

FOCUS on CDS

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Remuneration Increase

Following consultation the Lord Chancellor has announced the payments package for firms signing the General Criminal Contract when offered for signature in February. Additionally, an amendment to the contract has been agreed which will further reduce the administrative work that firms will have to undertake by abolishing the initial financial limits for advice and assistance. The monthly payment rules, published for consultation in November 2000, have been finalised.

*Criminal
Defence Service*



CDS Logo

see page 7 for details

These increases will apply to all work done on or after 2 April. The rates applicable to new work commenced under the contract are set out in this newsletter.

The 1988 Act remuneration structure will apply to all work commenced under that Act, ie before 2 April. Work done in such cases under the contract will be paid at current rates if done before 2 April.

Payment for file review

In response to the request for direct payment for additional

activities associated with compliance with the Commission's quality assurance requirements we are adding a rule to the contract to provide direct payment for supervision. We regard effective supervision as a key component in ensuring the delivery of high quality legal advice and representation to clients and, therefore, we believe that it is appropriate to make payments in this area to support more directly effective supervision mechanisms.

We will introduce payments to firms operating under the contract for file and face to face reviews (for reviews taking place after 2 April, whether on files

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Contract payments

The overall package announced by the Lord Chancellor amounts to an increase in expenditure of 7.25% over remuneration under the current arrangements. This is made up as follows.

Increase in rates

The Lord Chancellor has agreed increases in remuneration of:

- 3% across the board on all rates
- 7% (in addition to the 3%) on the rates for police station advice and assistance (equivalent to a further overall increase in remuneration of 2%)

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opened under the 1988 Act or under the contract). This, of course, goes further than paying for work required specifically by the contract and will include payment for work firms are already undertaking in accordance with the requirements of LAFQAS. We will pay a standard amount of three units of time (18 minutes) per file review and five units of time (30 minutes) per face to face review. The payment rate will be that for advocacy in the magistrates' court (£62.35 per hour). Payment will be made for the supervisor's time only (in addition of course, the existing costs assessment rule that permits payment in certain circumstances to one fee-earner for case reviews will continue, so, on a face to face review, the fee-earner with conduct of the case could still claim for the time spent as part of the claim under the case where justified, but one individual could not claim for time spent under both mechanisms).

These payments will not be claimable as part of the costs of the case but will be claimable separately as a specific payment for the review. Firms will make one claim annually for the total value of work done in accordance with these arrangements. This will be in the form of a single line claim on the new CDS6 claim form. We expect the value of the claim to be consistent both with the firm's file review policy (as set out in the office manual) and with the actual number of file reviews effectively carried out and documented in accordance with contract and LAFQAS requirements. On audit we will compare the costs claimed for reviews with the file review records for the period in question.

Standard monthly contract payments will take account of the predicted annual value of file review activity and the annual total claim will form part of the overall value of claims submitted which will be reconciled against these payments.

We will need to ensure that there is a degree of control over these payments. It is planned to publish (in the revised specialist level quality mark standard

which will replace the current version of LAFQAS) norms for the numbers of file reviews which we would consider appropriate for different levels of fee-earner. If, on audit, we find that a firm is conducting and claiming for numbers of file reviews significantly in excess of these numbers the firm will need to justify their arrangements in order to ensure payment for the numbers of reviews conducted. These arrangements will cost some £9m of new money, equivalent to a general increase in payments to solicitors for this work of 2.25%. The LSC believes that this is a significant benefit to solicitors over and above the current, non-contract, arrangements, and the proposed payment mechanism allows for their introduction with a minimum of bureaucracy.

Reinvestment of "Narey" savings

The legal aid arrangements introduced to facilitate the national roll-out of Narey early hearings in November 1999 provided a significant injection of money into defence solicitor practices. It was predicted that the additional expenditure on the court duty solicitor scheme would amount to £17m pa. However, expenditure has been much higher than expected and the additional court duty solicitor expenditure for this work in 2000/01 will be some £34m.

It was always planned to restrict the legal aid arrangements for this work to initial hearings only when means testing for full legal aid in these cases was abolished, as that should speed up the grant of legal aid orders.

The effect of the contract changes to the Narey arrangements will have the effect of reducing the additional cost of this work from £34m to £22.8m.

The Lord Chancellor has decided to use these savings to increase the rates of payment for contract work. The money has been used to increase the hourly rates and standard fees for work done under a Representation Order by some 6%. The effect of these increases was set out in the consultation paper on adjustments to payment rates for this

work published on 24 November 2000.

Summary

Overall this package amounts to an increase over current payments of 7.25%.

This package will only be available to firms signing the General Criminal Contract. Only those with a contract will be entitled to start new cases in the police station or magistrates' court after 2 April 2001.

Contract payment rates, which reflect the adjustments and recycling proposed in the paper issued on 24 November and the increases in remuneration set out in this article, are set out in this newsletter. The rates are also set out in full on the Commission's website, www.legalservices.gov.uk.

Monthly payment arrangements

Proposals for the contract monthly payment arrangements were published for consultation on 24 November. These proposals will pay a sum per month which is as regular in amount as possible to ensure a smooth cash flow and which will maintain contract payments between 5% and 10% above the annualised value of claims being submitted at any point in time.

In addition, firms signing contracts in accordance with the published timetable will receive their first monthly payment at the beginning of April in addition to payments according to the existing payment timetable for April in respect of individual bills submitted before 10 April. This will provide firms signing the contract with a significant cash flow injection at the outset of contracting. These arrangements have now been settled and details will be issued formally to firms in February.

Reduction in administrative work

We believe that overall the arrangements for working under the contract will reduce the level of administrative work necessary for firms. In particular, the arrangements for reporting work done will be simplified and the forms to be used under the

contract are shorter and simpler than those necessary under the 1988 Act (see page 7 of this newsletter).

In conjunction with the wider Review of Bureaucracy that has been taking place we have reviewed the proposed

contract requirements. As a result we have deleted the initial financial limits under the contract so that for advice and assistance and advocacy assistance work can be done for clients up to the upper financial limits in accordance with the contract

and guidance without the need to record an exercise of the devolved power to extend the initial financial limit, or the justification for it on the file. Work done will still have to be recorded in the usual way and be subject to usual assessment principles.

General Criminal Contract Timetable

12 February	The Commission will send to all offices on the Crime Franchise Panel: <ul style="list-style-type: none"> ■ a one page contract for signature ■ a formal initial monthly payment offer ■ Part E of the Contract Specification, setting out the rules and rates of payment in full ■ monthly payment rules settled following consultation ■ some amendments to the contract published in December to provide for payment for supervision, removing the financial limit and some other minor changes.
1 March	Closing date for receipt by the Commission of requests for reviews of initial monthly payment offers.
8 March	Closing date for receipt by the Commission of signed contracts in order for firms to receive first monthly payment on 4 April. Any contracts not signed and received by this date will not qualify for a first monthly payment until 3 May.
15 March	Commission completes reviews of monthly payment offers; where this has been requested by 1 March for contracts signed by 8 March.
2 April	Commencement of CDS and General Criminal Contract. 1988 Act arrangements continue only for work started before 2 April and to be completed. No new work to be commenced other than under contract.
4 April	Monthly payment made to firms signing the contract by 8 March.
10 April	Closing date for receipt of 1988 Act claims to receive individual claim payments. All 1988 Act work claimed after this date will still be paid but should be claimed on the new claim form CDS6 and will be set-off against monthly payments.
3 May	Second contract monthly payment made.
10 May	Closing date for receipt of first CDS consolidated work report form (form CDS6) in order to trigger next monthly payment.

Training on the General Criminal Contract

LSC regional offices will be providing free training sessions for crime franchise panel members in the run up to the introduction of the CDS on 2 April 2001.

This training will provide practical guidance on compliance with the General Criminal Contract, including:

- overview of the General Criminal Contract and key changes following consultation
- managing monthly payments
- file management and the allocation of unique file numbers
- application processes and forms
- claims processes, coding, reporting and forms

A training pack will be provided at the sessions to enable firms to cascade this information to staff.

This pack will also be available for download on the LSC's website at www.legalservices.gov.uk.

The Commission is seeking to register the courses for CPD points.

Regional CDS managers will be sending out invites to panel members shortly. Depending on demand, places may be limited per firm. Please contact your regional office CDS team for further information.

New Remuneration Rates

These rates apply to all work commenced under the contract on or after 2 April 2001.	Current rates		Contract rates		%increase on current rates	
	National	London	National	London	National	London
1. Work Undertaken In The Investigations Class						
A. Advice and Assistance						
Preparation	45.50	48.25	46.90	49.70	3.1	3.0
Travel and waiting	25.50	25.50	26.30	26.30	3.1	3.1
Routine letters and telephone calls	3.55	3.70	3.70	3.85	4.2	4.1
B. Police Station Advice and Assistance						
Availability during period	3.80	3.85	4.20	4.25	10.5	10.4
Advice and assistance by:						
duty solicitor	46.50	50.25	52.00	56.20	11.8	11.8
duty solicitor in unsocial hours	61.75	61.75	69.05	69.05	11.8	11.8
own solicitor	46.50	50.25	52.00	56.20	11.8	11.8
Travel and waiting by:						
duty solicitor	46.50	50.25	52.00	56.20	11.8	11.8
duty solicitor in unsocial hours	61.75	61.75	69.05	69.05	11.8	11.8
own solicitor	25.75	25.75	28.80	28.80	11.8	11.8
telephone advice fixed fee	24.85	25.75	30.25	31.45	21.7	22.1
	(rates proposed in November)			(increase over rates proposed in November)		
C. Advocacy Assistance on a Warrant of Further Detention						
Preparation						
standard rate	45.50	48.25	46.90	49.70	3.1	3.0
enhanced rate	60.67	64.33	62.50	66.30	3.0	3.1
Advocacy						
standard rate	57.25	57.25	59.00	59.00	3.1	3.1
enhanced rate	76.33	76.33	78.65	78.65	3.0	3.0
Attendance at court where counsel assigned						
standard rate	31.00	31.00	31.95	31.95	3.1	3.1
enhanced rate	41.33	41.33	42.60	42.60	3.1	3.1
Travel and waiting						
standard rate	25.50	25.50	26.30	26.30	3.1	3.1
enhanced rate	33.99	33.99	35.05	35.05	3.1	3.1
Routine letters and phone calls						
standard rate	3.55	3.70	3.70	3.85	4.2	4.1
enhanced rate	4.73	4.93	4.90	5.10	3.6	3.4

2. Work Undertaken in the Representation Class

D. Advice and Assistance (where work undertaken is not included in a single Claim with work done under a Representation Order)							Same rates as in table A above
E. Advice and Assistance (where work undertaken is included in a single Claim with work done under a Representation Order)							
Preparation	45.50	48.25	49.70	52.55	9.2	8.9	
Travel and waiting	25.50	25.50	26.30	26.30	3.1	3.1	
Routine letters written and telephone calls	3.55	3.70	3.90	4.05	9.9	9.5	
F. Advocacy Assistance in a Magistrates' Court (other than by a Court Duty Solicitor acting as such) or the Crown Court							
Preparation	45.50	48.25	49.70	52.55	9.2	8.9	
Advocacy	57.25	57.25	62.35	62.35	8.9	8.9	
Attendance at court where counsel assigned	31.00	31.00	34.00	34.00	9.7	9.7	
Travel and waiting	25.50	25.50	26.30	26.30	3.1	3.1	
Routine letters written and telephone calls	3.55	3.70	3.90	4.05	9.9	9.5	
G. Advocacy Assistance by a Court Duty Solicitor acting as such							
Standard rate	52.25	53.50	53.85	55.15	3.1	3.1	
Enhanced rate	65.31	66.88	67.30	68.90	3.0	3.0	
Travel (where permitted)	25.50	25.50	26.30	26.30	3.1	3.1	
H. Representation in a Magistrates' Court							
Preparation	46.00	48.50	49.70	52.55	8.0	8.4	
Advocacy	57.75	57.75	62.35	62.35	8.0	8.0	
Attendance at court where counsel assigned	31.50	31.50	34.00	34.00	7.9	7.9	
Travel and waiting	25.50	25.50	26.30	26.30	3.1	3.1	
Routine letters written and telephone calls	3.55	3.70	3.90	4.05	9.9	9.5	
I. Representation in the High Court							
Preparation	75.00	79.50	77.25	81.90	3.0	3.0	
Advocacy	75.00	79.50	77.25	81.90	3.0	3.0	
Attendance at court with counsel	37.00	37.00	38.15	38.15	3.1	3.1	
Travel and waiting	33.25	33.25	34.25	34.25	3.0	3.0	
Routine telephone calls out	4.15	4.15	4.30	4.30	3.6	3.6	
Routine letters written	7.50	7.50	7.75	7.75	3.3	3.3	

3. Work Undertaken in the Appeals and Reviews Class

J. Advice and Assistance							Same rates as in table A above
K. Representation in the Divisional Court on an Appeal by way of Case Stated							Same rates as in table I above

4. Work Undertaken in the Prison Law Class

L. Advice and Assistance

Same rates as in table A above

M. Advocacy Assistance

Preparation	54.50	58.25	56.15	60.00	3.0	3.0
Advocacy	66.25	66.25	68.25	68.25	3.0	3.0
Attendance at court where counsel assigned	31.00	31.00	31.95	31.95	3.1	3.1
Travel and waiting	25.50	25.50	26.30	26.30	3.1	3.1
Routine letters written and telephone calls	3.90	3.90	4.05	4.05	3.8	3.8

Standard Fees

	NATIONAL			LONDON		
	Lower Standard Fee			Lower Standard Fee		
	Current	Contract	overall % inc	Current	Contract	overall % inc
Cat 1	148.25	173.45	17.0	191.00	223.25	16.9
Cat 2	262.25	306.25	16.8	336.25	392.95	16.9
Cat 3	236.50	276.50	16.9	299.25	349.75	16.9
	Lower Limit			Lower Limit		
	Current	Contract	overall % inc	Current	Contract	overall % inc
	Cat 1	276.00	298.45	8.1	354.00	382.90
Cat 2	474.00	512.70	8.2	602.00	651.00	8.1
Cat 3	418.00	452.20	8.2	507.00	548.25	8.1
	Higher Standard Fee			Higher Standard Fee		
	Current	Contract	overall % inc	Current	Contract	overall % inc
	Cat 1	357.00	417.20	16.9	453.00	529.25
Cat 2	601.00	702.40	16.9	755.00	882.65	16.9
Cat 3	536.00	626.50	16.9	629.00	735.30	16.9
	Higher Limit			Higher Limit		
	Current	Contract	overall % inc	Current	Contract	overall % inc
	Cat 1	478.00	517.10	8.2	598.00	646.85
Cat 2	790.00	854.40	8.2	963.00	1041.60	8.2
Cat 3	730.00	789.50	8.2	778.00	841.55	8.2

Unique File Number Update

A paper on the changes made during consultation to the original proposals for the unique file number (UFN) was issued with the General Criminal Contract, published in December. Additional copies of the paper are available on the LSC's website at the following address: www.legalservices.gov.uk/contract/cds/cdsUFN%20paper2.pdf

Further to the information published in that paper, we are pleased to be able to report that the vast majority of Law Society approved software suppliers contacted by the LSC have indicated that they will not charge for the necessary upgrades for existing customers for the UFN.

A number of firms have asked how the number generated is made unique. The answer is that the LSC's computer system attaches a prefix to each UFN entered with the firm's legal aid account number. Therefore, whilst there will be many 020401/001s in existence, there will be only one for each account number.

Many firms are also taking advantage of the fact that the numbers allocated during any one day do not have to be sequential, merely unique within that day. One firm has allocated the numbers 100 -199 to one fee earner, 200 - 299 to a second fee earner and 300 - 399 to identify individual fee earners who have conduct of the Case or Matter. There are many other examples of firms developing innovative methods to further enhance the value of the UFN.

The LSC is currently developing additional training and guidance on how to generate and apply the UFN. Please refer to the training article elsewhere in this publication for details of the training programme.

Accreditation System for New Duty Solicitors

From 1 February 2001, a reminder that applications received to join a duty solicitor scheme from solicitors who are not currently duty solicitors must be accompanied by a certificate confirming membership of the Law Society's Criminal Litigation Accreditation Scheme (CLAS).

Discussion with the assessment organisations (those organisations approved by the Law Society to complete the assessments) have progressed significantly regarding the detail of the standards applicants will be assessed against and the process itself. The Commission is impressed with the

work undertaken by the Law Society, researchers and the assessment organisations. The LSC believes the standards are appropriate to confirm competence for new duty solicitors.

At the time of going to print, negotiations have almost been completed by the Law Society with the selected assessment organisations and contracts are expected to be signed with the Law Society shortly.

Details of the assessment organisations will be made available as soon as contracts are signed.

Criminal Forms Update

The LSC has published the forms that accompany the General Criminal Contract. Guidance on the forms will be published shortly. These forms have been developed in consultation with the profession's representative bodies, individual firms and legal software suppliers.

Our aim in producing these forms has been to minimise bureaucracy under the General Criminal Contract by reducing the amount of data that we collect through removing double collection of the same information

and by not collecting unnecessary information.

There are 11 new forms that consist of a total of 31 pages as opposed to the 61 pages that make up the current 15 forms. The most frequently used claim forms have now been consolidated into just one form, the CDS6, other than claims for non standard fees which still require a separate form.

We believe that the new forms represent a significant saving of administrative costs to the profession.



CDS Logo

This is the approved Criminal Defence Service (CDS) Quality Mark logo.

Practitioners will be sent logo guidelines and a window sticker in March. The logo is designed as a single colour only (black). It is compatible with the Community Legal Service (CLS) Quality Mark for those practitioners who may wish to display both logos, for example, on office stationery. The logo will become effective from 2 April 2001.

A single colour option was selected to minimise reproduction costs. Black was chosen as it is commonly used on stationery; and the CLS Quality Mark guidelines also permit reproduction in black. The CDS logo will replace both the franchise logo and the 'picnic' legal aid logo. Practitioners should be reassured that existing stationery can continue to be used until supplies are exhausted. However, if you are printing new stationery after 2 April 2001 you should be aware of the above.

Introducing the *Criminal Defence Service*



The Lord Chancellor has now announced the full package for the CDS contract which will come into effect on 2 April. This includes an overall increase in remuneration to solicitors of 7.25% for this work.

The major benefits to firms of the new arrangements are:

- ⌘ an increase in remuneration across all areas of work of 3%
- ⌘ an additional increase of a further 7% on rates for police station advice (equivalent to a 2% increase in overall remuneration)
- ⌘ payment for supervisors conducting file review and face to face reviews, equivalent to a further increase in payments of 2.25%
- ⌘ a one-off improvement in cash flow of between £10m and £30m overall, the benefits of which will remain with firms whilst they remain contracted
- ⌘ simplified claiming and payment arrangements
- ⌘ the retention in the system of £11.2m (currently paid for Narey work), which would have been lost on the full removal of the means test in a non-contracted system. This has enabled standard fee rates to be increased by a further 6%

The Lord Chancellor has also agreed to the setting up of a consultative group to monitor the operation of the contract in practice.

On 12 February the Commission will send to all offices on the Crime Franchise Panel:

- ⌘ a one page contract for signature
- ⌘ a formal initial monthly payment offer
- ⌘ Part E of the Contract Specification, setting out the rules and rates of payment in full
- ⌘ monthly payment rules settled following consultation
- ⌘ a number of detailed amendments to the contract published in December to provide for payment for supervision, removing the initial financial limit and some other minor changes

The Contract rates of payment are already set out in full on the Commission's website at www.legalservices.gov.uk. The Lord Chancellor's letter to the President of the Law Society can also be found on the website. A guide to using the new logo (above) will be issued in March.