

Focus on CDS

Issue 8 - August 2002

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Focus on CDS is produced by the LSC's Press Office.

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Changes To The Payment Arrangements For Police Station Advice

In March and April we consulted holders of the General Criminal Contract on proposed changes to the payment arrangements for police station advice work. This followed a lengthy and detailed review of the current arrangements, and options for change, undertaken jointly by the Commission and representatives from the Law Society, CLSA, LAPG and the LCCSA.

We have considered the responses to the consultation very carefully. The proposals that were made can be divided into two -

- those designed to simplify the system and to combine duty and own solicitor rates
- those addressing the issue of telephone calls and creating a single scheme for paying for calls to replace the existing two schemes.

We have decided not to proceed with the first of these two groups of proposals. We believe that there are benefits, both to firms and to the Commission, in rationalising and simplifying the current complex payment structure. However, some well argued responses were made to these specific proposals on consultation which have persuaded us that the balance is not in favour of proceeding with them in this form at this time.

It remains necessary, as we have

made clear since April 2001, to move to re-establish a single payment scheme for police station telephone calls and to replace the system of fixed item payments for "routine" and "advice" calls. During the course of our lengthy discussions with the profession's representatives, and in the wider consultation, no viable alternative has emerged to the single payment for all calls approach, which one-third of offices currently operate under. In addition there was a degree of acceptance of such a change in the consultation responses. Therefore we intend to proceed to introduce this as the sole mechanism for the payment of police station telephone calls.

The rates for the Basic Fee proposed in the consultation were part of a change in levels generally for most elements of this work. As we will now only be proceeding with one element of the proposals we will wish to revisit the costings in order to identify the appropriate level for the fixed payment for telephone calls. As we have made clear, overall we will seek to ensure that the total level of payments made to the profession for this work is neither increased nor decreased. We will also wish to consider the most appropriate implementation date for this change.

We will be discussing both these issues with the Law Society and the contract consultative group and will make final decisions in respect of both shortly.

Amendments To The General Criminal Contract

Crime suppliers should by now have received a notice of amendment containing various changes that come into effect on 19 August 2002 following consultation with contractors and their representative bodies. We are grateful for the constructive comments received and a summary of the LSC response to consultation is available on our website. The key changes to the General Criminal Contract are summarised briefly below. For further information, suppliers should refer to the notice of amendment itself which is available in the CDS Section of our website (www.legalservices.gov.uk).

The principle changes are:

- Extension of the scope of the Criminal Investigations Class of Work to include post-charge police station advice to a client who has already been represented in the Criminal Proceedings Class when the following occurs:
 - Breach of bail for failure to appear;
 - Post-charge interview or identification procedure;
 - Re-charge by the police following discontinuance or dismissal of proceedings;
 - Police issue a reprimand, warning or caution after a charge has been prepared.
- A separate claim may now be made for any police station Advice and Assistance falling within the above scenarios. See the separate article in this edition for the relevant claim codes for this work. A claim is made in the Criminal Investigations Class using the same UFN as for the substantive proceedings. Further guidance is contained in Section 5 of the Criminal Bills Assessment Manual (February 2002 version).
- Scope of the Police Station Advice and Assistance Scheme is extended to cover those detained under Schedule 7 of the Terrorism Act 2000.
- Clarification is provided that Advocacy Assistance is only available to fund breach of a “civil” order or penalty e.g. council tax default. Representation in breach proceedings relating to a criminal order may only be funded through a grant of representation by the courts (for further information please see the article in Focus on CDS issue 5, page 11).
- All High Court proceedings falling within the crime franchise category definition now fall within the scope of the Contract.
- Scope of the Prison Law Class has been amended to make it clear that Advocacy Assistance may be granted (subject to qualifying criteria) whenever the Parole Board decide to convene an oral hearing.
- From 1 April 2003, probationary representatives may only provide Police Station Advice and Assistance for the firm where their supervising solicitor is based.
- Clarification has been added confirming the scope of Advocacy Assistance and the circumstances in which it must be withdrawn.
- The pre-order work rule has been amended so that where there is a successful appeal against refusal of a representation order, the effective date of cover will be the date on which the original properly completed application was received by the court.
- The scope of devolved powers in the Associated CLS Class of Work has been clarified.
- A further exception has been added to the circumstances when a duty solicitor must give initial advice personally i.e. where the police refuse to permit the suspect to speak to the duty solicitor on the telephone, in which case he or she should attend the police station.
- A new requirement is added for police station own solicitor and duty solicitor work where the provision of services is delegated to a representative or solicitor who is not an employee of the firm, the travel time claimed must not exceed the relevant performance standard i.e. 45 minutes.
- The requirement to retain a copy of an application for a representation order on file has been removed. The procedure for hearing appeals before the Costs Committee has been amended to mirror recent changes made to the General Civil Contract.
- Practitioners are required to follow the Commission’s published guidance on the assessment of costs of Controlled Work when formulating claims for free standing Advice and Assistance so far as that guidance is consistent with the General Criminal Contract.
- The appropriate rates that may be claimed when a London firm instructs a regional agent and vice versa have been amended.
- The crime franchise category definition now reflects an additional crime/civil overlap as proceedings for an anti-social behaviour order sought by a local authority against the tenant now also fall within the housing franchise category.
- A fully revised version of the Contract will be available on the LSC website shortly and consequential changes to the costs guidance manuals are currently being prepared for consultation.

New Claim Codes

The amendments to the General Criminal Contract for post-charge Criminal Investigation claims that take effect from 19 August have necessitated the introduction of 4 new claim codes. Additionally, the LSC has introduced two further claim codes to track specific instances of claims made under the contract. The new claim codes are for both the Criminal Investigations and Criminal Proceedings Classes of Work.

This article explains the new claim codes, when they should be used and what information must be recorded on CDS6 when using the new claim codes. Please pass a copy of this article to those who prepare your claims for further information.

Suppliers of proprietary software have been issued with the revised codes in advance of the implementation of the contract amendments. However, the LSC recognises the lead in time for the necessary development of software and therefore will not expect all software packages to be compliant with the amended contract in respect of post-charge investigation work until 1 October 2002. Any claim made in relation to post-charge investigation work or an immigration matter after the implementation of the contract changes but before the availability of supporting software should be made using the original UFN and the claim code 1C. Where the claim relates to a deferred sentence, 2F should be used. An appropriate note should be made on the file to indicate the nature of the claim and that the necessary software support was not available.

No changes have been made to either the outcome codes or the offence codes.

CRIMINAL INVESTIGATIONS

Post-Charge Criminal Investigations

The changes to the scope of the Criminal Investigations Class of Work are given at paragraphs 2 - 4 of the notice of Amendments to General Criminal Contract, dated June 2002. Further guidance on claiming post-charge criminal investigative work is given in Section 5 of the Criminal Bills Assessment Manual, dated February 2002.

Four new claim codes have been introduced and come into effect from 19 August.

Claim Code	Description
1H	Breach of bail conditions
1I	Arrest on warrant following failure to appear at the magistrates court
1J	Post-charge identification parade / recharge following discontinuance or dismissal of the case
1K	Administration of a reprimand, warning or caution

When completing CDS6 for one of these claim codes, all fields must be recorded apart from:

- Outcome code
- Offence code

No other information need be recorded on the CDS6 in relation to the post-charge investigation claim.

Immigration Matters

Rule 3.6 of Part B of the General Criminal Contract covers the giving of Police Station Advice and Assistance where an immigration offence may have been committed or an immigration issue has arisen. In order to identify these instances separately from other police station claims, a new claim code has been introduced.

Claim Code	Description
1L	Police station attendance on an immigration issue (including a&a and telephone advice where given)

This claim code must be used when you provide advice and assistance at the police station in accordance with Rule 3.6 of Part B of the General Criminal Contract. Where you attend on a matter that is a mixture of crime and immigration, you should report the matter under this claim code. This claim code must be used for all work reported from 19 August 2002.

When completing the CDS6 for one of this claim code, all fields must be recorded.

CRIMINAL PROCEEDINGS

Deferred Sentences

Rule 1.2 of Part C of the General Criminal Contract covers deferred sentences. In order to identify the second claim for work done following deferment, a new claim code has been introduced.

Claim Code	Description
2J	Second claim for a deferred sentence

This claim code must be used where you are claiming a second standard fee for work done following a deferment in accordance with Rule 1.2 of Part C of the General Criminal Contract. Further guidance on deferred sentences is given at Section 6.4.7 of the Criminal Bills Assessment Manual (February 2002 version).

When completing the CDS6 for one of this claim code, all fields must be recorded.

The full list of claim codes is provided below.

CODE	DESCRIPTION
	Criminal Investigations
1A	Free standing advice and assistance
1B	Police station telephone advice only (including a&a where given)
1C	Police station attendance (including a&a and telephone advice where given)
1D	Police station attendance (including a&a and telephone advice where given) - Armed Forces Personnel only
1E	Warrant of further detention (including Terrorism Act 2000) (including a&a and any other police station advice where given)
1F	Warrant of further detention (including a&a and any other police station advice where given) Armed Forces Personnel only
1G	Duty Solicitor Standby
1H	Breach of bail conditions
1I	Arrest on warrant for following failure to appear at the magistrates court
1J	Post-charge identification parade / recharge following discontinuance or dismissal of the case
1K	Administration of a reprimand, warning or caution
1L	Immigration Matter
	Criminal Proceedings
2A	Free standing advice and assistance
2B	Early hearing (including a&a where given)
2C	Magistrates' court advocacy assistance (including a&a where given)
2D	Court Duty Solicitor session
2E	Representation order - LSF (including a&a and early hearing where given)
2F	Representation order - HSF (including a&a and early hearing where given)

2G	Representation order - NSF (including a&a and early hearing where given)
2H	Crown Court advocacy assistance (including a&a where given)
2I	High Court representation
2J	Second claim for deferred sentence
	Appeals and Reviews
3A	Advice and assistance in relation to an appeal (except CCRC)
3B	Advice and assistance in relation to a CCRC application
3C	Representation on an appeal by way of case stated
	Prison Law
4A	Free standing advice and assistance
4B	Advocacy assistance at prison discipline hearings (including a&a where given)
4C	Advocacy assistance at parole board hearings (including a&a where given)
	Associated CLS Work
5A	Legal Help
	Pre-contract work
6A	Pre-contract work - Lower standard fee
6B	Pre-contract work - Higher standard fee
6C	Pre-contract work - Non standard fee
6D	Pre-contract work - CLAIM 10 advice and assistance
6E	Pre-contract work - Court Duty Solicitor / Duty Solicitor of choice
6F	Pre-contract work - Police station advice and assistance
6G	Pre-contract work - Duty Solicitor Standby
6H	Pre-contract work - ABWOR
6I	Pre-contract work - Civil applications arising from criminal proceedings
	File Review
7A	File Review
EXTENDED COURT HOURS PILOT CLAIM CODES*	
2J	Second claim for deferred sentence
2K	London Court Duty
2L	London Own Solicitor
2M	Manchester Court Duty
2N	Manchester Own (am)
2O	Manchester Own (pm)

* These codes must only be used for claims made in accordance with the extended court hours pilot guidance.

Amendments to Duty Solicitor Arrangements 2001

Following consultation, amendments to the Duty Solicitor Arrangements 2001 will be implemented on 19 August 2002. A copy of the revised arrangements has been sent to all crime contractors and is available on the LSC website.

The main changes are as follows (the numbers refer to the paragraph numbers in the Arrangements):

- 2.1: "Commission" now includes the CDS Managers to make it clear that, for example, every decision on the admission of a duty solicitor to a scheme does not have to be decided by the Commission itself.
- "Police Station Register" refers to the possibility of the Law Society taking over responsibility for maintaining the register of police station representatives although no decision has been made on this possibility yet.
- "Public Defender Service" will replace the reference to "Salaried Defence Service" and the definition of "Services Police" has been updated.
- 4.7: Since this paragraph was originally drafted, the accreditation of duty solicitors has been transferred to the Law Society whose rules permit a solicitor to remain accredited for 5 years. For this reason the rules about breaks in service as a duty solicitor have been modified.
- 4.10(b) ii): For membership of a "less busy" scheme it is made clear that the solicitor's office must belong to the same CDS Supplier.
- 4.23: The amendment makes it clear that appeals against accreditation decisions are not the responsibility of the Commission.
- 5.4(j): A specific power is provided to exclude a duty solicitor who is not willing to serve on both the court and police station duty schemes where the Commission's guidance does not permit this requirement to be waived.
- 5.6: As accreditation is granted by the Law Society for 5 years, the Society will not allow a solicitor to undertake the accreditation process again within that period.
- 6.10 and 6.11: The provisions to allow a supplier to hold onto rota turns in respect of duty solicitors who have either temporarily withdrawn or who move elsewhere have proved difficult and confusing to operate in practice and the amendments therefore discontinue this concession.
- 7.24 iii): Justices of the Peace were included as members of the regional committees (see 7.2(b)) but mistakenly omitted from membership of local committees.
- 8.1 to 8.3: These paragraphs are deleted as the dates to which they refer have now passed. The last date for an appeal to be considered for an application to become a duty solicitor under the former Duty Solicitor Arrangements 2000 has been fixed for 30 September 2002.

Monthly Payment Rules

The revised Monthly Payment Rules come into effect on August 19. Copies of the rules were sent to all suppliers with a letter dated 5 July 2002 and are available on the LSC website legalservices.gov.uk. The rules are a simplified version of the original monthly payment rules, as we no longer need to take account of the particular complexities of the first year of the contract.

Section 51 of the Crime and Disorder Act 1998 - A Reminder

We are still finding on audit that indictable only proceedings which have been "sent" to the Crown Court for trial under Section 51 are being claimed in error from the Commission. Practitioners should note that the Commission has no jurisdiction to assess these claims which should be submitted to the Crown Court for payment at the conclusion of Crown Court proceedings. For more detailed guidance on this issue please refer to Section 3.9 of the Criminal Bills Assessment Manual (February 2002 version).

Re-tender of Duty Solicitor Call Centre Contract

The Commission is required by government tendering rules to begin the re-tendering process for the duty solicitor call centre contract this year. The current contract expires on 31 March 2003.

Given the size of the contract, there are various requirements, including European legislation, that we must adhere to. A project team and board have been established internally to manage and oversee this process.

The following principles will guide the project:

- Seamless change: Any change of contractor should be as seamless as possible to clients, suppliers and the police.
- Service Levels: As a minimum the existing levels of service provided by the existing contractor (which are above the current contract requirements) must be maintained.
- Supplier to be robust and experienced with client type: The supplier must have sufficient experience of dealing with a profession and be able to offer managerial expertise and resources if service levels are not maintained.
- Value For Money: The contractor must offer good value for money. We will explore with the contractor improvements in process and standards so that the cost is, if possible, reduced whilst not imposing burdens on duty solicitors.
- Government/European Requirements: The re-tendering process must follow good practice as recommended by the Government and as required by legislation.

The purpose of this article is firstly to update practitioners and secondly to seek any input that you may have regarding any systems or practices which are not currently provided by the call centre but might be useful for the future.

If you have any views please write to the project manager: John Sirodcar, 85 Grays Inn Road, London DX 328 Lon/Chancery Lane.

The contractor will be selected by the end of the year and a further article will then notify you of any transitional arrangements. Our expectation is that any change to users should be minimal.

Prison Law - Implications of Stafford v. the United Kingdom (ECHR judgement)

A recent European Court of Human Rights (ECHR) judgement (Stafford v. the United Kingdom) has implications with regard to the release of mandatory life prisoners.

As a consequence of the ECHR judgement, it is possible there will be an increase in the number of parole board reviews. The Government is currently considering the consequences of the ECHR judgement.

As the Government and relevant bodies have yet to make any detailed

announcement or policy change, it will be difficult to justify advising clients in detail on the consequences of the ECHR judgement at this stage.

Once the Government announces its response, the Commission will consider the impact in terms of funding and provide further guidance.

The Commission has written directly to all Prison Law Contractors and other firms that undertake a significant amount of prison law work to confirm this.

Duty Solicitor Reaccreditation

The Commission has confirmed to The Law Society that we do not wish reaccreditation of CLAS (Criminal Litigation Accreditation Scheme) to be introduced in 2002 as a requirement for duty solicitors to remain as local scheme members.

As a result, we do not anticipate reaccreditation of CLAS commencing as a mandatory requirement for duty solicitors until the middle of 2003.

Top Ten Tips for Crime Contract Compliance and Cost Assessment Audits

Experience during the first year of audits has enabled us to identify a number of steps suppliers might consider to improve their audit outcome. Each tip is cross-referenced where appropriate to the relevant guidance in either the General Criminal Contract Specification (GCC) or the Criminal Bills (CBAM) or PACE Assessment Manuals (PACE).

Ensure that work is properly evidenced on file:

CBAM provides comprehensive guidance on the level of evidence that the LSC looks for on file. Any attendance note for work over two units (12 minutes) should contain some detail showing the work that was undertaken. The longer the amount of time spent on an activity, the greater the level of detail that we look for (GCC C1.13, CBAM 2.5-2.8 and 2.13-2.14.).

Break down the work undertaken:

It greatly assists auditors if a fully completed CDS 11 is available setting out the total claim for the work undertaken within each class.

Record names and times on police station files:

To avoid non-compliance with the performance standards in the

Contract it is important that the time when calls and attendances are undertaken is recorded on file. A note should be made of the name of the fee-earner undertaking the work and it should be clear whether work was carried out on a duty or own solicitor basis as this often affects the hourly rate claimable (GCC D3.2, GCC B8.2 and PACE Section 4).

Police station advice calls:

Firms that are not currently paid by way of a fixed fee for police station telephone calls must ensure that full details of each Advice and Assistance call claimed are recorded on file, failing which such calls are likely to be disallowed (PACE 7.6).

Pre-order work:

Any post charge work carried out prior to the grant of a representation order in the magistrates' court must be covered by another form of funding to be claimable i.e. self-granted Advocacy Assistance for an early hearing or free-standing Advice and Assistance (Form CDS1/2) (GCC B5.6 and CBAM 5.2.)

Note of grant for Advocacy Assistance:

Where Advocacy Assistance is provided at an early

hearing, a brief note of grant should appear on the file (GCC B4.6).

Remember to "roll up":

Post-charge Advice and Assistance given in the Proceedings Class must be included in the standard fee claim if a representation order is subsequently granted. The Advice and Assistance should not be claimed on top of the standard fee.

Unassigned counsel:

If unassigned counsel is instructed under a magistrates' court representation order, the maximum fee principle applies. This means that we will disallow any additional costs generated by delegation of the work to counsel e.g. preparation of brief (GCC B5.9 and CBAM 8.2).

Linked files:

Where the claim covers work on more than one file, all relevant files must be submitted when any one file is called for audit (including those of any co-defendants which form part of the same case).

CDS 6:

All figures entered onto the CDS 6 must include VAT where appropriate.

Ensure that files are legible!

Prison Law work - Prison Governors' Hearings

Consequences of Connors & Ezeh v. the United Kingdom (ECHR)

A recent European Court of Human Rights (ECHR) judgement (Connors & Ezeh v. the United Kingdom) has implications with regard to prison disciplinary hearings.

As a consequence of the ECHR

judgement, it is likely that the prison disciplinary process will be reviewed. The Government is currently considering the implications of the ECHR judgement.

As the Government and relevant bodies have yet to make any detailed announcement or policy change, it will be difficult to justify advising clients on the consequences of the ECHR judgement at this stage.

Once the Government announces its response, the Commission will consider the impact in terms of

funding and provide further guidance.

Reporting Prison Governors' Hearings

Under the General Criminal Contract, Part A, paragraph 5.2.1(c), Advocacy Assistance may be provided in proceedings before a Governor or other prison authority. This work is reported using claim code 4B. Paragraph 5.3.2 explains that Advocacy Assistance may only be undertaken if the Governor or other prison authority permits legal representation.

In considering the consequences of *Connors & Ezeh v. the United Kingdom* (ECHR), we have identified a significant increase in the number of claims for prison governors' hearings work. Between April 2000 to April 2001, 25 claims were paid for prison governors' hearings. Between June 2001 and May 2002, 334 claims were reported. We have contacted several suppliers and identified that

the key reason for this apparent increase is that suppliers have made errors in coding these claims. We will discuss any misreporting and the consequences of that misreporting with individual suppliers.

For clarification:

- only where the prison governor has given permission for legal representation may Advocacy

Assistance be provided. This should be reported using claim code 4B.

- where the prison governor does not give permission for legal representation and/or only Advice and Assistance is provided, claim code 4A should be used.

Recording of Standard Fees on CDS6

The purpose of this article is to remind practitioners and their billing departments of how to record the profit costs element of standard fee claims on the CDS6. Please ensure that whoever prepares your claims sees a copy. This reminder is being provided because it has become apparent that some claims are being reported incorrectly.

The claiming rules for the Criminal Proceeding Class in the General Criminal Contract Specification state that:

“A single Claim must be submitted for all work undertaken for a Client in the same Matter or Case except where a claim has been submitted already in

the same Matter or Case because paragraphs 3.4.4(c) [where further work is required or a client has re-established contact and requires help in the same Matter or Case] or (d) [where advice and assistance has been given on a matter where a representation order has been issued for high court proceedings] below apply.” (paragraph 3.4.1 of Part A)

The effect of this rule is that whenever advice and assistance or advocacy assistance is given in the Criminal Proceedings Class of Work and a representation order is issued, all work done within the class must be incorporated into the standard fee. Any time spent on advice and assistance and advocacy assistance

prior to the issuing of the order will count towards the calculation of the core hours for the purposes of claiming the standard fee.

This means that when you come to claim a lower or higher standard fee on the CDS6, you must record the appropriate value shown on the table below, in the profit costs box. Should you enter an amount other than that shown on the table, then the relevant line on the CDS6 will not be entered. A report highlighting the incorrect line(s) will be returned to you for re-submission with the correct standard fee value included in the next month's CDS6 report and the issue will be drawn to the attention of your account manager.

Claim Code & Standard Fee Type	Category 1	Category 2	Category 3
2E - LSF National	£203.80	£359.84	£324.89
2F - HSF National	£490.21	£825.32	£736.14
2E - LSF London	£262.32	£461.72	£410.96
2F - HSF London	£621.87	£1037.11	£863.98
6A - LSF National	£179.42	£317.39	£286.23
6B - HSF National	£432.06	£727.36	£648.69
6A - LSF London	£231.16	£406.95	£362.17
6B - HSF London	£548.24	£913.74	£761.25

All figures are inclusive of VAT.

We are concerned that paragraph 3.4.1 of Part A of the General Criminal Contract Specification has not been consistently followed. The Legal Services Commission is

currently determining the scope of the misapplication of the rule and may, as a result, be conducting an exercise to adjust previously incorrectly reported work and recoup any misclaimed

costs. Please watch out for further information on www.legalservices.gov.uk

Revised Transaction Criteria introduced on 1 August 2002

As result of changes in criminal law, practice and procedure, and prompted by the profession, we have revised the Crime Transaction Criteria.

Since the current set of Transaction Criteria were introduced (in March 1998), there have been many changes in the criminal field of work affecting practice and procedure. Key changes include restrictions on an accused's right to silence, the introduction of the Narey proposals, the abolition of means testing in the magistrates' court and the introduction of contracting. As a measure of best practice, it is appropriate that the Transaction Criteria are periodically updated.

We have consulted with, and received very useful comments from The Law Society, LCCSA, CLSA and individual members of the profession.

In May 2002, we wrote to all CDS contractors enclosing a copy of the revised Transaction Criteria. That letter gave notice that the revised set of Transaction Criteria would be used for audits taking place on or after 1 August 2002.

Below you will find a summary of the changes.

It is important to note that suppliers are not required to address all the issues listed in the Transaction Criteria on every file. Primarily, the Transaction Criteria are an audit tool used by the Commission to assess files. However, we are aware that many suppliers use the Transaction Criteria to formulate pro-formas and checklists, when conducting file reviews, and as a basis for training.

The revised Crime Transaction Criteria is Issue 4 (May 2002). A copy has been sent to all contractors, however, if you require additional copies, the document is available on the LSC website (www.legalservice.gov.uk) under the contracting tab.

Summary of Changes

I. Getting information

Questions regarding a client's income, capital and dependents have been removed

The requirement to consider need for Welfare Benefits advice has been removed.

II. Attendance in relation to an investigation

This section now covers all matters at the investigation stage. There is no longer a split between matters where the first attendance was at a police station and matters where the first attendance was not at a police station.

Clarification has been provided in the notes at the top of this section regarding work carried out by agents and by previous suppliers.

Q2: A new section has been added to reflect requirements under Part D of the General Criminal Contract Specification.

The requirement to record the name and contact details of a social worker or probation officer, previously at Q8.1, has been removed.

Q9 has been re-phrased for clarification.

Q11: The requirement to record details of alibi witnesses at the initial stage has been removed.

Q12 & 13: There has been a reduction in requirements for information about medical conditions and injuries.

Q18.3: There is a new question requiring advice on whether to lodge a prepared statement where the client is not going to answer police questions.

Q19-22: The series of questions relating to the Criminal Justice and Public Order Act 1994 now only apply where the client is to make a 'no comment' interview.

Q23: The requirement relating to interventions by an adviser during an interview has been removed.

Q29.1: Rephrased - the requirement is now to advise of the consequences of failure to answer bail.

Q31.1.1: Advice on the procedure for future bail applications is now only required where such an application is to be made.

Q33: New question on telephone advice where the adviser did not attend at the police station.

III. Identification procedures

This section has been revised and enhanced.

IV. Costs & funding

This section has been reduced and amended to reflect changes in funding requirements.

V. Bail

This section has been revised and enhanced.

VI. Preparing for criminal proceedings

Q48: A requirement to obtain detailed instructions replaces the old requirement for a more formal proof of evidence.

Q54.2: Amendments to phrasing of requirements for advice about prosecution evidence. In accordance with best practice, this is now required for all clients, not just those who have admitted an offence.

Q54.5: there is now a specific requirement to advise on likely sentencing options.

VIII. Magistrates / Crown Court trial

Questions about giving evidence have been expanded and clarified.

IX. Sentencing

The requirement, previously at 85.2, to record any remorse shown by the client, has been removed.

X. Appeals

A new section has been added.

Duty Solicitor Requests where Immigration Matters may be an issue

We are noticing that some duty solicitors are reluctant to accept requests for duty solicitor advice where immigration matters may be an issue.

The General Criminal Contract (Part B Rule 3.6 of the Specification) requires duty solicitors to provide advice and assistance up until the point that the immigration authorities take over conduct of the investigation. This rule is reproduced below. You may also continue to advise after this point if the client remains in detention and it is not practicable to refer the client to an immigration contractor.

You will receive payment under your General Criminal Contract for this work.

In order to assist in this situation, the LSC are planning to set up a pilot scheme to provide specialist support advice by telephone to criminal representatives at police stations on immigration matters. The service would be available on a 24 hour, 7 day a week basis to receive calls from criminal representatives with

urgent immigration law queries. It is expected that the scheme will come into operation towards the end of the year.

Part B Rule 3.6 General Criminal Contract Specification

Where you give Police Station Advice and Assistance and it is apparent, or becomes apparent, that an immigration offence may have been committed or that an immigration issue arises, you shall give Advice and Assistance to the client up until the point where the immigration authorities take over conduct of the investigation. You may continue to advise after this point if the Client remains in detention and requires advice, however you should consider whether it is practicable to refer the immigration offence or issue to a supplier with a contract in the immigration Category of Work in the local area (which may include your firm).

1. For the purposes of this Rule, an "immigration offence" means a breach of the Immigration Acts, such as illegal entry, overstaying leave to enter or remain, breaching a condition of leave, an offence under the Asylum and Immigration Appeals Act 1991 or failure to observe a condition of temporary admission or release. This list is not exhaustive.
2. For the purposes of this Rule, an

"immigration issue" arises when an individual is arrested or attends the Police Station as a Volunteer in relation to alleged criminal conduct and it is apparent, or becomes apparent, that an immigration offence may have been committed or there is some other issue regarding the Client's immigration status.

3. You may not generally give Police Station Advice and Assistance under this Contract where:
 - a) An individual is detained after entry and is served with illegal entry papers or a notice of intention to deport;
 - b) An individual is detained by the immigration authorities on entry;
 - c) An individual is arrested by police on behalf of the immigration authorities where no criminal allegations are made and is detained under the immigration authorities' administrative powers.
4. Where the Client remains in detention and advice is required and it is not practicable to refer the Client to an immigration franchisee, you may continue to provide Advice and Assistance. A full note of the relevant circumstances must be made on the file. The advice you may give includes any urgent advice required covering immigration status and procedure.

Limitations on Advocacy Assistance at Early Hearings

Part A, paragraph 3.2.1(b)(i) of the General Criminal Contract Specification enables Advocacy Assistance to be self-granted to cover attendance at an early hearing **subject to** the following limitations:

- The case must be commenced by way of charge.
- Advocacy Assistance is limited to one hearing and one subsequent sentencing hearing if the client pleads guilty at the first hearing.
- The maximum amount that may be claimed where Advocacy Assistance is provided under paragraph 3.2.1(b)(i) is equivalent to a lower standard fee for a guilty plea plus travel, waiting and reasonable disbursements.

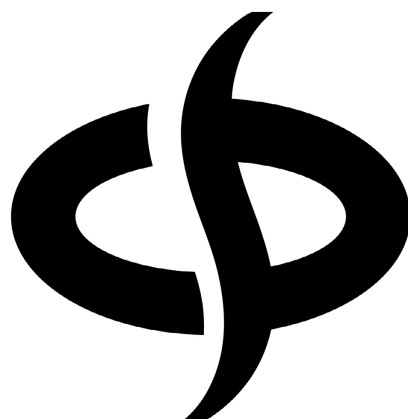
Practitioners should note that auditors have no discretion on these issues and where the above limitations have been exceeded, it is likely that part or all of the claim will be disallowed.

Advocacy Assistance is available to enable representation to be provided quickly, without application by the court of the full interests of justice merits test. It is therefore limited and is not a substitute for representation under an order. If a case requires further adjournment then an application for representation should be made where appropriate. An application for representation may be made at any time, but if it is refused, Advocacy Assistance must also be withdrawn. This is because Advocacy Assistance is not intended to be a means of providing funding for those cases that would not normally meet the interests of justice criteria.

Proposed Payment Dates for Aug 2002 - Dec 2002

contract payments	1st settlement of the month	2nd settlement of the month
Monday 5 August 2002	Monday 12 August 2002	Wednesday 28 August 2002
Wednesday 4 September 2002	Wednesday 11 September 2002	Thursday 26 September 2002
Thursday 3 October 2002	Friday 11 October 2002	Monday 28 October 2002
Tuesday 5 November 2002	Tuesday 12 November 2002	Wednesday 27 November 2002
Wednesday 4 December 2002	Thursday 12 December 2002	Tuesday 24 December 2002

Criminal Defence Service



legal services

COMMISSION

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