed these new practices in their systems and processes.

The PLO will be finalised by the President of the Family Division in December 2007, with judicial training rolled out from February 2008.

The draft PLO is being tested in 10 initiative centres in the lead-up to national implementation. The test centres are located in London, Liverpool, Hampshire, Oxford/Milton Keynes, Birmingham, Leicester, Newcastle, Warrington, Swansea and Plymouth/Exeter.

The initiatives will be led by designated family judges at local level, with the steering group providing practical support to enable local family justice agencies to adjust their practices and meet the expectation of the draft PLO.

A briefing pack will be sent to all courts and CAFCASS offices in the initiative areas.

@ Contact & Information

email: family@legalservices.gov.uk

web: lsc website > cls > civil areas of work > family > legal guidance and updates

Child care proceedings

From 1 October 2007 the LSC will introduce a test for separate representation in care and supervision proceedings, and remove residential assessments from the scope of legal aid funding.

Merits criteria

Following consultation, a test will be introduced that determines whether a child is in need of separate representation from other children who are the subject of proceedings. A test will also be introduced for parents and people with parental responsibility who, in the absence of any conflict of interest, can be protected through joint representation with another party.

Details of these tests are included under section 5.4.5 of the Funding Code Criteria. Guidance covering devolved powers, which will be introduced to self-grant certificates in Special Children Act proceedings, is currently in draft and available on the LSC website.

No other merits criteria for Special Children Act proceedings will be introduced at this time, however the existing procedures and guidance will be reviewed and the merits criteria revisited once the new family fee scheme has had a chance to bed in.

Residential assessments

The LSC will be removing the costs of residential assessments from the scope of legal aid. This includes pre-assessments or viability assessments (whether residential or not) undertaken to consider whether a residential assessment is appropriate. This will restore the position prior to the Lambeth case when the costs of residential assessments fell to local authorities in relation to their duties to children in need and those with post-interim care orders. The LSC is holding discussions with the Department for Children, Schools and Families and the Welsh Assembly Government around this change. The LSC extends its thanks to all who submitted their views on this consultation. The resulting changes form part of the reforms designed to maintain access to quality advice for clients and ensure a sustainable legal aid system for the future.

A Summary of Responses and the LSC's response to this consultation, which was published in *Family and Family Mediation Fee Schemes for October 2007*, can be found on the LSC website.

Changes to the funding criteria will be brought into effect by the family section of the new contract specification and will be published under the Unified Contract section of the LSC website. Any queries on child care proceedings should be directed to the email address below.

@ Contact & Information

email: family@legalservices.gov.uk

web: lsc website > cls > civil areas of work > family > legal updates and guidance

A test will be introduced for parents and people with parental responsibility.

General Family Help in public law

Non-means tested General Family Help is availabile to parents and those with parental responsibility prior to care or supervision proceedings.

In Focus 53 (March 2007), attention was drawn to the availability of non-means tested General Family Help.

This non-means tested General Family Help is only available to parents and those with parental responsibility where care/supervision order proceedings are anticipated. Means and merits tested General Family Help remains available in relation to other public law matters in accordance with the Family Decision Making Guidance in the LSC Manual (Volume 3, Part C, paragraph 20.11). Further, the availability of non-means tested General Family Help is triggered by the local authority giving written notice of its intention to commence care/supervision proceedings. Although this is not currently routinely done, it is anticipated that local authority practice in this respect will change following publication of new Children Act guidance. The guidance is being issued by the Department for Children, Schools and Families and the Welsh Assembly Government. It is currently subject to consultation and authorities may also change their practice in line with the new Public Law Outline initiatives (see article on facing page). It should be noted that there is no system of emergency certificates or devolved powers for General Family Help. Non-means tested applications should be made using the CLS APP3 form and boldly marked 'non-means tested' at the top.

After October 2007, non-means tested Family Help at Level 2 will be available for cases that meet the criteria for non-means tested General Family Help, and a controlled work matter start can be used. Other public law advice will be available at Level 1, which will have an exceptional fees threshold (see Focus 53, page 15).

@ Contact & Information

email: family@legalservices.gov.uk

Direct casework support is available for specific cases.

Specialist Support Service

The Specialist Support Service has recently been extended until March 2008 whilst a review of the service is undertaken.

During the period of review, the service will continue to offer support line advice in the following civil categories of law: debt, immigration, welfare benefits, employment, housing, HIV/AIDS, human rights and public law, mental health and community care. The service is available to organisations holding any of the following:

- an LSC General Civil Contract
- an LSC General Criminal Contract (undertaking mental health or public law work)
- a CLS Specialist Quality Mark
- a Quality Mark for General Help with Casework.

Details of the advice line times and availability can be found in the *Specialist Support Training Brochure,* which is available from the LSC website.

Advice lines are staffed by advisors who are at least of supervisor standard in their category of law and are able to provide in-depth advice to callers.

In some cases the specialist support organisations can offer direct casework support for particularly complex or novel cases. Cases that would fulfil the necessary criteria for being taken on by a specialist support provider would include test cases or cases that are outside the field of experience of the referring organisation. These cases could be fully taken on by a specialist support provider, or the provider may choose to work with the referring organisation and offer direct support and advice on the case.

The service also provides low-cost national training courses that offer Continued Professional Development points. Courses are provided by trainers with Law Society accredition and extensive experience in their field. Approximately 100 training courses will run between July 2007 and March 2008, and range in cost from £10 to £50. Course length is usually a full day. The course brochure is available from the LSC website.

In addition to these courses, the Citizens Advice Specialist Support Unit in association with Money Advice Trust run national courses in debt, and the Joint Council for the Welfare of Immigrants run national courses in immigration law. These courses are subsidised by the LSC for eligible users. Brochures for these courses should be ordered directly from the provider and places are booked independently of the LSC.

The Welsh Specialist Support Service providers, Morgans Solicitors and Shelter Cymru, provide advice and training in welfare benefits, debt and housing in Wales. They also run their own training programme, and a brochure for this course is available from the LSC website.

@ Contact & Information

web: lsc website > cls > civil areas of work > specialist support

email: sangi.dhimar@legalservices.gov.uk

tel: 0161 244 5148

Tendering opportunities and Freedom of Information Act

LSC tender applicants are reminded of the importance of complying fully with tender instructions.

In the March issue of *Focus* (Issue 53), the LSC advised that it is conducting a number of tendering exercises in 2007 and beyond. Applicants were reminded of the importance of complying fully with the instructions set out in the tender documents.

It is timely to remind applicants of this requirement again and also that as a public body, the LSC has statutory obligations under the Freedom of Information Act 2000 (FOI). This means that on receipt of a request, the LSC must disclose information that it holds, unless the information falls within one of the exemptions under the FOI Act. This includes information held from applicants' tenders.

Applicants are asked in the tender instructions to identify information that is a trade secret or commercially sensitive. Based on the LSC's recent experience, very few applicants actually do so. Although the LSC will consult with successful applicants on any request it receives, the time involved in deliberating on whether information can properly be withheld or not could be reduced if applicants identified either type of information at the early stage of tender submission.

The exemption under section 43 of the FOI Act is a qualified one, which means that the LSC must balance the public interest test against the prejudicial effect disclosure may have on the commercial position of the successful applicant or the LSC before it can be applied.

The LSC will take into account the Office of Government Commerce's policy and guidance on the application of the FOI Act to civil procurement information before reaching a decision on disclosure.

@ Contact & Information

web: lsc website > cls or cds > tenders

Very High Cost Family Cases

Very High Cost Case contracting for family cases was reintroduced in December 2006.

Since this time the LSC has received over 1000 case plans, however the volume of cases received has led to delays in processing work.

As at 13 August 2007, a five-week back-log of case plans was awaiting processing and an additional 50 new case plans are currently being received every week.

The issues around processing delays are being addressed. To reduce the time between submission of a case plan and receipt of a contract, additional staff have been trained to support the Family Very High Cost Case (VHCC) team in the LSC's Reading office.

Help reduce processing time

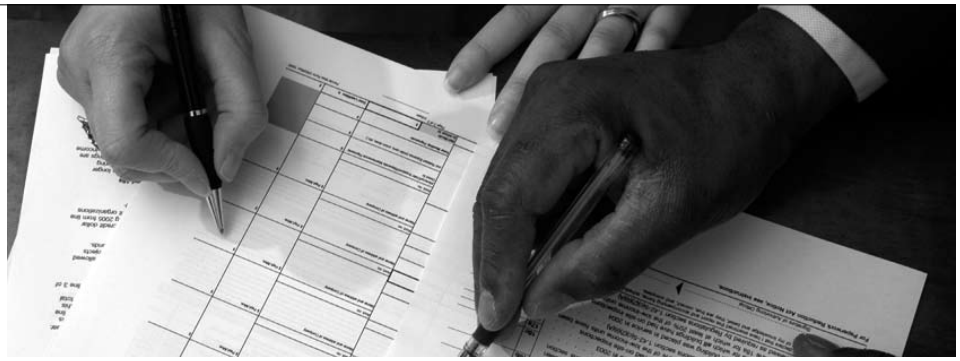
The LSC currently requests additional information on approximately 65% of all VHCC family case plans. You can help by providing a typed case plan that includes the following essential information:

- a list of dates for hearings and advocates meetings that have and will take place
- the court in which the proceedings are being heard, including any transfers between courts
- full itemised details of work to be done, separated into appropriate stages with rates applied
- specifying and justifying any enhancement applied
- identification of disbursements claimed, for example by type, amount, number of parties and any apportionment
- details of how the case continues to merit public funding where applicable.

The LSC will consult with VHCC family providers over the next few months to discuss how best to support this work.

Contact & Information

tel: 01189 558 764 (VHCC enquiry line)



Immigration and Asylum Accreditation Scheme

On 1 June 2007, the Solicitors Regulatory Authority took over administration of all applications for registration as a probationary caseworker for LSC contract purposes.

Anyone wishing to register as a probationer under the Solicitors Regulatory Authority (SRA) scheme should contact the SRA. The application form for registration can be found on the Law Society's website at www.lawsociety.org.uk

The SRA now also maintain the register of solicitors and their employees who have successfully completed the accreditation assessments. The LSC will continue to maintain a register of those individuals who are not subject to regulation by the SRA.

The changes are aimed at addressing existing ambiguities around accreditation and regulation, particularly in relation to issues of character and suitability.

From 1 October 2007, in addition to accreditation to an appropriate standard under the Immigration and Asylum Accreditation Scheme, the LSC will also require all advisers to be registered with the relevant regulatory organisation for inclusion on their respective lists of approved accredited advisers (SRA Register of Accredited Representatives and the Office of the Immigration Service Commissioner's (OISC) register of regulated advisers).

The SRA and OISC will continue to deal with complaints concerning the character, conduct or behaviour of those they regulate.

The Community Legal Service (Asylum and Immigration Appeals) (Amendment) Regulations 2007

The regulations came into force on 30 April 2007 and amended the Community Legal Service (Asylum and Immigration Appeals) Regulations 2005. They give effect to section 8 of the Immigration Asylum and Nationality Act 2006, which extends the power of the Asylum and Immigration Tribunal (AIT). They also give judges the authority to make a costs order for preparation work undertaken by representatives for a reconsideration that has been ordered but does not proceed.

The AIT has introduced an application form that should be used when seeking a costs order in these circumstances. It can be found on the AIT website at www.ait.gov.uk

Before these amendments took effect there was no provision to claim these costs, however reasonable costs of such work could be claimed without a costs order. This is no longer the case and an application must now be made to the AIT for a costs order.

The Immigration Specification and Exclusive Contracting tender process

The new specification will come into operation as planned in October 2007, however the new arrangements for services excluded from the specification will not come into effect at that time.

Tender processes will take place in due course in relation to the provision of these advice services. Details of these tenders and all other tendering opportunities will appear on the LSC website.

Current exclusive contracts for detained fast track clients will continue to operate until new contracting arrangements come into operation in 2008.

Contact & Information

web: lsc website > cls > tendering opportunities
lsc website > cls > civil areas of work

More than 800 peer reviews have been conducted.

Independent Peer Review Process

The LSC is currently updating the Independent Peer Review Process and a consultation paper will be circulated to key stakeholders in late 2007.

The LSC first published the *Independent Peer Review of Legal Advice and Work – Final Process Paper* in November 2005. The peer review methodology described in this document was founded on research undertaken by the Institute of Advanced Legal Studies (IALS), pilot and development work, input from representative bodies and providers, and feedback gathered through a formal consultation process.

The paper outlines the process to be followed when conducting a peer review, and offers feedback to providers and information about the representations process. It also explains the process for the recruitment, training and performance monitoring of independent peer reviewers.

The final independent peer review process was put into practice in April 2005. Since then, independent peer reviewers have conducted more than 800 peer reviews and feedback from the profession to the LSC has been broadly constructive and positive.

This experience affirms the LSC's position on the peer review process – that it represents the best method available to accurately and fairly measure the quality of providers' advice and legal works. The operational use of peer review has also enabled IALS, the peer reviewers and the LSC to identify aspects of the peer review process that could be further developed.

As a result, the LSC is planning to re-issue the peer review process paper to incorporate additional detail and lessons learned over the past two years.

The peer review process, including the peer review criteria, peer review report structure and definitions of the peer review ratings will remain unchanged. The process for dealing with representations and finalising the peer review report and rating will be refined. The re-issued process paper will also expand on the roles and responsibilities of IALS and the senior panel members.

Up-to-date information on peer review-related activities to improve quality and address equal opportunities issues will soon be made available on the LSC website, along with information on the peer review process.

@ Contact & Information

email: peer.review@legalservices.gov.uk

web: lsc website > cls or cds > quality and performance > peer review

Call for Peer Reviewers

Are you an experienced legal aid practitioner providing a high quality service to clients whilst guiding the careers of colleagues?

If so, you may be interested in becoming an Independent Peer Reviewer. As an Independent Peer Reviewer, you will assess the quality of work carried out by legal aid providers and work with experts from the Institute of Advanced Legal Studies. There may also be opportunities to work with the LSC, influencing future developments on projects requiring practitioner experience.

You will be contracted on a consultancy basis and should be available for approximately 36 days per annum while continuing with your usual work under the LSC contract. Fees are payable at the rate of £375 per day plus expenses.

To apply, you should be a specialist in your chosen category, with wide casework and supervision experience. If you are not a solicitor, you should have a relevant legal qualification such as FILEX or a law degree.

The LSC is currently accepting applications in the categories of:

- actions against the police
- community care
- consumer general contract
- clinical negligence
- debt
- education
- employment
- family
- immigration
- public law
- welfare benefits
- housing.

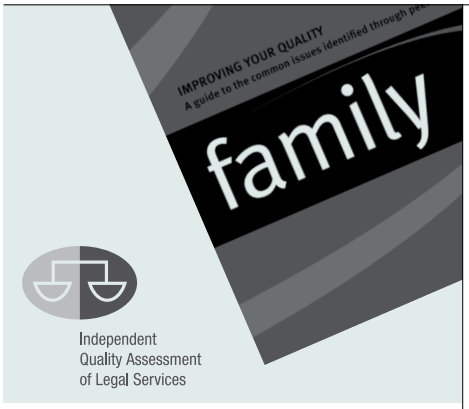
More information, application forms and a personal specification form are available on the LSC website or on request via email. Applications close on Friday, 21 September.

@ Contact & Information

web: lsc website > cls > how the unified contract works > how we measure quality - peer review

email: peer.review@legalservices.gov.uk

tel: 020 7759 0327



Peer Review
Improving your Quality Family Guide

The LSC announces publication of the *Improving your Quality Family Guide*.

The Family Peer Review Panel and Institute of Advanced Legal Studies have created the *Improving Your Quality – A Guide to Common Issues Identified Through Peer Review*. The Guide is a collection of the most common quality issues identified by Peer Reviewers that frequently contribute to the reasons why organisations score a lower rating at peer review.

Guides have also been published for the following categories of law:

> crime
> debt
> welfare benefits
> employment
> immigration
> mental health.

These Guides have proved to be extremely popular with providers and networks. It is important to note that the Guides must be read in conjunction with *The LSC's position in relation to the Guides*.

The LSC would like to thank the Family Peer Reviewer Panel for their work and expertise, which made the Guide possible.

Copies of all Guides and further information is available on the LSC website.

@ Contact & Information

web: lsc website > cls > quality and performance > peer review > improving your quality

LSC sets new corporate targets for 'whole system reform'

For the first time the LSC has set corporate targets aimed at improving the justice system to help it work more effectively.

The importance of this work was highlighted in *Legal Aid: A market-based approach to reform* and nominated by providers in subsequent consultations. Quarterly legal aid stakeholder meetings have been established with senior members and officials from key stakeholder groups, including:

> Senior Presiding Judge
> Attorney General's Office
> Her Majesty's Courts Service
> Crown Prosecution Service
> Association of Chief Police Officers
> Office for Criminal Justice Reform
> Law Society
> Bar Council
> Children and Family Court Advisory and Support Service
> Advice Services Alliance
> Her Majesty's Treasury
> Department for Children, Schools and Families.

There have been three meetings to date chaired by Carolyn Regan, LSC Chief Executive, and Rod Clark, Ministry of Justice (MoJ), and a number of cross-cutting justice system issues were discussed.

All LSC regions will be examining the links between operational practice and legal aid provision and expenditure by working with its providers and partners in the judiciary and magistrates courts, family courts and police.

Achieving the targets to date has involved data collection and analysis to identify key issues. Over the next six months the focus will be on developing and agreeing regional action plans and working with providers and relevant agencies to maximise improvements to the whole system. Each region will develop an agreed action plan by 31 December 2007.

Work is being carried out nationally and regionally, with emphasis on engaging with Her Majesty's Court Service, one of the LSC's key MoJ partners. This includes aligning the magistrates' court target with Criminal Justice: Simple, Speedy Summary (CJSSS), which is to be rolled out nationally during 2007-08. The family court target will link to the Government target to complete care proceedings cases within 40 weeks, from application to court or initial case conference to final hearing, alongside the recently reviewed Public Law Outline (see article on page 4.)

Provider views are key to establishing best practice and identifying practical areas for improvement. As such, the LSC has been seeking feedback from providers regionally over the past three months through workshops and Regional Duty Solicitor Committees.

Provider input has already proved invaluable in implementing local initiatives such as a new protocol in Nottingham magistrates' court for changes to the listing process and improvements to Manchester police bail back policies.

@ Contact & Information

email: liz.long@legalservices.gov.uk

Community Legal Advice centres update

In May 2007, Vera Baird QC MP, the previous Minister for Legal Aid, and Carolyn Regan, LSC Chief Executive, officially opened the Gateshead Community Legal Advice centre. The LSC is now progressing plans to establish Community Legal Advice services in other parts of the country.

Gateshead official opening

The Gateshead Community Legal Advice centre brings together civil legal aid funded by the LSC with social welfare services funded by Gateshead Council. The aim is to provide more coordinated advice.

The centre is the first of its kind in England and Wales and has a three-year budget of £2.6 million. It will:

> provide help on social welfare law, family and mental health matters and handle related public law cases

> focus on providing services to vulnerable groups in the area, such as the young and old, black and minority ethnic groups and those living in deprived and isolated neighbourhoods

> offer services outside the scope of legal aid, such as general help services and representation at employment tribunals.

The centre's services are being delivered through a partnership between Gateshead Citizens Advice Bureau and Gateshead Law Centre. They have joined forces with three law firms – Swinburne and Jackson, Ben Hoare Bell, and David Gray and Company – to deliver additional services through the centre.

At the launch, Carolyn Regan said, "For the LSC, the opening of this new centre marks a new era of jointly funding services for clients. Whilst in the past some of our contracts have required match funding, this is the first time that we have entered into a joint contract with a local authority."

Community Legal Advice centre tenders

The LSC is working with a number of local authorities to establish further Community Legal Advice services.

Two tenders are in progress for Community Legal Advice centres, which are expected to open in April 2008.

Following a tender in Derby, it is hoped that an announcement on the preferred bidder will be made shortly. Derby Advice, the council's

continued on P11 >>

Carolyn Regan, LSC Chief Executive, along with Councillor Ian Mearns, Deputy Leader of Gateshead Council, and Vera Baird QC MP, previous Minister for Legal Aid, at the Gateshead Community Legal Advice centre opening.

<< P10

advice service, will be integrated into the centre. In Leicester, the tender process is open and interested organisations have until 22 October 2007 to bid. In Portsmouth, a tender will be announced in September.

The LSC is working closely with Cornwall County Council on the creation of the first Community Legal Advice network. A Network Coordinator, who will work with local stakeholders to develop the network, is in the process of being recruited. Discussions are also underway with local authorities in East Riding, Wakefield, Barking and Dagenham, Barnsley, Hull and Sunderland.

Overall objectives

Each Community Legal Advice service aims to:

> cover all five social welfare law categories: community care, debt, housing, employment and welfare benefits, and provide or link to family law practitioners to achieve effective service integration

> offer all levels of service, from General Help to representation at the highest level

> deliver services in partnership so that funding and expertise can be pooled and maximised, and wherever possible, work with local authorities initially and link up with other funders in the future

> operate under a single contract, cutting bureaucracy and administration across the board

> work to a service specification that is focused on the delivery of outputs, and delegates a high degree of management to the successful bidders.

General information about Community Legal Advice services can be found on the LSC website, along with current tender information.

Specific information about each centre and network can also be obtained from the relevant council's website.

community legal advice

Contact & Information

web: lsc website > cls > civil areas of work > social welfare > community legal advice centres & network
web: lsc website > cls > tenders

CLS Direct update

Community Legal Service Direct has launched a free online debt remedy tool and released a timetable for the helpline's new specialist family advice pilot, which is expected to be launched in late summer 2007.

Debt remedy tool

The free debt remedy tool is available on the Community Legal Service Direct website at www.clsdirect.org.uk

The tool directs website visitors to the most appropriate source of information or advice, which might involve seeking specialist advice from the Community Legal Service, contacting a Consumer Credit Counselling Service (CCCS) debt counsellor or completing a detailed questionnaire. The questionnaire is then used as the basis for a personalised debt leaflet and budget management plan. The process is completely anonymous and confidential, and clients are referred to the Community Legal Service Direct helpline for further help if the debt is a disputed or priority debt, such as rent arrears.

The tool was developed in partnership with CCCS, the UK's leading debt charity dedicated to providing free, confidential counselling and money management assistance and advice on dealing with creditors.

The debt remedy tool launch comes at a time when the Community Legal Service Direct website is thriving. The website received over three million visits in 2006-07, with visits in March 2007 at an all-time high. In addition, over one million copies of the *Community Legal Service Direct* and *AdviceNow* information leaflets were downloaded in 2006-07.

The *Dealing with Debt* leaflet was downloaded approximately 3,000 times each month in the past year and the debt-related FAQs are consistently popular, so the new debt remedy tool is sure to become an equally popular resource on the website. The tool will further help Community Legal Service Direct to continue to meet the needs of clients.

Specialist family advice tender

Community Legal Service Direct's helpline speaks to large numbers of people who would like family law advice but specialist family advice is not currently available over the phone.

The LSC has recently concluded a tender process for a family casework service that will become part of Community Legal Service Direct's 0845 345 4 345 helpline.

The family service will initially be a 12-month pilot to test the demand for specialist family advice over the phone. The pilot will determine what type of family problems can be dealt with in this way.

After a competitive tender, the Johnson Partnership Solicitors, O'Garra's Solicitors and Bostalls were awarded three-year contracts to operate the expanded service.

The scheduled date for launching the pilot has been moved back to late summer 2007.

The full CLS Family Advice activity timeline is available on page 25.

Contact & Information

email: gail.cusack@legalservices.gov.uk

web: cls direct website

Developing an IT system for the future

As it moves towards a more e-enabled operation, the LSC is building on the ongoing success of the electronic billing service, LSC Online. The LSC is working with Oracle, a world leader in business software, to develop information technology systems to support key projects and initiatives such as the eBusiness strategy.

Under the Unified Contract, all providers with an active civil contract must be submitting claims for controlled work electronically by 1 October 2007. This is part of the LSC's strategy to move towards a more e-enabled operation, building on the ongoing success of the electronic billing service, LSC Online.

What is the system designed to do?

There will be a number of improvements to the online systems that providers use. When fully implemented, these improvements will offer:

- the ability to maintain your own reference and contact data, giving you greater control over its accuracy
- immediate and automatic calculation of fees, including an indication of whether it may be 'exceptional'
- improved validation of submissions, making it easier to accurately report case outcomes and make claims
- the ability to view your performance against Key Performance Indicators (KPIs)
- the ability to view your most recent financial statement
- an electronic notification system, through which you will receive immediate information on key activity relevant to your contract
- the facility to control user access to key information such as contract and KPI information within your offices.

Further information on implementation plans and timelines will be provided as soon as it is possible to do so.

How will your system link in?

An iSupplier portal will be the single point-of-access to all these features and the LSC is working with vendors of electronic case management systems (ECMS) to ensure that your internal systems are compatible. Interim specifications have already been published and are available on the LSC website (search for 'ECMS'). The interim specifications provide a good indication of the requirements but it is recommended that you consult with your software vendor on the flexibility of an ECMS to meet any potential additions or changes following publication of the final specifications.

Will training and support be available?

The LSC has commenced work to make sure that support will be available to help manage your transition to this new system and use it effectively. This support will be available before, during and after implementation. All efforts are being made to ensure that the system is as user-friendly as possible.

In the coming weeks, the LSC will contact all existing users of LSC Online to communicate specific information on the transitional arrangements. These arrangements will be kept as simple as possible and will include the creation of specific system roles (with associated responsibilities and access rights).

All providers are asked to keep their submissions up to date as this will ensure accurate calculation of account balances and assist with the transition to the improved online system. Online billing is a key part of the LSC's eBusiness strategy and it plays an important role in plans to streamline processes for the benefit of contracted providers and the LSC.

If you are not currently a user of LSC Online, visit the LSC website and register now to start enjoy the advantages of LSC Online.

Further information will be provided through the *LSC Update*, on the LSC website and in future issues of *Focus*.

@ Contact & Information

web: lsc website > cls > electronic billing > LSC Online > support and contact information

The National Mental Health Unit

Centralising mental health work has led to a change in work practice for some providers.

Whilst applications faxed to the Mental Health Unit are accepted, providers should note that a large volume of applications is currently being submitted.

The Unit has a turnaround time of 48 hours, so only urgent applications should be submitted by fax. As 'urgency' will vary from case to case, please call before faxing an application to alert the Unit to your urgent application. If your extension is dealt with by fax, do not send a hard copy.

If more information is required to deal with your application, a representative from the Unit will attempt to contact you by telephone. It will usually be possible to gather the information over the phone although you may occasionally be asked to fax through additional information.

If you have been asked to provide more information and the additional information is not provided within 48 hours, then your application will be dealt with as it stands. This may mean that the application is refused or granted only in part. The application will be rejected if it is procedurally incorrect, for example if the form has not been signed.

The Unit's decisions are carefully considered in accordance with the contract, and a consistent approach is adopted at a national level when dealing with all mental health cases. As such, the Unit aims to ensure that all applications to extend the upper cost limit are made in accordance with the contract rules and associated guidance.

@ Contact & Information

tel: 0151 242 5256 Merseyside Regional office
0115 908 4280 Midlands (Nottingham) office

News in brief

LSC Annual Report 2006/07

Building on our success in 2005/06, this year the LSC hit 12 out of 13 corporate targets and providers helped even more people with civil legal problems. The LSC's key achievements during the year included funding over 2.5 million acts of assistance, delivering nearly 800,000 Legal Help acts of assistance through CLS providers and delivering 1.6 million acts of assistance through CDS providers. The LSC also consulted extensively with providers to set the way ahead for legal aid, and commenced implementation of the transformation programme. Sir Michael Bichard, Commission Chair, felt that 2006/07 proved to be another demanding but extremely productive year. He said, "The challenges are great, but the opportunities that present themselves are equally significant." The Annual Report 2006/07 is available on the LSC website.

Gender Equality Scheme published

The LSC is committed to promoting equality and tackling discrimination on any ground including age, disability, gender, race, religion and belief and sexual orientation. As part of its commitment to gender equality and meeting its duty under the Sex Discrimination Act 1975 (as amended by the Equality Act 2006), the LSC has published its *Gender Equality Scheme*. This sets out the actions that will be taken to promote gender equality for legal service providers, the clients they serve and for LSC staff. Working towards gender equality is an ongoing process and the organisation's performance will be reviewed against the action plan at least annually. The action plan is an evolving document and it will be kept updated as actions are completed and new ones are identified. The *Gender Equality Scheme* and action plan are available on the LSC website. Feedback on the scheme and action plan are welcomed. Please contact Kirstie Adams, Equality & Diversity Manager, Preferred Supplier & Provider Support, DX328 Lon/Ch'ry Lane WC2 or by email to kirstie.adams@legalservices.gov.uk

LSC Public Meeting 2007

The LSC's Public Meeting is scheduled to take place in Leicester on Wednesday 12 September 2007. A wide range of stakeholders, such as legal aid clients and people interested in learning more about legal aid, are invited to attend. The LSC Public Meeting provides a great opportunity to meet the people who run legal aid, to ask questions about the legal aid scheme and to learn more about the LSC's vision, aims and objectives. The event will also explain how legal aid helps people, and invite feedback on how to involve users in developing legal aid services. For more information on the 2007 Public Meeting, visit the LSC website.

DX address change

The LSC's DX address for Exchange Tower has been changed from DX 170 Chancery Lane to DX 100170 Docklands 2. This change applies to London Regional Office, Operations, National Immigration & Asylum team, Direct Services and Service Delivery Support.

Mental Health Review Tribunal offers secure mail service

In a move that will be welcomed by all, the LSC has received news that the Mental Health Review Tribunal will soon be offering a secure email service through the Criminal Justice Secure Mail.

When the service is fully operational, all solicitors, barristers and hospitals dealing with the Mental Health Review Tribunal (MHRT) England will be able to send and receive restricted and sensitive information via email. It is hoped that the scheme will reduce the paper exchange between offices and increase the speed of communication between solicitors' firms and the public sector.

Although the final deadline for going live is 1 January 2008, the MHRT will be rolling out the service in each of its seven regions on different dates over the next six months. Up-to-date information on the timetable for rollout in your region can be found on the MHRT website.

In order to take part in the scheme you will need to have a secure internet account. If you do not have one already, you can set up one up free of charge with the Criminal Justice Secure Mail (CJSM) service. Once your account is set up, you will be able to use it to deal with MHRT proceedings and other legal work, including dealings with the criminal justice system.

Applying for the CJSM service online is easy, and your IT systems or office manager can start the process at any time by visiting the CJSM website.

You will also need to let the MHRT England know that you wish to communicate with them by secure email. To do this, simply complete the secure internet form for solicitors, which is available on the MHRT website, then send the form together with your email address to the address listed below.

@ Contact & Information

web: www.mhrt.org.uk and www.cjsm.net

email: implementation.team@mhrtengland.cjsm.net

"Applying for the CJSM service online is easy, and your IT systems or office manager can start the process at any time by visiting the CJSM website."

Legal rep pleads guilty to legal aid fraud

A legal representative at a Nottingham firm pleaded guilty to 14 offences of fraud and false accounting on fraudulent legal aid claims amounting to £16,000.

On 9 March 2007, Paul Jackson was sentenced to six months imprisonment.

In the lead up before charges were laid against him, Mr Jackson misled his employers into believing that he was attending meetings with legal aid clients. He later submitted legal aid claims to that effect and claimed travel expenses and overtime. Mr Jackson was eventually found by police in a pub when he was supposed to be meeting a client.

In sentencing, the judge said that Mr Jackson was "in a position of trust" when he carried out the offences. The judge therefore said he had no option but to send him to prison. "It would send the wrong message out if a white collar worker like you got away with it while others who do this do not."

The LSC will not tolerate any fraudulent activities and when fraud is discovered, immediate action will be taken.

In this case when the firm became suspicious of the legal representative they alerted the police and contacted the LSC.

This case emphasises the need for firms to be alert to the possibility of fraud by their employees and to act appropriately. There is no substitute for good active supervision. Firms should also make sure that they have appropriate fraud policies and response plans in place so that staff know what to do if they suspect someone is acting fraudulently.

While the incidence of legal aid fraud is relatively minor, anyone suspecting fraud within the legal aid fund should immediately inform the LSC's Head of Special Investigations using the contact details below.

@ Contact & Information

post: LSC, Exchange Tower, 2 Harbour Exchange Square, London, E14 9GE

Late claims for payment of VAT

Over the lifetime of the General Civil Contracts, the LSC has been asked to pay VAT by providers after submission of a final claim, either due to a one-off problem or because the provider was not properly VAT registered. In many cases, this was due to a misunderstanding by providers on how the VAT rules applied to them.

The purpose of this article is to raise awareness of this VAT issue and bring to the attention of all providers the provision in the Unified Contract which states that the LSC will generally only pay late VAT claims where there has been a one-off clerical error.

LSC and VAT claims

The LSC will pay VAT included in amounts claimed dependant on the tax status of the organisation making the supply. However, the onus is on each individual provider to determine if and when to register for VAT and what supplies are subject to VAT.

The VAT rules also apply to Not-for-Profit suppliers (NfPs), however the key question is whether or not an activity is a taxable supply. If that activity is a taxable supply then the organisation may have to register for VAT, which is itself dependent on the organisation's total income from taxable business activities. If you have any doubts concerning your VAT status, contact your local VAT office.

Unified Contract

As all providers are aware, the Unified Contract brings both solicitor and NfP organisations on to the same standard terms. With regard to late VAT claims, the provision in the Unified Contract is similar to that in the General Civil (Solicitors) Contract, and suppliers and NfPs should familiarise themelves with Clause 16.3 as set out below:

"If your claims properly include a sum to cover VAT, we will include the VAT sum in our payments to you. If you omit to claim a sum to cover VAT and seek to claim it from us later, we are not obliged to pay it, but will do so where an occasional clerical error has caused the VAT sum to be omitted from a claim."

The LSC is not legally required to pay any provider's late VAT claim, and whilst each claim sought shall be considered on its individual facts, the presumption under the Unified Contract is that a late claim shall not be paid unless it is clearly due to a one-off clerical error.

Further information on the Unified Contract is available on the LSC website.

@ **Contact & Information**

web: lsc website > cls > the unified contract

LSC business process change

The reform programme will bring significant changes not only for providers, but also to the LSC's internal administration processes.

The LSC's structure is under review as the organisation moves to become leaner, more effective and completely focused on clients.

To achieve this and improve consistency, all business processing work will be moved to three Business Delivery Centres (BDCs). Operations staff who deal with the legal, means and finance work from each regional office will be assigned to one of the three BDCs. Each BDC will absorb the work from its assigned regional offices gradually between now and 2010-11.

Telephone contact centres in Manchester and Bristol are also being piloted and evaluated. Each contact centre has dedicated, fully trained staff and enhanced call-monitoring technology to provide a high quality telephone service.

In addition, the Leeds operations team has moved away from traditional business processing work to concentrate solely on national finance resolution activity.

All contract management activity will continue to be carried out through the regional office structure. Any contracting queries should be directed to regional offices as usual.

Providers will be notified of changes to business processing that affect them, and providers already affected have been informed. A guide entitled *Where your work is processed* explains where work should be sent, and is available from the LSC website.

Business Delivery Centres		
Liverpool	**Newcastle**	**Nottingham**
Chester	Birmingham	Brighton
Leeds	London	Bristol
Manchester	Reading	Cambridge
		Cardiff

@ **Contact & Information**

web: lsc website > cls or cds > forms

Criminal legal aid point of principle

A point of principle of general importance is a decision made and certified by the Cost Appeals Committee relating to an issue on claiming or conducting work under civil or crime contracts.

Point of principles (POPs) tell the LSC's bill assessors how to interpret contract rules for assessing provider's claims and files.

All current POPs, along with associated guidance, are published in the Points of Principle Manual, which is available on the LSC website. New POPs and any necessary guidance are published on the LSC website as they arise and in the LSC Manual.

The following new Point of Principle for criminal legal aid clarifies the position with regard to claiming for post-charge police station work under the General Criminal Contract.

CRIMLA 77 Claiming for post-charge work carried out in police stations

Decision no: CRIMLA 77
Date: 4 May 2007
Point of Principle: Firms have a choice as to how to claim for work carried out after charge in the police station, either on the representation order or as part of the police station claim. The wording in the guidance in the Criminal Bills Assessment Manual was permissive rather than prescriptive ('may' rather than 'must') because in cases where there is a change of solicitor, it will only be possible to claim under the work type which that firm has carried out. In different cases, this may be either the investigations class or proceedings.

@ Contact & Information

web: lsc website > pay rates and schemes > guidance on fees and funding

Proceeds of Crime Act 2002

This article offers further clarification about available funding both before and after charge, and for ancillary matters relating to enforcement of confiscation orders after conviction.

Funding before charge

If a client is under investigation for a matter which is likely to lead to charges being laid, Advice and Assistance is available under the Criminal Investigations Class of Work until the client is charged with an offence.

If the prosecution make an application to the Crown Court for a restraint order (before any substantive criminal proceedings have started or whilst those proceedings are still in the magistrates' court), civil legal aid funding may be available, subject to the civil means and merits test. These applications fall within paragraph 3 of Schedule 2 of the Access to Justice Act 1999.

Legal Help covers work excluding representation at court. To pay for representation in the Crown Court, an application should be made for a civil legal aid certificate from the London Regional Office using the CLSAPP1 form. Emergency certificates may be granted in some circumstances. The client will have to satisfy the civil means and merits test in order to be eligible. Where the opponent is the Assets Recovery Agency, applications for funding should be sent to the Special Cases Unit. For further guidance on the scope of civil funding under the Proceeds of Crime Act 2002, see section 23 of the LSC Manual Volume 3, Part C. Suppliers with a CDS Contract may do this work under the Associated CLS Part of the General Criminal Contract.

Post-charge funding

Regulation 3(3)(c) of the CDS (General)(No.2) Regulations 2001 provides that confiscation and forfeiture proceedings in connection with criminal proceedings are to be regarded as incidental to the proceedings from which they arise, and so are treated as criminal proceedings for funding purposes. Regulation 4 of the CDS (Representation Orders and Consequential Amendments) Regulations 2006 provides that a representation order granted for the main criminal proceedings extends to incidental proceedings. It follows that if there is a representation order in place for the main criminal proceedings, this will cover the confiscation/restraint proceedings. Conversely if there is no longer a representation order in place, an application for a fresh representation order should be made using the CDS14 form to the appropriate court.

Confiscation Order Funding (for a certificate of inadequacy)

Under the Proceeds of Crime Act 2002, an application for a certificate of inadequacy is made to the Crown Court making the confiscation order. If the existing representation order has not been discharged, then the application may be made under that representation order. If there is no representation order in place then a fresh application for a representation order should be made using the CDS14 form.

Where a confiscation order has been made under the Drug Trafficking Act 1994 or the Criminal Justice Act 1988, an application for a certificate of inadequacy is made to the High Court. An application for a representation order should accompany the application for a certificate of inadequacy and be made using the CDS14 form. Where the client is not exempt from the court fee, an application can be made for remission. More information is available on Her Majesty's Courts Service website at www.hmcs.gov.uk

Civil recovery of assets

Applications under Part 5 of the Proceeds of Crime Act 2002 concern civil recovery of the proceeds of unlawful conduct, and CDS funding is not available. However, civil funding may be available subject to the client satisfying the means and merits test. The table on the facing page consolidates previous information contained in Focus 15 (August 2004) and Focus 17 (April 2005).

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web: lsc website > cls or cds > forms

Advocate Graduated Fee Scheme revisions

Advocates (barristers and solicitor advocates) now have a revised fee scheme for representation orders granted by the courts on or after 30 April 2007.

The background and details of the actual revisions can be found on the National Taxing Team website. Her Majesty's Courts Service (HMCS) are now processing claims for the new fees.

The CREST IT system was updated on 13 August 2007 to cover the Advocate Graduated Fee Scheme revisions.

Outstanding claims

Any outstanding claims that were received before 13 August 2007 are currently being processed.

An HMCS e-bulletin has been sent to court staff outlining how court staff are to manage the outstanding claims.

New claim form available

A new claim form has also been produced by the LSC to allow instructed solicitor-advocates and advocates who do not have access to Bar IT software to claim the revised fees. The form is available on the HMCS website.

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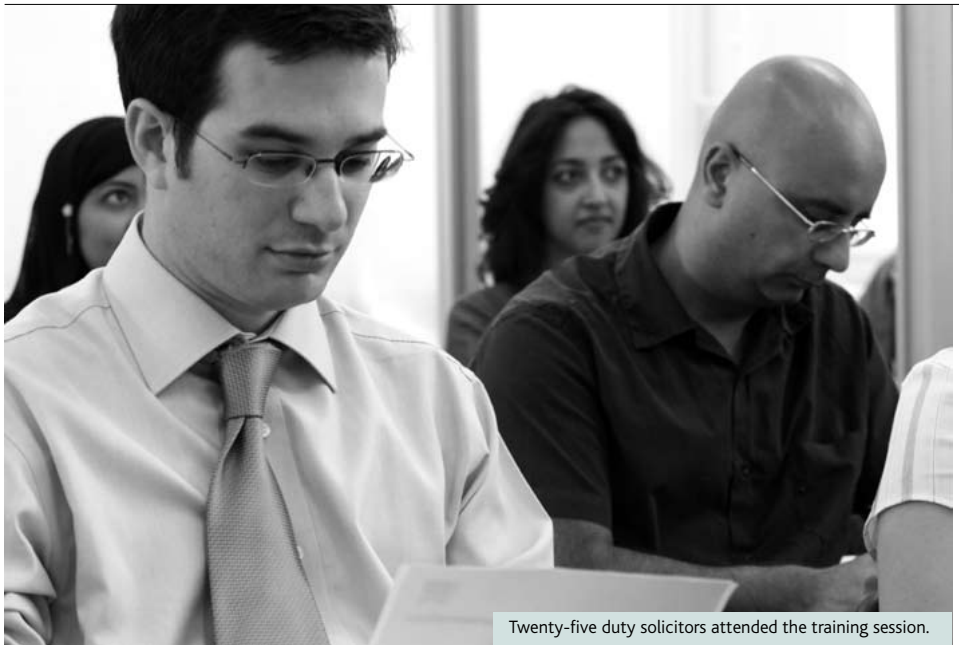
web: www.hmcourts-service.gov.uk

Available funding for ancillary matters relating to enforcement of confiscation orders after conviction.

Is the individual charged with or accused of an offence?	Type of proceedings/ application	Act(s)	Funding
No	Application by prosecution to Crown Court for a restraint order	Section 42 of Proceeds of Crime Act 2002	Civil legal aid. Apply to the London Regional Office using the CLSAPP1 form (can be done under CDS Contract under Associated CLS Work).
Yes	Confiscation, restraint or receivership arising from criminal proceedings	Proceeds of Crime Act 2002	Proceedings are in the Crown Court. As proceedings are considered incidental to the proceedings from which they arise, they are covered by the representation order granted for the substantive criminal proceedings.
No	Defendant's application for a certificate of inadequacy	Proceeds of Crime Act 2002	Application to be made to Crown Court. Apply for fresh representation order if the representation order for substantive proceedings is discharged.
N/A	Forfeiture and other proceedings	Part 5 of Proceeds of Crime Act 2002	CLS Funding is available to resist the application for both defendants and third parties, (Access to Justice Act 1999, Schedule 2, paragraph 3). Means and merit tested. Representation is Licensed Work.
Yes	Confiscation, restraint or receivership arising from criminal proceedings	Criminal Justice Act 1988 and Drug Trafficking Act 1994 (for alleged criminal conduct occurring before 24 March 2003)	Considered incidental to criminal proceedings from which they arise and so covered by the representation order granted in the substantive criminal proceedings. CDS (General) (No.2) Regulations 2001, regulation 3(3)(c). If no representation order is in place, apply on CDS14 for a fresh representation order. Costs are claimed from the LSC (see Focus 15, page 6). If the proceedings are appealed to the Court of Appeal, see regulation 10 of the CDS (General) (no.2) Regulations 2001 about making an application to the Court of Appeal for a representation order.
N/A	Enforcement proceedings in the magistrates' court for confiscation orders	Criminal Justice Act 1988, Drug Trafficking Act 1994 and Proceeds of Crime Act 2002	Fresh proceedings CDS14 to the magistrates' court hearing the matter. Means tested in the magistrates' court
N/A	Defendant's application for a certificate of inadequacy	Criminal Justice Act 1988 and Drug Trafficking Act 1994	Applications for a certificate of inadequacy are made to the High Court. A representation order should be applied for from the High Court using the CDS14 form. Where the client is not exempt from the court fee, an application can be made for remission to reduce the court fee (see Her Majesty's Courts Service website).



Twenty-five duty solicitors attended the training session.

Duty solicitor training for extradition hearings

The LSC and the City of Westminster magistrates' court ran a training session in July for duty solicitors on first appearances in extradition hearings.

It was the first time that this training has been held. The aim was to enable duty solicitors to advise defendants arrested under Part I and Part II of the Extradition Act 2003 (the Act) and to represent them at the first appearance.

City of Westminster magistrates' court is the only court in which extradition hearings take place. The purpose of the training session was to ensure that all defendants are properly represented and that the court is using its time and resources as efficiently as possible.

To give solicitors an overview, the session covered the principles and purposes of the Act, arrest and Part I and Part II procedures.

The training was delivered by Charlotte Powell of the Crown Prosecution Service, Detective Sargeant Gary Flood of the Extradition Squad, and Ravi Dogra and Robert Roscoe from Victor Lissack Roscoe and Coleman Solicitors. A number of court staff were also on hand to offer attendees advice and help.

Twenty-five duty solicitors attended the one-and-a-half hour training session, which qualified for Continued Professional Development hours. The attendees came from a wide variety of firms and had various levels of experience with extradition hearings.

Attendees were very positive about the training and generally thought it practical and informative. One solicitor said the training was "very useful for someone like me who is starting to undertake extradition cases." Another commented, "I can now approach an extradition hearing with a certain degree of confidence, as I now know the basics."

Robert Roscoe who delivered training on Part II of the Act, said that he had enjoyed the evening and thought there was "a good mixture of information available", from legal procedure to best practice.

Lizzie Franey, a Legal Adviser at the court, said, "we were delighted by the number of duty solicitors who responded to the invitation to attend this training evening, which was co-hosted by the City Of Westminster magistrates' court and the Legal Services Commission. The presentations were well received and the questions and discussion that followed confirmed that the audience had really engaged in the event.

"We hope that as a result of this initiative, those who attended and other colleagues to whom information may be cascaded will now feel confident in approaching the task of giving advice to the growing number of people arrested and brought before the court under the provisions of the Extradition Act 2003."

The LSC and City of Westminster magistrates' court consider the event a great success in assisting duty solicitors approach extradition cases with confidence, and will be looking to run another session early in 2008.

@ Contact & Information

email: chantal.beedell@legalservices.gov.uk

Latest news on criminal legal aid means testing

Criminal legal aid means testing ensures that those who can afford to pay for their defence do so, and that the criminal legal aid system offers fair justice at a fair price.

Criminal legal aid means testing also provides for an efficient and sustainable legal aid scheme for the future.

The Criminal Defence Service Act came into force on 2 October 2006, along with the reintroduction of means testing for legal aid in the magistrates' courts. This transferred the responsibility for granting criminal legal aid from the courts to the LSC.

This is a significant trilateral initiative between the LSC, Her Majesty's Courts Service and the Ministry of Justice.

The latest developments are:

- a Post-Implementation Review on the introduction of means testing in magistrates courts is currently underway, and in the interests of transparency and accountability the findings will be published
- the Interests of Justice test is likely to be evaluated in late 2007, with areas being reviewed to include how the test is operationally delivered and the IT and administrative systems supporting it
- the extension of means testing into the Crown Court will be considered during the course of 2008.

To learn more about criminal legal aid means testing and to keep abreast of the latest developments, visit the LSC website.

@ Contact & Information

web: lsc website > cds > getting criminal legal aid > why means testing?

New quality assurance pilot scheme for criminal defence advocates

The LSC and the Ministry of Justice have launched a joint consultation on proposals for a quality assurance scheme for publicly funded criminal defence advocates practicing at Crown Court level and above.

The consultation paper *Creating a Quality Assurance Scheme for Publicly Funded Criminal Defence Advocates* proposes options for a pilot scheme, and is a response to recommendation 5.3 published in *Legal Aid: A market-based approach to reform*:

"*A proportionate system of quality monitoring based on the principles of peer review and a rounded appraisal system should be developed for all advocates working in the criminal, civil and family courts. This system should be developed through a process chaired by a member of the judiciary in partnership with the Bar Council, Law Society, Legal Services Commission and Ministry of Justice to ensure it covers all advocates with relevant rights of audience in these courts. The new quality monitoring system should be developed in the first instance for publicly funded criminal advocates, then for publicly funded family and civil advocates, and ultimately for all advocates. The scheme for publicly funded criminal advocates should be in place by the time the new graduated fee schemes are implemented in the Crown Court in April 2007. The system should be subject to a full regulatory impact assessment before being implemented.*"

Rationale behind the scheme

Responses to the consultation on the report were overwhelmingly in favour of a scheme of quality assurance for advocates. Indeed, the Chairman of the Bar Council has made 'quality' his watchword, commenting that "it is in the [Bar's interests] to be able to show that we provide the highest standards of advocacy and advice." The professional bodies have made a significant contribution to the development of the consultation proposals.

By placing quality at the heart of the provision of all publicly funded legal services, clients can be assured that the quality of service they receive is guaranteed, the justice system benefits from competent and dedicated practitioners, and the wider public can be confident that the system is delivering a quality service for taxpayers' money.

Following publication of *Legal Aid: A market-based approach to reform* in 2006, a working group was established and chaired by Lord Justice Thomas and Amanda Finlay, Director of Legal Aid Strategy at the Ministry of Justice. Representatives were drawn from the LSC, Judiciary, Bar Council, Bar Standards Board, Law Society, Solicitors Regulation Authority, Institute of Barristers Clerks, Crown Prosecution Service, Ministry of Justice and the Institute of Advanced Legal Studies.

The consultation paper details options for a pilot scheme. These options were drawn substantially from discussions at the working group and at two 'walk through' sessions at which a wider group of practitioners convened to discuss the finer detail of how the options might work in practice. Views are sought on the options and following consultation, the pilot will be constructed and launched.

All options remain open and the pilot will explore how best to deliver a 'light touch' scheme that does not compromise the credibility and robustness of the quality assurance processes. The pilot will therefore test a number of possible arrangements and processes to ensure that the final product is, as far as possible, proportionate, independent, robust and affordable for the professions.

The pilot

It is anticipated that the pilot will run for a six to 12-month period within two or three regions (including London). Following the pilot there will be a further consultation on the proposed full scheme.

Who will the scheme apply to?

The full scheme will apply to all publicly funded criminal defence advocates – both barristers and solicitors, self-employed or employed, and practising at Crown Court level and above.

It is anticipated that after the scheme is implemented, evaluated and reviewed, it will be adapted, where necessary, to apply to all publicly funded advocates.

How and what will be assessed?

It is anticipated that the scheme will assess all advocacy work both in and out of court. Assessment will be based on a competency framework that directly applies to advocate work, and will result in a particular grade for each advocate. The competency framework is based on the Queen's Counsel competency framework, which was jointly developed by the professions and the (then) Department of Constitutional Affairs. Assessment of competence could cover legal knowledge, case management, client service, accurate and timely advice, and effective interaction with other agencies in the criminal justice system, as well as the quality of advocacy in court.

The duty could be on the individual advocate to ensure that the necessary evidence is collated to enable an assessment of competence. Such evidence may include a simple, criteria-based assessment of in-court performance by the judiciary and other court professionals. It may also consist of written material that is already produced within the advocates role, and evidence from existing processes such as Specialist Quality Mark, the Quality Mark for the Bar and Bar Mark.

Who should assign levels of competence?

There has been some debate about whether chambers should be responsible for the assessment of their own advocates. This assessment process is likely to be far less costly and administratively burdensome than delegating the responsibility to a third party. However, an essential ingredient to any robust quality assurance scheme is that the process of the assessment is independent, consistent and not open to allegations of bias or favour.

One way of ensuring robustness and independence could be to create co-operative panels consisting of experienced advocates nominated by chambers and solicitors' firms, which could then assess the quality of advocates outside of their own practice and region. It is possible that the pilot will test both proposals in its search for the most effective and efficient scheme.

Contact & Information

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"Trust me. I'm a lawyer." Outreach advice and the integration of public services

Pascoe Pleasance
Director of Legal Services Research Centre, Legal Services Commission and Professor of Legal Studies, University College London

Introduction

The English and Welsh Civil and Social Justice Surveys (CSJS) indicates that around ½ million problems involving rights are met with inaction each year, and only slightly fewer involve unsuccessful attempts to obtain advice. Although many problems are unaddressed for good reason, the majority are not. Where attempts to obtain advice fail, simple access problems such as opening times and queuing are common. One in seven people who take no action to deal with problems attribute inaction to a lack of knowledge about rights or sources of assistance. A further one in five attribute inaction to a fatalistic sense that action will make no difference. A suggested factor in this fatalism is the frequent 'unfavourable balance of power' that commonly exists between parties to rights problems, such as financial, political or physical. Individuals point to the negative 'lessons of past experience' that can act to invert the traditional view that 'repeat players' hold an edge in dispute resolution. Rather than experience acting to consolidate power, it can instead act to undermine it.

Giving effect to rights

A number of approaches might be taken to empower people to more effectively respond to rights problems. One approach might be to promote more effective public legal education; the subject of recent review by the PLEAS Task Force. The possession of rights is meaningless if people are unaware of their existence or of the means through which they can be effected. However, improving understanding is a daunting task. Civil law, especially advice and process, does not feature prominently in the National Curriculum. Broader public education programmes must compete with the vast array of (sometimes inaccurate or misleading) information emanating from the media and other sources. They must also overcome sometimes deeply entrenched misunderstanding of rights, such as the continuing myth of 'common law' marriage. Changing behaviour is an even more daunting task. People's decision-making processes are subject to many factors beyond understanding. Public legal education, within the resources likely to be available, can only be expected to bring about limited change.

Another approach might be to raise awareness of rights problems and advice sources among professionals with routine contact with vulnerable people. This could help promote 'problem noticing', signposting and referral to appropriate advice. Of course, the effectiveness of problem noticing, signposting and referral relies upon the effectiveness of systems that remain problematic. Also, simple awareness raising is unlikely to bring about substantial change in the behaviour of often already stretched professionals.

Reaching out and fitting in

Advice services should mirror the behaviour and capacity of those people who wish to use them, and in so doing be physically and intellectually accessible. Awareness of rights is useful only in so far as people have capacity to act on it. Provision of advice is useful only if people think, and are able, to access it. While public legal education and problem noticing are integral to efforts to extend access to justice, a further approach to enabling people to better defend their rights is to improve the accessibility of legal advice. One way to do this is to take advice to those who need it, rather than hoping that they will look for, locate and make use of already existing advice sources. Advisers are seeking increasingly (and being encouraged) to provide services well outside of their traditional office walls. This is particularly apparent in the case of outreach into health services. Both the National Health Service and the civil justice system have an interest in promoting seamless services for patients and clients, and there has been much co-ordination in recent years. Citizens Advice Bureaux (CAB) now provide outreach services in over 1,000 health settings. From a civil justice perspective, health services present a door to all parts of the community. Rights problems are also more prevalent among those with a long-term illness or disability.

The benefit of co-location of legal and health services has recently been explored. Ease of referral, continuity of care, understanding of roles between professionals and clear boundaries in casework all enhance the ability of services to reach a wider population and provide 'holistic' assistance.

Importantly, co-located services can improve accessibility for clients and, where professionals are trusted, improve attitudes towards services. This is especially important in the case of services aimed at the most vulnerable. As a recent Government report stressed, services aimed at such people are best provided 'around strong and persistent relationships with those at risk'.

Other outreach locations and forms of outreach continue to be developed. However, co-location of advice with other trusted public services has an

important advantage over other forms of outreach service. Co-location is most able to benefit from existing trust towards partner services.

Trust as currency: Evidence from the Money Advice Outreach Pilots

New evidence is now emerging of the importance of location to physical outreach services, and of the key role of 'trust transfer' in effecting referral between professionals. This stems from the Money Outreach Advice Pilots Evaluation.

The first phase of this evaluation explored the potential demand for, and attitude towards, money advice services in five different types of outreach location: prisons, family and children centres, credit unions, housing offices and community centres. While the evaluation concerns only money advice, the findings have a general bearing.

One in seven people who take no action to deal with problems attribute inaction to a lack of knowledge about rights or sources of assistance.

Outreach locations were observed to vary (within and between types) in terms of factors including number and demographics of visitors, frequency of visits, timing and purpose of visits, facilities, problem incidence and attitudes to advice. All these have a bearing upon suitability for outreach advice, as well as the form and management of advice. So, for example, visitors to family and children centres tended to have children with them, which places a constraint on the potential for spontaneous advice. While it is possible to adapt services to meet these difficulties, their existence demonstrates that outreach locations need to be carefully selected.

Ultimately, all location types were found to be frequented by people whose demographics indicated a greater tendency towards exclusion and visitors were positive about accessing advice there. Eighty-two percent of non-prison visitors described themselves as 'very' or 'fairly' likely to access outreach advice if problems arose in the future. This is against a background of 31% of non-prison visitors having obtained no advice from any source for current problems, 16% stating that they needed advice, and around half being unaware of local solicitors or CABx. Outreach visitors drew attention to locations being accessible and convenient, familiar and friendly. Importantly, financially excluded visitors specifically mentioned that they associated locations with trust and quality. Managers were seen as gatekeepers to on-site activities.

In light of the fact that the pilot locations were frequented by individuals from hard-to-reach groups – who often faced problems, were frequently unaware of local advice services, wanted advice and looked favourably on the idea of receiving it through the outreach locations – the first phase of the evaluation concluded that the locations were well-suited to outreach advice.

Conclusions

Improving levels of access to justice, supporting the rule of law and promoting social and financial inclusion are all stated aims of the current Government. They are, though, aims that are difficult to realise in the real world of budget constraints, competing interests and social inequality. However, it remains the case that too many people leave serious problems unaddressed or fail in their attempts to obtain advice.

Public legal education, increased awareness of rights issues among professionals and outreach advice services all have a role to play in improving matters.

The benefits of outreach services are becoming increasingly apparent and evidence is now available that can help guide the development of such services. Beyond co-location of rights advice with other services, more general co-location of public services would also appear to offer many potential benefits. However, until a more integrated approach to funding can be developed, such services will run the risk of falling between fiscal gaps. A first task, then, is to maintain the development of outreach advice in an array of locations. When the development of such outreach reaches maturity and is shown to be cost-beneficial, then maybe the stage will be set for even greater ambition.

Tailoring delivery of legal aid services to those who need it most

Crispin Passmore
Director, Community Legal Service

Pascoe Pleasance's article giving an abridged version of his forthcoming publication offers much food for thought in terms of how advice should best be delivered to clients in the future. Indeed, in order to do this effectively both the LSC's method of buying services and providers' ideas on the delivery of advice will need to adapt to meet client need.

The LSC is already changing the way it works in order to be responsive to clients. I am increasingly keen that the money we spend buys services that meet identified need in a specific area, rather than funding services that providers wish to deliver in the geographic locations that are convenient for them. An example of how we're making this work in practice is through the delivery of advice through Community Legal Advice centres and networks. The first such centre was launched in Gateshead in May and the tender process for further centres in Derby and Leicester have been launched. By joint funding with local authorities we will increase services available to clients at the point they initially seek advice – making sure we build on local authorities' knowledge of local priorities and linking delivery into the pattern of complementary services in that area. Through this approach clients can also access legal and other complementary services.

Our task is to ensure that legal aid providers are free to work out the best way to reach particular client groups and accountable for succeeding in delivering what Government wants.

The challenge for providers in meeting client need will be to consider where and how they deliver legal advice in their area. This will mean continuing to develop their services based on an increased understanding of the profiles of priority clients and how the delivery of advice to different client groups can be tailored – for example, the elderly and young people are likely to need to access advice in very different ways, as may clients with physical and/or mental health problems. Development must also consider where legal advice services could be located to increase access to advice by clients. The delivery of advice in different ways and in different venues does not need to be more costly to providers than office-based services. For example through careful time and client management, providers can ensure that time spent delivering outreach is productive and of course it can reduce the reliance on expensive centrally located office space.

Through the careful selection of outreach at locations that hard to reach clients already go to and trust, providers can help to educate clients and those people who work with them. Through the delivery of advice in the community, such as through GP practices, women's centres or refuges, clients and problem noticers can be helped to understand where there may be a judiciable problem, to acknowledge that legal advice may help, and to know where help can be accessed. This approach may also help improve referrals and signposting between legal and other services, and help clients access the right advice early to stop problems escalating.

Our task is to ensure that legal aid providers are free to work out the best way to reach particular client groups and accountable for succeeding in delivering what Government wants. For example, as we look to expand community care advice into areas that currently have little or no access, we expect providers to deliver in places that potential clients already go. These might include GP surgeries, mental health day centres or disabled living centres. Delivering through these locations will ensure that services are quickly delivered to the clients that need advice and who are often unaware that legal advice may help with resolving their particular problem – be it receiving a full needs assessment or getting appropriate services after a stay in a mental health unit.

It is only by the LSC being clear about what it expects to be delivered and providers being clear about how they will reach priority clients that legal aid can provide the access that we all aspire to.

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), section 5 of the Funding Code Decision-Making Guidance in Volume 3 of the LSC Manual, and on the LSC website.

Summaries of Panel reports are no longer included in the Manual. They are however available on the the LSC website under cls > Guidance on our decision making > Public Interest Reports. New reports will continue to be published in Focus. Summaries of cases considered by the Panel are contained in Focus 32 to 53. A summary of the cases that have been referred to the Panel since publication of Focus 53 is set out below. These are taken from the full reports of the Panel but omit 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 07/372

Nature of Case

Claim under the Human Rights Act (HRA) in respect of the delay by a local authority in instigating care proceedings or otherwise taking steps to identify and meet the care needs in respect of a child the authority was looking after pursuant to s 22 of the Children Act 1989.

Report of Panel

This case had been adjourned from the previous meeting in order for the applicant's representatives to address the questions of: Why the guidance concerning 'looked after' children sought within the HRA claim could not be provided from within the ongoing care proceedings; and What was likely to be the practical effect of any guidance obtained. The Panel were greatly assisted by the attendance of leading counsel on behalf of the applicant. In relation to the first question, there was a fundamental difference in purpose of the care proceedings, which looked prospectively at how the applicant's needs should now be met and the HRA claim, which looked back at the way the applicant had been treated whilst she had been 'looked after' by the local authority. To seek the guidance from within the care proceedings would be a distraction from the task of identifying how to meet the applicant's complex care needs. Conversely, were the HRA claim to fall away, it was unclear to what extent the care proceedings now brought by the local authority would be contested. On the second question, attention was drawn to the historical importance of guidance judgments in the development of practice and procedure under the Children Act and the present case was an opportunity for such a judgment in relation to accommodation, under s 20 of the Act, of children with care issues. The Panel concluded that this case comprised particularly severe circumstances, which nevertheless were representative of a basket of common problems across England and Wales for children in voluntary accommodation under s 20 of the Children Act 1989. There is a potential HRA claim that will examine the past history of this child to produce a guidance judgment of real impact to the practice of Independent Reviewing Officer's and local authority use of voluntary accommodation. The Panel felt that this would be an important outcome not only for the applicant but other claims raising similar issues.

Conclusion

Significant Wider Public Interest
Rating: High

PIAP 07/374

Nature of Case

Proposed appeal to the House of Lords by an asylum seeker in respect of the Dublin Convention and administrative delay by the Home Office.

Report of Panel

In the circumstances of the case the Panel felt this would not get a clear and effective ruling from the House of Lords. Authorities on the general principles of administrative delay already existed, and this did not appear to be an appropriate case to develop that position. The narrow scope of the Court of Appeal judgment, which had held that the evidence that Article 8 rights had been established should have been put before the original judge, meant that the appeal might succeed on that issue without creating an effective precedent on the general question of delay. The Panel also noted that the recent House of Lords decision in Huang v Secretary of State for the Home Department; Kashmiri v Secretary of State for the Home Department [2007] UKHL 11 meant that future applicants would face a less onerous task in appealing on convention grounds refusal to leave or enter the UK.

It was noted that there was no clear evidence of the numbers likely to be affected by a successful outcome. The Panel was not satisfied that, on the facts of this case (the applicant having since voluntarily left the UK), that there was a potential for achieving significant benefit for others.

Conclusion

No Significant Wider Public Interest

PIAP 07/375

Nature of Case

Claim by applicant against a money transfer agent and court appointed receiver.

Report of Panel

The Panel noted that many people transfer money via agents using the well-known and long-established 'hawala' system. Whilst the Panel considered that the issues raised by this case could in principle be of wider public interest, the Panel felt that it would be rare for this particular scenario to arise, in that the applicant would have to be in the position where their transfer agent was investigated, and had their assets frozen. There would then have to be delay on the part of the applicant in taking steps to recover their money, whilst in the meantime the applicant's money is consumed by the transfer agent's overdraft. The Panel also noted the cost benefit criteria was no longer met. The Panel considered that, given that any other claims in relation to this issue would be limited, they concluded that there was no significant wider public interest.

Conclusion

No Significant Wider Public Interest

PIAP 07/376

Nature of Case

Claim by applicant under Article 5 of the European Convention on Human Rights against the Mental Health Review Tribunal (MHRT) for an alleged delay in failing to implement a deferred conditional discharge.

Report of Panel

The Panel noted that the applicant remained detained in hospital for twenty-seven days after the date upon which the conditions for his discharge were accepted as being met because of delays in the clinical team's receipt of appropriate signed documentation from members of the MHRT. The Panel accepted that, particularly given the numbers of conditional discharges (approximately 75 per year), the case raised a novel issue of general importance in challenging a delay to release from hospital detention, apparently arising from bureaucratic reasons.

Conclusion

Significant Wider Public Interest
Rating: Significant

PIAP 07/377

Nature of Case

Claim by applicant against an airline and airport under Part III, Sections 19-21, of the Disability Discrimination Act 1995 (the Act) in respect of a delay in providing wheelchair assistance to take the applicant from the plane to the airport.

Report of Panel

The Panel noted that there were relatively few cases relating to Part III of the Act. The Panel considered that potentially there were wider issues raised in clarifying the duty of both the airline and the airport. The Panel expressed concern at the issues raised by the Defence of the first defendant, in particular the argument that the applicant had not been treated less favourably than a person who was not disabled under s 20 of the Act since the provision of a wheelchair was not a service that a person who was not disabled would require. The Panel considered that the case could achieve significant benefits in challenging the policy of the first defendant, given the potential for publicity to be generated. However, the Panel also expressed the view that the applicant's representatives should consider referring the case to the Disability Rights Commission for them to consider funding or mediating in the case.

Conclusion

Significant Wider Public Interest
Rating: Significant

PIAP 07/378

Nature of case

Claim by a disabled rider under the Disability Discrimination Act 1995 against a provider of unescorted Duke of Edinburgh horseback expeditions.

Report of Panel

The Panel recognised the importance generally of ensuring that duties under the Disability Discrimination Act should be enforced irrespective of the size of the service provider, and considered that this case appeared to have reasonable prospects of success. However, the size of the group likely to benefit from this case had not been identified. It was not clear whether the effect of a successful outcome was likely to extend beyond potential clients of the particular defendant in this case, nor in any event had any indication been given of the likely numbers of disabled riders who would to seek to join an expedition of this type. More generally, it could not be assumed that a successful outcome would generate sufficient publicity to deter discrimination in the service sector as a whole. Accordingly, the Panel was not satisfied that the case had significant wider public interest in terms of section 5.7 of the Funding Code.

Conclusion

No Significant Wider Public Interest

PIAP 07/381

Nature of Case

Claim by applicant against the Secretary of State under Articles 3, 5 and 8 of the European Convention on Human Rights (ECHR) in respect of alleged delay in deporting the applicant and the length of time the applicant was detained as a result.

Report of Panel

The Panel noted that this case appeared to involve an allegation of two periods of delay: first, in not processing his application to be deported under the Early Removal Scheme before he became within fourteen days of his Conditional Release Date and no longer eligible for deportation under that scheme; second, after he had served the requisite period of his sentence, in not taking steps to deport the applicant although he had not appealed against his deportation and had, in fact, requested that it be expedited on compassionate grounds.

The Panel considered that a clear public interest arose in respect of the former period. It was in the interests of society as a whole for the Early Release Scheme to be implemented properly, both to avoid a breach of prisoners' rights under Article 5(1)(a) ECHR and to ease prison overcrowding generally.

Conclusion

Significant Wider Public Interest
Rating: Significant

PIAP 07/382

Nature of Case

Proposed appeal to the House of Lords in a claim against former employer for damages following of the applicant's contraction of asbestos induced pleural plaques.

Report of Panel

The Panel noted that at least 1,000 claims for compensation per year were said to made in respect of pleural plaques; that the Court of Appeal had, by a majority, overturned a 20 year-old authority in finding that pleural plaques cannot found a cause of action; and that the importance of the issues had been recognised in permission to appeal to the House of Lords having been given.

In these circumstances the Panel could see no basis for questioning the significant wider public interest of these cases. The fact that other claimants were also involved in the appeal was a matter for the Commission to take into account in considering other criteria and procedures in relation to funding, but did not affect the wider public interest of the appeal.

Conclusion

Significant Wider Public Interest
Rating: High

PIAP 07/383

Nature of Case

Claim by applicant against the Law Society and Legal Services Ombudsman for England and Wales asserting that access to the Solicitor's Disciplinary Tribunal should not have to be via the Law Society or Legal Services Ombudsman.

Report of Panel

The Panel considered that there was, generally, an arguable issue in terms of access to the Disciplinary Tribunal. However, it was unclear that either of the public bodies involved in this matter would be held to have acted unlawfully and, in the absence of this, that the court would find on the basis of this case that the complaints and disciplinary system as a whole was so unfair that it must be overturned.

A more fundamental difficulty was that the relief sought by the applicant appeared to be compensation, and the Panel could not see that any cause of action as set out in the grounds for the judicial review claim would benefit a wider client group. The Panel also expressed concern that the solicitors in this case had not taken more steps to organise the information submitted with the application for funding and clarify the basis on which it was made.

Conclusion

No Significant Wider Public Interest

PIAP 07/384

Nature Of Case

Application for Judicial Review by the applicant against the decision of the Mental Health Review Tribunal (MHRT) to deny the applicant's solicitors access to the applicant's medical records, where the medical member of the MHRT was allowed to see the records.

Report of Panel

The Panel expressed surprise at the referral of this case, in which the significant wider public interest appeared clear. In relation to the disclosure of documents within MRHT hearings, the law had set out a balance between the requirements for fairness and the risks of adversely affecting the welfare of the patient or others, and it was important that this should be maintained and enforced where necessary.

Conclusion

Significant Wider Public Interest
Rating: Significant

CLS specialist family advice timeline

Stage	Activity	Dates
1	Issue tender documents.	19 February 2007
2	Application forms received. Price bids kept in sealed envelope and not assessed at this stage.	30 March 2007
3	Exclusion Criteria Form assessed (pass/fail).	
4	Applications assessed against Section 1 Essential Criteria (excepting price and value for money).	Week commencing 2 April 2007
5	Applications assessed against Section 2 Desirable Criteria for applicants meeting Section 1 Essential Criteria.	Weeks commencing 23 and 30 April 2007
6	Sealed envelopes containing the Price Bid forms opened for shortlisted applicants.	Week commencing 7 May 2007
7	Applicant interviews (if applicable).	Weeks commencing 28 May and 4 June 2007
8	Selection of providers. After completing the interviews, the LSC re-evaluated shortlisted applicants and took into account additional information obtained at interview and during interview performance. The LSC then carried out a final evaluation of the shortlisted applicants against all criteria and applied a weighting of quality 60% and price 40% to select those applicants that best met the Essential and Desirable Criteria overall. Contracts were not automatically be awarded to bidders offering the lowest price.	Week commencing 18 June 2007
9	Presentation to Tender Panel of the outcome of the tendering exercise and the proposed successful applicants.	Week commencing 9 July 2007
10	Award of contracts. Offers were sent out to successful applicants 'subject to contract'. Unsuccessful applicants were notified.	Weeks commencing 9 and 16 July 2007
11	Contracts drawn up for signature. The contract includes terms based on the tender documents and the successful applicants' application forms, along with other standard terms from the current CLS Direct contract.	Week commencing 23 July 2007
12	Contract start date.	13 August 2007

Fee Structure: Care Proceedings Graduated Fee Scheme (operational from 1 October 2007)

	National fee
Level 1 (excluding VAT)	£144
Level 2 (excluding VAT)	£347

Level 3 - Full representation (excluding VAT)						
Party	**Court**	**No. of clients**	**Midlands**	**North**	**South**	**Wales**
Child	Other	1	£2,405	£1,972	£2,761	£2,695
Child	Other	2+	£3,608	£2,958	£4,142	£4,043
Child	High	1	£3,199	£2,623	£3,672	£3,584
Child	High	2+	£4,799	£3,935	£5,508	£5,376
Joined Party	Other		£1,276	£986	£1,482	£1,606
Joined Party	High		£1,697	£1,311	£1,971	£2,136
Parent	Other	1	£3,156	£2,621	£3,589	£3,250
Parent	Other	2	£3,945	£3,276	£4,486	£4,063
Parent	High	1	£4,197	£3,486	£4,773	£4,323
Parent	High	2	£5,246	£4,358	£5,966	£5,404

For details of how the fee scheme will operate, including areas of work excluded from the scheme, exceptional thresholds and settlement fee claims, please refer to *Family and Family Mediation Fee Schemes from October 2007*. This publication is available for download from the LSC website under cls > consultations > family fee schemes.

For an overview of how the various civil fee schemes will operate, please refer to the civil fee schemes matrix, which is available on the LSC website under cls > pay rates and schemes.

Fee Structure: Family Help - Private (operational from 1 October 2007)

	National fee
Level 1 - Initial advice (excluding VAT)	£94
Divorce - Petitioner (excluding VAT)	£159

Level 2 - Children (excluding VAT)	**Fee**	**Settlement fee***
London	£256	£153
Non-London	£221	£132
Level 2 - Finance (excluding VAT)		
London	£268	£161
Non-London	£231	£139

* Claimable in addition to the Level 2 fee

For details of how the fee scheme will operate, including areas of work excluded from the scheme, exceptional thresholds and settlement fee claims, please refer to *Family and Family Mediation Fee Schemes from October 2007*. This publication is available for download from the LSC website under cls > consultations > family fee schemes.

For an overview of how the various civil fee schemes will operate, please refer to the civil fee schemes matrix, which is available on the LSC website under cls > pay rates and schemes.

Fee Structure: Mental Health (operational from 1 January 2008)

Basic fees (excluding VAT)	Value
Non-MHRT	£275
Level 1 (MHRT)	£140
Level 2 (MHRT)	£340
Level 3 (MHRT)	£311
Additional fees (excluding VAT)	
Adjourned hearing fee	£124
Remote travel payment: Level 1 (MHRT)	£75
Remote travel payment: Non-MHRT, Level 2 (MHRT), Level 3 (MHRT)	£150

For details of how the fee scheme will operate, including when the various payment levels can be claimed, exceptional thresholds, definition of a matter and details on travelling to areas remote for supply, please refer to *Legal Aid Reform: Mental Health Fixed Fees*. This publication is available for download from the LSC website under cls > pay rates and schemes > mental health standard fee scheme.

Fee Structure: Family Mediation (operational from 1 October 2007)

Willingness test (excluding VAT)	
	£25

Activity (excluding VAT)	Now
Assessment alone	£87
Assessment separate	£87
Assessment together	£130

Category of work (excluding VAT)	Single session	Multi session	Agreed proposal
AIM Sole	£168	£756	£252
AIM Co	£230	£1064	£252
PF Sole	£168	£588	£189
PF Co	£230	£834	£189
Child Sole	£168	£462	£126
Child Co	£230	£647	£126

This fee scheme will harmonise payment rates so that for-profit and Not-for-Profit family mediators are remunerated in the same way. This is in line with the recommendations of the National Audit Office's report *Legal aid and mediation for people involved in family breakdown*, which was published last year.

For details of how the fee scheme will operate, including direct consultation with children, rules around the opening of new cases and the point in the case when consideration of mediation must take place, please refer to *Family and Family Mediation Fee Schemes from October 2007*. This publication is available for download from the LSC website under cls > consultations > family fee schemes.

For an overview of how the various civil fee schemes will operate, please refer to the civil fee schemes matrix, which is available on the LSC website under cls > pay rates and schemes.

About *Focus*

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

Changes to the production and delivery of *Focus* are scheduled for implementation in January 2008. More information on these changes is available on page 3 of this edition of *Focus*.

While *Focus* contains guidance, the LSC Manual should be referred to for definitive information.

Focus is distributed using the names and addresses of all LSC account holders, details of which are held on the LSC's Master Index database.

If you have not received a copy of *Focus* it may be because you have not alerted the Master Index Section to changes to your name, address or DX. Please make sure you send any relevant changes in writing to the Master Index Section and include your LSC account number.

It is important that *Focus* is seen by everyone in your firm who is involved in LSC work, so copies of this publication should be made as required.

Focus editions 39 to 53 are available for download as PDFs from the LSC website. Older issues can be found in the Archive section of the LSC website. If you require assistance to obtain copies of *Focus*, please contact Janine McCarthy using the contact details listed below.

If you have any questions regarding the articles that appear in *Focus*, please refer to the contact details included with each

@ Contact & Information

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Payment dates for July to December 2007

The proposed payment dates for the second half of 2007 are set out in the table below. These dates may be subject to amendment, but notification of changes will be provided in advance where possible. Contact details for the LSC's Master Index and Settlement Sections are given below.

Contract Payments	1st Settlement of the Month	2nd Settlement of the Month
Thursday 5 July	Thursday 12 July	Thursday 26 July
Monday 6 August	Thursday 9 August	Thursday 23 August
Thursday 6 September	Thursday 13 September	Thursday 27 September
Thursday 4 October	Thursday 11 October	Thursday 25 October
Tuesday 6 November	Thursday 8 November	Thursday 22 November
Thursday 6 December	Thursday 13 December	Thursday 20 December

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 account. For some smaller banks the BACS credit may appear a day later.

The proposed payment date will also be the date by which the last of the cheque/remittance advices are despatched from 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, as opposed to 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. Details of the amount due to you can be obtained by contacting either the regional office or the Solicitors/Counsel Settlement Section, but no earlier than the day before the proposed payment date. If you have a query regarding an individual item shown on a remittance advice, you should contact the relevant regional office, which authorises and processes all such bills.

Names, addresses, DX, fax and telephone numbers and bank details for BACS payments are held on the LSC's Master Index database. Please help keep us up to date and make sure that you inform the Master Index Section of relevant changes relating to your firm or chambers in writing, either by letter or fax.

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Master Index Section

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