

Direct attack

Criminal defence solicitors – including some of those involved in the new CDS Direct model – have already expressed concerns about firms' financial viability and exposing to risk vulnerable clients.

From October this year two law firms – the Johnson Partnership and O'Garra's, along with legal support agency Bostalls, will deliver telephone advice to clients in Greater Manchester, the West Midlands and Yorkshire. The LSC plans to extend the scheme early next year. The LSC promises the call will be passed to either the duty solicitor or a specific solicitor if one has been requested by the client. The aim is to save £4 million and channel it into other areas of legal aid, LSC chief executive Carolyn Regan said.

Digby Johnson, of the Johnson Partnership, said it feared losing money as a result of the Carter changes and needed to make the shortfall up somehow, so had looked at CDS Direct to bidding for the telephone advice scheme. "We were successful with CDS Direct tendering," he explained, "so we hope we will not have to make job or wage cuts." He expressed concerns about the government using CDS Direct to get rid of qualified solicitors or reduce consistency of advice. But he said that often senior advisers were unavailable when a call came into a firm, so he hoped the service could fill a gap. However, he added: "We are only doing this because the LSC was determined to do it anyway. People should really have the solicitor of their own choice, but the government is not prepared to pay for that. It is not ideal at all." He explained: "We are to some extent making the best of a bad job. I have sympathy with people who would be critical of it."

But Mike Ryder, operations director at Bostalls, was convinced that accredited representatives could make a positive contribution through giving phone advice. "We have a genuine belief that we are making a difference in terms of the speed of advice available," he insisted. "We have speeded up the process with regard to efficiency and matters can often be dealt with more quickly." He also insisted the scheme would save other defence solicitors from being woken up in the night and dragged into the police station unnecessarily. "So far it has proved positive from this end," he said.

However Steve Jonas, partner at Jonas Roy Bloom, said the LSC seemed to be setting a worrying trend and was concerned that even in justified cases, clients would not be referred on. "Suspects at the police station are usually vulnerable and the reality

is that [solicitors] are usually prepared to go to the police station to look after vulnerable clients even when they are not getting paid for it, but because the clients are not within the LSC criteria they are at risk of being prejudiced within the police station," he argued. "We will be banned even from looking after our own clients in pro bono situations."

'Slippery slope'

Robin Murray, partner at Robin Murray & Co, predicted the beginning of a 'slippery slope' and marking of the first steps of a departure from safeguards built up in recent years following 'appalling' miscarriage of justice cases.

"The LSC does not understand the subtle nature of our telephone advice work," he warned. "CDS Direct will not know the officers dealing with the case so will not be aware if they have an unpleasant reputation. They are not familiar with our own clients so will not be aware, for example, of any mental issue. Recently I corrected the false police impression that bail conditions had been breached when I was aware that they had been varied the day before. CDS Direct will have no knowledge of these matters."

Mr Murray continued: "The DSCC database of solicitors' names is inaccurate and incomplete, making the forwarding of case information problematic. The methodology of notification of custody remands is not clear. Will it be by phone, fax or e-mail? What information about the decision to remand will we get? When we are told the police are ready for interview, who will take responsibility when we attend and they are not?"

Mr Murray insisted there is a conflict inherent in this scheme between the demands of justice and the demands of the Treasury. "Lord Carter recommended (para 4.5): 'If this fails to control any increase in volume of work being undertaken in the police station then the DCA and the Commission should consider options for restricting defendant eligibility'," he pointed out. "This is rather sinister. It is based on a mistaken presumption that we are responsible for any such future increase. This is a bean counter's approach to justice. There is a very real risk that a client will be 'persuaded' by CDS Direct under Treasury pressure that they do not need a solicitor to attend for financial reasons."

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