



The Recorder

This edition of the Recorder provides news and guidance on a wide range of changes and developments in legal assistance. Highlighted below are some of the significant issues detailed in this edition.

Legal Aid Online.....page 4

The next few months will see the range of services available through Legal Aid Online further expand to cover all types of legal aid work. We held demonstrations in summer and over 130 firms have committed to adopting Legal Aid Online.

Civil advice and assistance reform.....page 5

Implementation of the second phase of reforms to civil advice and assistance has now been set for 1 February 2006. We will be holding information seminars in January and sending solicitors more information on the changes, new forms and guidance for completing applications.

Monitoring the civil legal aid reforms.....page 6

This update on the review of the reforms that were made in October 2003 includes:

- a number of changes to block fees have been identified, and Ministers have agreed to consider possible changes to the fee tables. These are now being developed.
- a reminder to solicitors that payments to account can be made in most cases where a report is being made at a compulsory reporting stage
- we have commissioned MORI, the independent research agency, to undertake research into solicitors' views of the reforms. This research is currently underway.

Incomplete civil applications.....page 11

Over a third of civil legal aid applications sent to us are incomplete. Also, over half of the financial eligibility applications made on CIV/FIN/2 do not include the required verification information. It would be helpful if solicitors can ensure they have provided us with all the information and necessary documentation to allow to us consider applications and avoid unnecessary delays.

Summary justice and summary criminal legal assistance.....page 13

The Scottish Parliament will be considering legislation on summary justice reform in 2006, with implementation expected by April 2007. There will also be a Legal Assistance Bill in the same timescale. We will be involving the profession and others in assisting to develop the details of our proposals for summary criminal legal assistance.

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Continued..

Solemn criminal reform and quality assurance - page 14

We are continuing to work with colleagues from the Law Society of Scotland, and the Scottish Executive to reform the feeing structure and rates for solemn criminal legal aid and develop a quality assurance and peer review system for criminal legal assistance.

New Scottish Legal Assistance Handbooks - page 17

We are now seeking subscribers for the new edition of the revised Scottish Legal Assistance Handbooks. The Handbooks will be our principal online source for all guidance on legal assistance, and will be provided free of charge.

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Chief Executive's Introduction



There is much change and reform underway and planned in legal aid.

This edition of *The Recorder* provides updates on some of the key projects such as the reform of civil advice and assistance, reform of solemn fees and the reform of summary criminal legal assistance.

The Scottish Executive's consultation on the future of the delivery of legal assistance in Scotland, 'Advice for All: Publicly Funded Legal Assistance in Scotland - The Way Forward,' has now closed. They received 65 responses including from the Board, the Law Society of Scotland and several local faculties. Ministers will decide shortly what changes they wish to introduce in the Bill planned for introduction in February 2006. This Bill will also deal with the Regulation of the Legal Profession.

A key element of our approach to this major programme of reform and change is that we must engage with our stakeholders and in particular the profession. It is only by working in partnership that we can develop workable, affordable systems and processes which minimise the bureaucracy and improve legal assistance to the benefit of all.

The programme of reform and change is large and will, we believe, have benefits for all involved in legal assistance. However, it is also important that we do not lose sight of the underlying business of dealing with legal aid applications and paying accounts.

We continue to make improvements to our internal systems to operate more efficiently and effectively and to provide help and guidance to the profession so that you can give us the right information at the right time to minimise delays and the cost of the system. We have now fully implemented our new civil computer system which will improve and speed up our processing of cases. Further development of this system is planned. I appreciate the forbearance of the profession during this major implementation over the summer.

We are now rolling out to the profession our online advice and assistance system. Over 130 firms have asked to use the new system. All legal aid services will be online by the end of December this year.

We plan to issue a further edition of *The Recorder* in early 2006 to keep you informed of progress on the various reforms and developments underway and planned.

A handwritten signature in black ink that reads "Lindsay Montgomery". The signature is written in a cursive, flowing style.

Lindsay Montgomery
Chief Executive

Legal Aid Online

The next months will see the range of services available through Legal Aid Online further expand, offering solicitors a new easier way to do business with the Board.

In August we released a new version of the web based Legal Aid Online advice and assistance system, which included software improvements to improve usability as well as enhancements to the hardware to improve the system's speed and volume capabilities. This work was based on feedback we had received from our pilot sites. With these changes implemented, we have begun to roll out the system beyond our pilots firms.

During August we ran a number of workshops throughout the country highlighting the system benefits and functionality, resulting in 130 firms committing to adopting Legal Aid Online.

We are currently in the process of visiting these firms to implementing the system and training users so that they can begin using the online system for advice and assistance. We are also developing a 'self service' facility to enable firms who choose, to implement and train themselves on the highly intuitive system.

If you were unable to attend any of the summer road shows, but would like to find out more information or are interested in going online you should contact Diane Ireland at the Board, on 0131 240 2013 or email irelanddi@slab.org.uk for a no obligation discussion.

Having developed the Legal Aid Online system to accommodate the forthcoming reform of civil advice and assistance, which is due to be introduced in February, we plan to make further enhancements to the system, continuing to build on observations and feed back from users of the new system.

We are also in the process of developing the Legal Aid Online services for civil, criminal and children's legal aid. These will be introduced over the coming months, with the intention of Legal Aid Online being available for all aid types and for all practitioners by the end of December 2005.

We will be introducing further online services, including accepting payments and job applications online, and launching the new online Scottish Legal Assistance Handbooks.

Civil advice and assistance

Reform of civil advice and assistance

Implementation of the second phase of reforms to civil advice and assistance has now been set for 1 February 2006. We will be holding information seminars in January and sending solicitors more information on the changes, new forms and guidance for completing applications.

Background

At last year's Joint Legal Aid Conference, Hugh Henry MSP, Deputy Minister for Justice, indicated that the Scottish Executive intended to take forward the proposals for the reform of civil advice and assistance that had been developed by the Tripartite Group (comprising representatives of the Board, the Law Society and the Scottish Executive). In December of last year, the Scottish Executive issued, on behalf of the Tripartite Group, a consultation paper, setting out the proposals for the reform of civil advice and assistance. In addition, a number of stakeholder meetings were held earlier this year, and these meetings, together with the consultation responses, have helped us to agree the final elements of the reform of

civil advice and assistance. The key elements of the reform of civil advice and assistance are:

Phase 1 - already implemented

- An increase in fee rates for all civil and children's advice and assistance. Fee rates were increased by a further 16% in April 2005, following the interim 5% increase made in July 2004. This recent increase applied to fees for work done or outlays incurred on or after 30 April 2005.

Phase 2 - to be implemented on 1 February 2006

- The introduction of specific categories of case where it may be assumed that advice from a solicitor is appropriate. Where a client has a problem that is reflected in this list, the solicitor can grant and provide civil advice and assistance largely as at present.
- The introduction of a diagnostic interview to identify the client's problem and to determine whether further advice and assistance from a solicitor is required. The initial level of authorised expenditure in such a diagnostic case will be £35 with an amended client contribution scale to reflect this.
- The ending of the minimum fee arrangements for civil advice and assistance.

- Further extension of the template system for increases in authorised expenditure in certain types of case, allowing for a single, substantial increase in authorised expenditure from the outset of the case to allow the solicitor to undertake all of the work normally required for the type of case concerned.

Phase 3 - likely to be implemented in summer 2006

- Changes to applicants' financial eligibility and contributions for high value cases to more accurately reflect the full reality of civil advice and assistance which may be provided over a lengthy period of time and involve high levels of expenditure. Proposals for these changes are still being discussed with the Law Society and the Scottish Executive. We intend to consult more widely with the profession and others on these changes.

Preparing for the changes

To assist the profession prepare for these changes, we will be issuing mailings providing more information and guidance over the next months, as well as holding information seminars. We will also be introducing new advice and assistance forms, for both civil and criminal matters.

Information seminars

The Board and the Law Society of Scotland will be running a series of evening seminars throughout January 2006, to fully explain the new civil advice and assistance system. We believe that these seminars will provide practitioners with a good opportunity to learn about how the new system will operate, and to raise any queries about its operation with senior officials from the Board or the Society. Further details of the seminars will be available shortly, and will be widely publicised to all solicitors.

Monitoring the civil legal aid reforms

The Minister for Justice gave an undertaking that the reforms to civil legal aid, introduced in 2003, would be reviewed. We have been working together with our colleagues in the Law Society of Scotland and the Scottish Executive to monitor how the reforms have operated.

We have been:

- identifying areas that need to be improved and developed in the short term
- reviewing the new fee tables
- analysing volumes of applications and the geographical spread of solicitors
- assessing the peer review process
- conducting solicitor and applicant surveys

More details on the changes to be made to block fees, the costing exercise, the stage reporting process, new forms and guidance and civil legal aid research are provided below.

Stage reports and interim accounts

Block accounts

Solicitors are reminded that payments to account can be made in most cases when a report is being lodged at a compulsory reporting stage. The compulsory reporting stages are:

- you should submit a report to the Board when a proof or debate has been assigned or 12 months after the grant of civil legal aid - whichever is the earlier.

- in family cases, involving a child welfare hearing, you should submit a report to the Board when a proof or debate has been assigned or six months after the date of grant of civil legal aid - whichever is the earlier.
- each subsequent 12 months after the initial report.
- final report at conclusion of proceedings for which legal aid has been granted (not the submission of the account).

How to make a claim for payment

You are entitled to payment of any blocks completed as at the stage of each compulsory report. To make a claim, you should complete and submit to us the form SLA/POA/3, which is available on our website www.slab.org.uk. This form will be issued to solicitors shortly with the new civil legal aid application forms.

If a compulsory report is not timeous, no payment to account can be made. This, however, will not preclude payments to account at a later stage in the same proceedings where the solicitor does lodge a compulsory report timeously.

Payment in respect of the work where a payment to account has been withheld will be paid at the conclusion of the proceedings on receipt of the solicitor's final account. The Board reserves the right, however, to challenge any work carried out in circumstances where the Board would have considered suspending or terminating the certificate or would have challenged the course of action taken by the solicitor had the solicitor reported timeously.

Cases where civil legal aid is granted prior to 1 October 2003 continue to be dealt with as before.

Detailed accounts

The payment on account rules under schedule 5 (detailed fees) are:

- You are again entitled to submit a claim at each compulsory report stage, and should submit the claim on form SLA/POA/3 detailing a note of the fees incurred as at the date of the report.
- No detailed account is required at this interim account stage. The interim payment payable by the Board shall be 75% of the fees that are eligible for payment and earned during the period covered by the claim.

Block fee changes

As part of the post implementation review of civil legal aid reform, the Law Society of Scotland, the Scottish Executive and the Board have been working together to identify areas in the fee structure which could be improved or developed in the short term.

A number of key areas have been identified and Scottish Ministers have agreed to consider a number of possible changes to the fee tables in the Sheriff Court. Detailed proposals are now in the process of being developed to allow for the changes to be implemented to the fee structure.

The main proposed changes are:

- introduction of greater flexibility in the block fees to reasonably remunerate very complex or involved and contentious family actions

- provide for payment to pursuers where a legal aid certificate is granted and settlement is achieved where no action is raised
- instruction fee - consideration to allow the "full" instruction fee in some cases involving children, where the court do not fix a procedural timetable for lodging of defences
- progress fee -provision to part pay a block fee may be introduced to allow payments to be made to a solicitor where the case does not "settle" but the solicitor has carried out work in good faith and/or to allow payment of the full block fee where the case proceeds to an Options Hearing and the court directs any further procedure
- enhanced or additional preparation fees to be considered for those courts where Child Welfare Hearings have effectively replaced proof diets. For example, a provision for separate payment for a continued diet could be considered "on cause shown" basis
- payment for court hearings which are not already provided for within the fee tables
- the introduction of a minimum court fee for any specified hearing
- payment of travel costs where travel exceeds 20 miles in total
- addition for certain procedures to the exempted categories of case under schedule 7 (detailed time and line fees).
- additions to the list of certain types of work which are charged on a detailed time and line basis.

It is hoped that the regulations for most, if not all of these changes, can be developed and implemented within a few months.

Costing exercise

A costing exercise is currently being undertaken by the Board in conjunction with the Law Society of Scotland to establish the actual increase in fees that has arisen following from the change in the legal aid payment structure. A sample of files are being requested where legal aid was granted on or after 1 October 2003.

The Society explained this exercise in the June edition of the Journal (page 39) and have encouraged the profession to respond positively to any request made for files.

A number of requests for files are being refused on the basis of client confidentiality. The file requests are an exercise of the Board's powers under Section 2 of the Legal Aid (Scotland) Act 1986, which provides authority to undertake an enquiry related to our payment functions. In addition, when an applicant applies for legal aid (s)he has consented to the provision of such information as the Board might require.

We would be grateful if you could arrange for files to be sent to the Board when requested.

Civil legal aid reform research

As part of the civil reform monitoring programme we have commissioned MORI, the independent research agency, to undertake research into solicitors' views of the reforms.

The research with solicitors is being conducted by telephone, in two phases, during September to November 2005. MORI will be contacting a random selection of solicitors who undertake civil legal assistance to invite them to participate in one phase of the study. We very much appreciate the help of those contacted, to help with this important study which will be invaluable in assessing what solicitors' views are on the reform.

The survey covers a number of topics including:

- Impact of the civil reforms on volume on case load and work with clients
- Fee rates and issues
- Stage reporting arrangements
- Quality assurance
- Application forms and financial eligibility.

We expect to publish the results of this research work in early 2006, and we will provide a summary of the main issues in a future edition of *The Recorder*.

If you have any queries about this civil legal aid reform research, please contact Colin Sim, Communications Manager at the Scottish Legal Aid Board on 0131 240 2033 or email general@slab.org.uk

Legal aid forms and guidance

Civil practitioners will receive information in the next few weeks about the changeover to revised and new civil legal aid forms. The revised forms include changes to make it easier for you to provide the information that we need to consider the application. We will also be publishing a number of new forms and updated guidance on how to complete our forms.

We are making changes in response to comments received from solicitors and following consultation with a number of legal profession bodies, including the Law Society of Scotland. We have also made revisions to improve their usability and to assist the Board's processes for considering applications, which because of our new paperless computer system, will assist us improve our service to you and your clients.

While most of the changes are minor more extensive amendments have been made to the CIV/SOL application form and the stage reporting form. The new CIV/SOL will include a list of category codes that solicitors need to tick to allow us to know the extent of the legal aid cover being sought. We have found that solicitors often confuse the category codes for civil legal aid with those for advice and assistance. This creates difficulty for our staff as they have to try to identify what cover is being sought and can result in decisions not covering all the aspects of work needed. We believe that including the codes as part of the form will help everyone.

The stage reporting form has been revised to better enable you to provide us with the information we require to decide if legal aid

should continue. We will be asking for more information about the progress of the case rather than simply concentrating on whether your view of the merits of the case and its cost has changed. We have also created a separate form for you to report on cases that have concluded.

We will also be introducing a number of new forms, including civil legal aid versions of the application for sanction, amendment or extension, request for transfer of agency and notification of solicitor ceasing to act. There will also be a new special urgency mandate form (sometime known as the pro-forma calculation sheet).

We will publish updated guidance to assist you complete the new forms. Revised guidance will be essential to help you with all of the changes and to assist in your preparation of an application. This will minimise the opportunity for difficulties to arise that might stand in the way of the smooth running of your client's case.

We will be contacting civil practitioners shortly with details of the changeover and the number of forms that will be sent to you automatically. New versions of the forms in pdf format will also be available from our website.

The new forms will also feature a revised design style to better meet the requirements of our paperless civil computer system. In particular, you will notice that civil forms have a red colour instead of blue.

We ask that when completing legal aid forms, you use black ink or type, as we now scan all civil legal aid forms. Where forms are not completed in black, the scanned image is unsatisfactory. If, as a result, we have to photocopy the application, this may lead to a delay in dealing with it.

Civil legal aid news and guidance

Civil legal aid applications

Further to our letters to the profession in August and September, we are pleased to report that progress towards dealing with all cases within normal timescales is being maintained.

Figures for the month of September show this and also that further improvements have been made:

- all post certificate categories continue to be registered on day of receipt and forwarded to our dedicated teams for decision
- all mail is now being registered on day of receipt and again passed to the dedicated teams
- initial civil legal aid applications are being registered within 3 ½ days of receipt and likewise passed to our dedicated teams. (Registration of initial applications was relaxed to enable us to turn our attention to correspondence and that exercise having now been concluded will return to registration on day of receipt.)

These timescales will considerably reduce the elapsed time in our hands for dealing with applications and we expect you will therefore begin to see the benefits of our new system, such as quicker decision making for new civil legal aid applications.

On this theme, our management reports also indicate that for all types of civil legal aid applications received in September we are bettering our current performance targets.

Incomplete civil legal aid applications

Last month, a third of civil legal aid applications sent to us were incomplete. This leads to unnecessary delays and wasted effort for all involved in the process.

We have previously explained that we no longer return incomplete civil legal aid applications to solicitors as we feel it is more helpful to both solicitors and applicants if we hold these incomplete applications while we write to the solicitors acting to ask them to send us the information we need to decide the application.

We are still doing this and are finding that significant numbers of applications have to

be held. In September we registered 976 applications. Of these 333 had to be held so we could ask for further information to be sent to us. The main reasons for holding the applications are:

- the CIV/SOL form has not been signed and/or dated by the nominated solicitor/applicant
- the legal aid Memorandum has not been signed by the nominated solicitor/applicant
- the Financial Eligibility Form 1 or 2 has not been sent in
- in defender applications, the writ/summons has not been provided
- the applicant's National Insurance number has not been provided
- supporting evidence or a reason for its absence has not been given
- details of the value of claim, where appropriate, have not been given
- the questions on reasonableness and/or probable cause have either not been completed or been completed inadequately
- the Financial Eligibility Form 1 has not been signed and/or dated by the applicant.

This delays considerably the time taken to process all applications and also imposes a substantial increase in administrative work on members of staff in our civil applications area who have to deal with these requests for necessary information.

In addition, there are also unnecessary delays with Financial Eligibility assessment as applicants are not sending us the information required to verify their financial situation. In the last months, on average over half of the

applications made on CIV/FIN/2 have had to be continued so that the verification information can be provided. The most important documentary evidence that should be provided are copies of bank statements.

Where financial forms have to be completed by the applicant, solicitors should remind them to answer all of the questions and to provide any documents or papers asked for. If applicants have any concerns or queries about the financial information they have to give they should contact the Board's Financial Assessment Unit for help.

It would be very helpful if solicitors could ensure they have provided us with all the information requested in the application forms together with all necessary documentation to allow us to register and consider the application.

Criminal legal assistance

Criminal legal aid news

Summary justice and criminal legal assistance reform

When announcing this year's Parliamentary timetable in September, the First Minister set out the Scottish Executive's proposals in relation to summary justice reform. A draft Bill is expected in early 2006 with the final Bill by summer 2006 and implementation by April 2007. The main policy strands of summary justice reform are:

- the future for lay justice
- Court administration and fines enforcement
- alternatives to prosecution
- better case handling for better outcomes.

A Legal Assistance and Legal Profession (Scotland) Bill will also be presented in the same timescale. This will take forward any issues from the recent Advice for All consultation, as well as amendments to the system of criminal legal assistance which will

be needed to ensure that the wider reforms to the summary justice system are as effective as possible. This will allow us to develop our own proposals for the reform of summary criminal legal assistance based around developments to the summary criminal system such as early disclosure and sentence discounting as well as the desire to improve payment rates for work done in earlier stages of a case.

Other features of our proposals which can be developed as part of this process include:

- removing the exclusive jurisdiction of the duty solicitor to act for clients appearing from custody, and reviewing duty remuneration rates
- introducing more consistent feeing and remuneration arrangements and revisions to the fixed fee arrangements
- standardising financial assessments, based on the current advice and assistance arrangements, with the removal of client contributions
- future arrangements should be based around a single integrated system providing advice, assistance and representation to the extent required for each accused and his case
- the system should incorporate different stages at which different tests are to be met, depending on how the case progresses and what work needs to be done for the accused

- solicitors will continue to grant applications for the equivalents of the advice and assistance and ABWOR stages. However at the different stages of the case where different work needs to be done, different levels of authority would be needed from the Board
- where the interests of justice test is to be applied for trials, the defence advanced would need to be “meaningful” as opposed to the existing “non-frivolous”, and this factor should be weighted more highly than the others
- the courts should have wider powers to make publicly funded representation available, where it is felt desirable for the accused to be represented.

We intend to involve the legal profession and other key organisations in the criminal justice system at the earliest opportunity to assist develop the detail of the changes to the summary criminal legal assistance system.

A full copy of our proposals for the review of summary criminal legal assistance can be found on our website - www.slab.org.uk

Solemn criminal reform

We are continuing to work with colleagues from the Law Society of Scotland, and the Scottish Executive to reform the feeing structure and rates for solemn criminal legal aid and develop a quality assurance and peer review system for criminal legal assistance.

New fee structure for solemn criminal legal aid

A draft fee structure was devised by a joint working group of Law Society members and Board officers, and this was issued for consultation in June. The structure set out a series of work blocks to which set fees would be attached once agreement had been reached on the nature of these work blocks. A further consultation exercise will then be held once draft figures have been costed and agreed.

A number of meetings have been held with local faculties to discuss the draft fee structure, and the working group is still considering the responses, particularly in relation to precognitions and the proposed progress fee. The group is also working on the best way to consider the impact on fees of the recent High Court reforms.

At this stage, it is expected that the second consultation on the new fee structure will take place in late 2005/early 2006, with the new fee structure being implemented in spring 2006.

Quality Assurance and Peer Review

The joint working group between the Law Society and the Board has been continuing to consider the draft criteria for the peer review file checks for summary, solemn and criminal appeal cases. These file checks will be conducted by experienced practitioners as part of a wider quality assurance scheme for criminal legal assistance.

The draft criteria were developed along the lines of the current Quality Assurance Scheme for civil legal assistance, with the content being based on the recent PDSO Quality Assurance Pilot. As reported in the last *Recorder*, drafts of the criteria are available on our website www.slab.org.uk.

There will also be an overseeing committee involving the Law Society and the Board. We will shortly be advertising for peer reviewers who have the necessary experience in criminal law to conduct the reviews. These reviewers will be interviewed and selected by representatives drawn from the Board and the Law Society.

Separately we have been working with the Faculty of Advocates on a peer review and quality assurance scheme for advocates doing criminal legal aid work.

Review of the Code of Practice

We have been discussing with the Law Society the amendments to the Code of Practice for Criminal Legal Assistance which will be required as a result of the above developments. Once draft revisions have been agreed, a formal consultation will take place on the revised Code, so that the amendments can be introduced at the same time as the other aspects of solemn reform.

New payment and quality arrangements for Solicitor Advocates

We are continuing to discuss new payment arrangements and a quality assurance scheme for solicitor advocates with the Law Society and solicitor advocates.

Sanction to employ counsel in solemn criminal cases

Since the High Court reforms were implemented, we have been monitoring requests for sanction to employ counsel in solemn criminal cases and reviewing our guidance.

In the six month period from April to September 2005, we processed 16% more requests for sanction to employ counsel in solemn criminal cases than last year. Of the 1,074 decisions taken in this period, 710 were granted with 364 being refused. The grant rate of 66% is up from 57% last year.

The biggest change has occurred in High Court cases where 443 requests have been granted in this six month period, compared to 268 for the first six months in 2004/2005. This has been as a result of this year's High Court reforms where we are now granting requests to employ counsel at the earlier stages of the case.

Sanction for Junior Counsel will be granted automatically once it has been confirmed to us that the case is proceeding in the High Court. We are currently discussing with the Crown Office, ways of improving the current processes to see how these sanction requests can be dealt with automatically.

In sheriff court cases, we granted 267 requests in the first 6 months of this year, compared to 260 last year. We refused 235 requests this year compared to 272 last year, and as a result the grant rate has increased this year to 53% from 49% last year.

How to apply for sanction

Solicitors are reminded that all requests for sanction to employ counsel must be made on the form SANC/APP, as soon as possible once the need for counsel has been identified. The following information should always be provided:

- full reasons why employment of counsel is necessary
- a detailed explanation of the background and any complex, novel or unusual issues
- information to show that the problem is beyond the competence of either a practising solicitor or junior counsel acting alone as appropriate
 - a copy of the indictment, petition, complaint or note of appeal, as appropriate - the solicitor should highlight or otherwise identify sections being relied on in the sanction request
- a full, detailed explanation of the pertinent circumstances, rather than a mere list of abstract factors, or a broad reference to the proceedings being complex, difficult or novel.

New tables of fees for counsel and solicitor advocates in criminal proceedings

Some solicitor advocates have recently asked if the recent changes to the fee regulations governing counsel's fees apply to solicitor advocates fees. Regulation 2 of the Criminal Legal Aid (Scotland)(Fees) Regulations 1989 makes it clear that "counsel" includes a solicitor-advocate.

The new table of fees for counsel continues to regulate the fees of both members of the Faculty of Advocates and solicitor advocates providing criminal legal aid.

The new Schedule 2 regulations apply to proceedings concluded on or after **4 April 2005**.

Scottish Legal Assistance Handbook

Subscribe now for the new Scottish Legal Assistance Handbooks

We are now seeking subscribers for the new edition of the revised Scottish Legal Assistance Handbooks. The Handbooks will be our principal online source for all guidance on legal assistance, and will be provided free of charge. Subscriptions should be made by Friday 25 November.

We will be publishing completely revised Handbooks on legal assistance in civil, criminal, contempt and children's matters. The first Handbook, on civil legal assistance, will be published in November. Our website at www.slab.org.uk features a draft edition for you to see how comprehensive and easy to use it is.

You can read more about the different volumes, their content and how to subscribe in this article, and included with this *The Recorder* is a subscription form to complete online or that you should return to us.

About the Handbooks

We aim to make the Handbooks the key reference material for the legal aid professional and to provide you with the right information, when you need it.

Each Handbook will include:

- all current legal aid legislation
- all our policies on applications, and practical advice covering all stages of a case, including
 - applying for, and provision of, advice and assistance and ABWOR, and our approach to different types of case
 - applying for, and provision of, legal aid, and our approach to different types of case
 - procedures after legal aid is granted - for example, the requirements for sanction for certain types of work, reporting procedures, amendments to grants or changes in circumstances
 - clawback and expenses in civil cases
- information about registering to provide different types of legal assistance
- information on accounts issues (this section will be added as an update to the civil volume)
- an easy to use contents list, index and search service for the online editions.

The Handbooks will incorporate all our current guidance notes on applications, such as the Advice and Assistance Guidelines, the Civil Merits Guidelines, guidelines on sanction for counsel, expert witnesses, and unusual expenditure, and other guidance published in mailshots and *Recorder* articles.

Keeping the Handbooks up to date

We have listened to the views of the profession about how you would use the Handbooks, and how best to keep it up to date. We have developed the Handbooks with the intention that we will issue regular updates throughout the year, to reflect changes in legislation, our guidance and to provide information that assists with day to day working practices, such as how to complete our application forms.

Publication of the Handbooks will also lead to changes in the information we send you. Over the next months, we will no longer publish separate guidelines publications and we will change the way we provide updates on changes through mailshots and *The Recorder*. Instead, these will be made through updates to the Handbook.

The new Handbooks will also support our move from paper to providing our services through Legal Aid Online. We will mainly publish our Handbooks on our website, as this will offer the most interactive, easy to use and up to date edition. The graphic shows the easy to use navigation and display of the text in our online edition.

Formats available and charges

The Handbooks will initially be available in the following three formats:

- easy to use online format on our website, with updates announced by email. We encourage solicitors and their staff of all levels involved in legal aid work to subscribe to this format. We expect that eventually this will be the only available format for the Handbooks.
- CD-ROM - this will be a copy of the online edition, for firms without internet access, with updated CD-ROMs provided a few times a year. We expect CD-ROM subscribers to move to using the online web edition.
- on paper in loose-leaf format - this will be available only in some circumstances to those who are unable to use a CD-ROM or web version, with updates provided a few times a year. However, we expect to stop offering the paper edition in 2007.



As part of our commitment to providing the profession with the appropriate legal aid reference material, when you need it, we are providing the Handbook to firms **free of charge**:

- **Online web edition and email updates** - free to all individual subscribers - this format allows all staff in your firm to use the latest Handbooks and to be kept up to date on changes
- **CD-ROM** - we will provide one CD-ROM for each firm office, and you will be responsible for ensuring it is available to all staff in your firm. We expect that you will then move to using the online web edition.
- **Paper format** - we will provide one copy for each firm office. You will be responsible for ensuring paper updates are made when supplied. We expect to stop offering the paper edition in 2007, and that you will move to the easy-to-use online web edition.

We will also offer subscriptions on a similar basis to people who are not solicitors, such as partners in the justice system and in advice agencies.

How to subscribe

We are inviting subscriptions for all four Scottish Legal Assistance Handbooks. We require you to register for the Handbooks so that we can ensure updates are provided to you. The Civil Handbook will be published first, in November. We will inform subscribers when the other volumes will be available.

Subscribing to receive the Handbooks is a simple process. You should complete our online subscription or return the subscription form that was included with this edition of The Recorder. You should subscribe by **Friday 25 November 2005** to receive the civil volume.

Online subscribing is the simplest way to order your Handbooks. You should provide your contact details, including email address, details of which volumes you will use and we can then more easily send you information on updates to the Handbook. Remember that **this online option is open to everyone, free of charge**.

For those firms who wish to subscribe to CD-ROM or paper editions, the senior partner or solicitor responsible for legal aid in the office should complete it. You also need to answer questions to indicate when you intend to move to the online edition.

We will contact subscribers with more information including details of when you will receive the Handbook.

Your comments

We are keen to hear your views on the new Handbooks. We hope you will make suggestions on any topics or issues that could be added to our guidance, or give us your ideas for how to make it easier to use to suit your working practice. We will be able to respond to feedback on a regular basis through our updates. Our website will offer several easy ways to enable you to suggest changes.

At this stage, if you have any questions on subscribing, please contact our Communications Department by emailing handbook@slab.org.uk

Board News

Tripartite Group

Meetings of the Tripartite Group have taken place between June and October. The group comprises representatives of the Law Society of Scotland, the Scottish Executive and the Scottish Legal Aid Board. The main items discussed at the meetings were:

- **Progress on reform projects**
The group monitored progress on solemn legal aid reform, civil advice and assistance reform and the monitoring of the civil legal aid reforms.
- **Summary justice reform and summary legal aid review**
The group ensures that information is shared on the progress of the reforms and the development of summary legal aid and that sufficient consultation takes place.
- **Children's legal aid**
The Board and Society have worked together to try to identify specific types of cases where uplifts in fees may be appropriate.
- **Research**
The Law Society of Scotland, Scottish

Legal Aid Board and Scottish Executive are conducting joint research in a number of areas. The tripartite group monitors the current research projects on criminal fixed fees; ensuring the future supply of lawyers in Scotland; and actions involving children.

Advice for All Consultation

Following the Strategic Review report which looked at advice provision in Scotland, the Scottish Executive issued a consultation, "Advice for All." The consultation ran from 17 June to 9 September 2005. By the end of the consultation period, 65 responses had been made, and 8 focus group discussions were also undertaken. This included a consultation response from the Board. Consultation responses have been published on the Scottish Executive's website, at www.scotland.gov.uk/Publications/2005/10/13123548/35491.

An independent analysis of the consultation responses and the focus groups is currently being undertaken. It is expected that this will be published on the Executive's website in early November.

The consultation responses will inform the development of future policy and the content of the Legal Assistance and Legal Profession Bill scheduled for introduction in the Scottish Parliament early next year.

Minimising fraud in legal aid

The Board spends around £155 million on legally assisted cases each year. We recover around £11million in client contributions and expenses. These are large sums of taxpayer's money and it is important that we and the public get best value for this expenditure.

Over recent years we have been investing in new computer systems and analysis tools which help us identify areas for further examination and investigation. These investments help us:

- better identify overall trends in legal aid which may suggest the need for changes in regulations or help estimate future costs of legal assistance
- compare and contrast the profile of firms' legal aid business and average case costs for different types of case.

It is this latter category which is helping us identify possible cases of fraud and abuse of legal aid. We believe that the vast majority of the profession properly carry out legal aid work with integrity and professionalism. However, we have identified a number of firms where this is not the case.

We have recently deregistered a firm and solicitor from the criminal register. We also identified a serious fraud involving a firm of solicitors. . Other firms are currently under police investigation for possible legal aid fraud.

Fortunately, it is relatively small numbers of firms which appear to be involved in unacceptable practices. However, the amounts involved can be substantial. It is in everyone's interest -taxpayers, clients, the profession and the Board - that high standards of integrity and honesty are maintained in the provision of legal aid services. We will continue to develop our ability to identify and investigate inappropriate practices and where fraud or systematic abuse of legal aid is found. We will take appropriate action against the firms and solicitors involved.

Our performance

For 2005-2006 we increased three of our six headline indicators: civil applications by 1% to 93%, advice and assistance applications by 1% to 99% and civil accounts by 1% to 96%.

So far this year, we are meeting or surpassing five of our six targets. Our performance for civil applications was reduced over summer whilst we successfully implemented our new

computer system, which will enable us to improve our performance over the rest of the year.

Headline indicator	Our target	How have we done so far this year?	Target met?
Civil applications	93%	84%	No
Criminal applications	99%	99%	Yes
Advice and assistance applications	97%	99%	Yes
Civil accounts	96%	99%	Yes
Criminal accounts	97%	99%	Yes
Advice and assistance accounts	96%	99%	Yes

Performance figures shown are to August 2005

Finding out our customers' views

Listening to the views of our stakeholders is a key element of our approach in delivering our objectives. That is why we are undertaking a number of surveys over the next few months, through independent researchers.

We have commissioned MORI to undertake research into solicitors' views of satisfaction with Board services. This will be issued as a postal questionnaire, and is in addition to the survey work MORI are undertaking on civil reform matters.

We will also undertake a further postal survey of legal aid applicants, assisted persons and opponents over the next months. We are also researching the views of other stakeholders particularly in the advice sector.

The results of this research work will be published in early 2006, including in *The Recorder*.

If you have any queries about research work, please contact Colin Sim, Communications Manager at the Scottish Legal Aid Board on 0131 240 2033 or email general@slab.org.uk

Research into legal aid awareness

Over three in five of people who took part in a survey were aware of the legal aid brand, and would go to a solicitor to get more information on legal aid, according to research the Board has recently published.

As part of our research work into knowledge about legal aid and how to improve our communications, we commissioned researchers to find out the views of the public. Over 1,000 adults were interviewed across Scotland in spring, with the key findings detailed below.

- 61% of those who took part in the research recalled having seen the legal aid logo before, when shown it
- Of those who recalled having seen the logo, 64% knew it represented legal aid. A further 11% said it was related to some sort of legal help or advice and another 7% said it was related to an advice service.
- 35% of those asked thought they would be

eligible for legal aid, 33% thought they would not be and 31% did not know.

- If they wanted more information on legal aid, most respondents, 62%, said they would go to a solicitor. The other main sources of information were Citizens Advice Bureau or other general advice agency at 42% and family and friends at 17%.

These interesting findings contribute to our programme of customer research and will help us further develop our communication strategy. Further information on the research is available on our website at www.slab.org.uk

Have you received this information?

Since the last issue of *The Recorder*, we have issued the following mailshots, containing important information about legal aid, to the profession:

- **2 September 2005** - letter to civil practitioners with an update on how we were dealing with civil applications and enclosing a revised list of civil legal aid category codes.
- **12 August 2005** - letter to civil practitioners with an update on how we were dealing with civil applications and information on the arrangements for using legal aid leaflets in support of requirements that solicitors provide letters of engagement to their clients. It also included an interim version of a new leaflet, "Advice and assistance - what you may have to pay if you win or keep money or property after your solicitor has given you advice and assistance."
- **25 July 2005** - letter to all criminal legal aid practitioners providing information about how to apply to be on the 2006 duty plans.
- **13 July 2005** - an invitation to all solicitors to go and see Legal Aid Online at local demonstration events. It also included an update on the benefits of Legal Aid Online.
- **10 June 2005** - letter to all civil practitioners about implementation of our new computer system
- **8 June 2005** - letter to all firms enclosing a copy of our Corporate Plan 2005- 2006.

information

These mailshots are available:

- online at www.slab.org.uk in the legal profession section
- printed copies can be ordered by calling our Communications Office on 0131 240 1985.

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