

Report to:	The Board
Meeting Date:	31 July 2023
Report Title	Report on Findings from the Criminal Quality Assurance Scheme for Criminal Legal Assistance for 2019 to 2023
Report Category	For Information
Issue status:	Business as usual

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Delivery of Strategic Objectives	
Select the Strategic Objective(s) relevant to the issues	1. to deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.

Link to Board or Committee Remit
The Criminal Quality Assurance Scheme was devised in partnership with the Law Society of Scotland and commenced in 2012. The scheme is administered by SLAB under Part IVa of the Legal Aid (Scotland) Act 1986 and is part of the overall compliance regime.

Publication of the Paper
The Board has previously agreed that this paper should be published as a matter of routine. It will be published on our website in due course.

Executive Summary
1. This report sets out the statistics, issues, and findings from the Criminal Quality Assurance scheme for the 4-year period 1 April 2019 to 31 March 2023. This is a longer period than the previous annual reports we have published, to take account of the peer reviews being temporarily halted for 2 years due to Covid 19 pandemic.

2. Due to the pandemic the decision was taken to suspend peer reviews in March 2020. The reviews restarted in April 2022. There were a few virtual meetings of the Criminal QA Committee during 2020 and 2021 to consider the outstanding reviews that were completed by the peer reviewers.
3. It is encouraging to note that out of the 163 routine reviews carried out from 1 April 2019 to 31 March 2023, 95% were passed. 64% of the reviews were marked as Competent, while 18% were rated as Very Good. Only 3% of the reviews were failed.
4. As well as covering the results of the peer reviews carried out in this 4 year period, the report also includes details of how the scheme was affected by the pandemic, and the impact on the signing of the legal aid declarations. The report also summarises the main areas of good practice identified in the reviews carried out, as well as the areas of where improvements were needed. A selection of anonymised quotes from the peer reviews which highlight these findings is also included at appendices 1 and 2.
5. The report was considered and approved by the Criminal Quality Assurance Committee at its meeting on 21 July 2023.

Report

CRIMINAL QUALITY ASSURANCE SCHEME

6. All criminal solicitors who have registered with SLAB to provide criminal legal assistance are subject to peer review. The reviews are carried out over an initial six-year cycle. The process is overseen by SLAB's Criminal Quality Assurance Committee, which comprises three members appointed by SLAB, three members appointed by the Law Society of Scotland, and three independent or non-legal members appointed in consultation with the Society.
7. The peer reviews consist of an examination of a range of solicitors' files by one or more of a panel of peer reviewers who are experienced and currently practising criminal solicitors, and were appointed after an open recruitment process. The purpose of the review is to examine the quality of the work carried out on behalf of the client, based on the evidence contained within the file.
8. Files are assessed against set peer review criteria for summary, solemn and criminal appeal cases. The criteria cover issues like initial client contact, bail matters, handling of preliminary or guilty pleas, trial preparation, communication of outcomes, and legal aid matters. The criteria were developed in consultation with the Law Society, and with the reviewers themselves.

CRIMINAL QUALITY ASSURANCE REVIEWS DURING THE COVID 19 PANDEMIC

9. The second 6-year cycle of reviews started in 2019, but no new reviews were set up after the start of the pandemic in March 2020. Several reviews were still in progress at that time, but took longer to be completed due to the Covid restrictions in place at the time. The Criminal Quality Assurance Committee met virtually on several occasions during 2020 and 2021 to take decisions on these outstanding reviews. The scheme did not start up again with new reviews until April 2022.
10. When the reviews did start up again, we took into account any operational difficulties that firms may have faced at the time. We started with routine reviews based on file checks first. Extended reviews involving onsite visits to solicitors' offices did not take place initially, and only commenced when it was safe and appropriate to do so in September 2022.
11. The Peer Reviewers marked the files against the existing criteria, and they were also provided with full details of the legal aid changes which had taken place since the start of the pandemic. The Peer Reviewers are all experienced solicitors who also practised during the pandemic, so they were aware of the main issues and difficulties raised during the pandemic, in particular:
 - Fewer face to face meetings with clients and other justice partners such as the Procurator Fiscal or Children's Reporter.
 - Many solicitors' offices being closed for extended periods, with support staff unable to work, or on furlough.
 - Difficulties with receiving, typing, and posting out letters.
 - Difficulties with typing up file notes.
 - Newly qualified solicitors and solicitors new to a firm having fewer opportunities to have face to face assistance/support from others in the firm and to experience cases in court/children's hearing to learn and develop their advocacy skills.
 - Virtual custodies and changes in arrangements for contact with clients.
 - The introduction of other initiatives such as Pre-Intermediate Diet Meetings, remote juries, and the extension of taking evidence by commission.
12. In March 2020, SLAB recognised that during the COVID-19 period, solicitors would not be able to meet with many clients in person with physical distancing requirements making this difficult. This meant that many legal aid declarations could not be signed by clients. On 16 March 2020, we advised that we could accept declarations without clients' signatures and accepted that obtaining full financial verification from clients could also prove to be difficult in the lockdown period. The Peer Reviewers were aware of these matters, and when looking at the files they made allowances for the difficulties of working during the lockdown.

DECLARATIONS IN FILES WORKED ON DURING THE COVID 19 PANDEMIC

13. On 12 December 2022 we told solicitors and the Peer Reviewers that we were aware that some confusion had arisen for some solicitors who thought that our notification that the declarations did not need to be signed by applicants meant that they did not need to sign them either. We advised them that the current and unchanged position is that they should sign the declaration forms. We considered the different scenarios we were seeing and confirmed that the following was acceptable for the purposes of legal aid regarding the signing of the declarations by solicitors during the pandemic, from March 2020:

- i) Paper declaration forms signed by the solicitor and client.
- ii) Paper declaration forms signed only by the solicitor and the 'Covid' reason used instead of the client's signature.
- iii) Printed copies of the online application with a wet signature by the solicitor and the 'Covid' reason used instead of the client's signature or with the client's signature.
- iv) Printed copies of the online application containing the name of the solicitor in the signature box, but without a wet signature by the solicitor and the 'Covid' reason used instead of the client's signature.

14. 'Online applications' are the A&A/ABWOR declarations printable summary, or a copy of the application submitted in Legal Aid Online.

15. The policy on scenarios i) - iii) was unchanged - these continued to be acceptable. It was scenario iv) that has developed over the pandemic and which we confirmed was acceptable for legal aid purposes. The Peer Reviewers could therefore be satisfied that it met our requirements and the peer reviewer criteria accordingly.

16. There were no further changes to the general guidance on the completion of declaration forms, which continue to be applied by the Peer Reviewers. For example:

- Where there is no evidence of any format of declaration form, this does fail the criteria (but not the file) and should still be reported to the QA Committees for further consideration.
- Where there is a part-complete declaration form, but financial details are available elsewhere in the file and there is evidence of assessment, you can use your discretion in assessing the criteria.

ELECTRONIC PEER REVIEWS

17. With peer review suspended in March 2020, it allowed us to think about ways in which the process could be developed. Much of the process still relies on papers files being uplifted from offices and delivered to the peer reviewers. For onsite reviews, 2 peer reviewers visit the offices of the solicitor under review and review the files. Covid has prevented this from happening.

18. The Civil Quality Assurance Committee, which is administered by the Law Society started a pilot of carrying out routine reviews electronically in November 2020. They continue to monitor and amend the process. We then considered how electronic peer reviews could be carried out in both Criminal and Children's cases.

19. SLAB uses a secure platform called Sharefile, this platform has been offered to solicitors who store their file electronically. From April 2022 - to March 2023 3 reviews have been created using the electronic platform. Further feedback will be sought from the firms and reviewers using the system.

CRIMINAL QUALITY ASSURANCE COMMITTEE

20. From April 2019 to March 2023, the following served on the Committee:

NAME	DESIGNATION
Colin Lancaster (Chair)	SLAB Chief Executive
Matthew Auchincloss	PDSO Director (<i>to September 2021</i>)
Paul Reid	SLAB Board Member (<i>to September 2019</i>)
Gerry Bann	SLAB Board Member (<i>Joined April 2021</i>)
Nicky Brown	Head of PDSO (<i>Joined March 2023</i>)
Peter Lockhart	Law Society Member (now reserve member)
Roddy Boag	Law Society Member (<i>to May 2019</i>)
Gordon Martin	Law Society Member (<i>to November 2022</i>)
Euan Gosney	Law Society Member (<i>from September 2019</i>)
Beryl Seaman CBE	Non-Legal member (<i>to January 2020</i>)
Nazim Hamid	Non-Legal Member
David Crossan	Non-Legal Member
Arlene Strachan	Non-Legal member (<i>joined March 2023</i>)

21. The Committee receives professional advice and support from Professor Alan Paterson OBE, Director of the Centre for Professional Legal Studies at the University of Strathclyde. Professor Paterson, who is one of Europe's leading experts on quality assurance systems in the legal profession, also provides training and oversees the work of the peer reviewers.

22. The work of the Committee is also supported by Lynsey Calder, SLAB's Criminal Quality Assurance Co-ordinator, who organises all the peer reviews and the Committee business.

PEER REVIEWERS DURING THE REPORTING PERIOD

23. During the period 2019 - March 2023, the peer reviewers conducting reviews were as follows:

NAME	FIRM	LOCATION
Tommy Allan	Allans	Shetland
David Bell	Paterson Bell	Kirkcaldy
Nicola Brown <i>to March 2023 joined CQAC</i>	PDSO	Dundee
Simon Brown <i>to November 2019</i>	Matthew Brown	Irvine
Glen Davis	McLennan Adam Davis	Ayr
Kevin Douglas <i>to July 2021</i>	Gair & Gibson	Falkirk
Colin Dunipace <i>to November 2019</i>	Dunipace Brown	Cumbernauld
Terry Gallanagh	McCusker McIlroy	Paisley
Michael Gallen	Fleming & Reid	Glasgow
Gordon Ghee	Nellany & Co	Kilmarnock
Duncan Henderson	Inverness Legal Services	Inverness
Mark Hutchison	John Pryde & Co	Edinburgh
Gillian Law	Beaumont & Co	Edinburgh
Ranald Lindsay <i>to March 2022</i>	Lindsays	Dumfries
Frazer McCready	McCready & Co	Stirling
James McKay <i>to September 2022</i>	James McKay Solicitors	Elgin
Christopher McKenna <i>to May 2019</i>	Tod & Mitchell	Paisley
Ian McLelland	J C Hughes & Co	Glasgow
James Mulgrew	Russells Gibson McCaffrey	Glasgow
Matthew Nicolson	CN Defence	Edinburgh
Paul Ralph	Paul Ralph	Fife
Judith Reid	Clyde Defence	Clydebank
Grazia Robertson	L & G Robertson & Co	Glasgow
Alistair Ross	Pollock Ross & Co	Stirling
Sandra Walker	Hughes Walker	Edinburgh
Gail Wiggins	Gail Wiggins Legal	Turriff
Ross Yuill	Glasgow Law Practice	Glasgow

PEER REVIEWS CONDUCTED DURING THE REPORTING PERIOD

24. During the period, the number of decisions taken by the Committee are shown in the tables below, with a comparison to the previous reporting period. The figures for 2019-2021 are all reviews created in cycle 2. No new reviews were set up after March 2020. Reviews restarted 13 April 2022.

	1 April 2022 to 31 March 2023 (12 months)	1 April 2019 - 31 March 2021 (24 Months)	1 April 2017 to 31 March 2019 (24 months)	Cumulative total to 31 March 2023 (Cycle 2)	Total Decisions taken by the Committee Cycles 1 & 2 to 31 March 2023
Number of Routine Reviews with decisions taken by the Committee	57	106	247	163 (for the new cycle 2 routine reviews only)	1260

BREAKDOWN OF COMMITTEE DECISIONS

	1 April 2019 to 31 March 2021 (24 months)	1 April 2022- 31 March 2023	1 April 2017 to 31 March 2019 (24 months)	Cumulative total to 31 March 2021 (Cycle 2)	Total Decisions taken by the Committee Cycles 1 & 2 to 31 March 2023
Routine Reviews Passed by the Committee	57 (100%)	101 (95%)	233 (95%)	158 (95%)	1174 (93%)

Decisions taken by the Committee	1 April 2022 to 31 March 2023 (12 months)	1 April 2019- 31 March 2021 (24 Months)	1 April 2017 to 31 March 2019 (24 months)	Cumulative total to 31 March 2021 (Cycle 2)	Total Decisions taken by the Committee Cycles 1 & 2 to 31 March 2023
• Reviews - Excellent	0	0	0	0	1
• Reviews - Very Good	10	20	27	30	172
• Reviews - Pass competent	45	68	184	113	891
• Reviews - marginal pass	2	13	22	15	110
• Reviews - cont.	0	1	0	1	N/A

	1 April 2022 to 31 March 2023	1 April 2019 to 31 March 2021 (24 months)	1 April 2017 to 31 March 2019 (24 months)	Cumulative total to 31 March 2021 (Cycle 2)	Total Decisions taken by the Committee Cycles 1 & 2 to 31 March 2021
Routine Reviews Failed by the Committee	0	4	12	4	82
Deferred extended review	0	4 (still to take place)	12	0	73
Immediate extended review	0	0	0	0	6
Immediate special review	0	0	0	0	3

25. 158 of the reviews considered by the Committee were passed in 2019-2023, 95%, which is the same as from the previous figures from cycle 1. 4 reviews were failed during this period. Routine reviews which are passed are not normally considered again within the 6-year cycle, unless they are marginal passes, which will be reviewed again well within the period of the cycle, usually within 2 years.

26. Where a review fails, the Committee has the option to carry out a deferred extended review, usually after 6 to 9 months after the decision of the review is intimated to the solicitor. This is to give the solicitor a reasonable period to put in place improvements to address the issues highlighted in the failed review. However, if serious issues are identified, then the extended review can be carried out immediately. In other cases, a special review can be carried out if issues are identified which need to be given immediate consideration, but the solicitor is not advised what these issues might be.

FAILED ROUTINE REVIEWS

27. Of the 4 reviews which were failed during 2019/20 and 2020/21, two of these solicitors were sole practitioners, one was in a two-person firm, and one was in a larger firm. No reviews were failed from April 2022-March 2023

28. In all the failed reviews, no immediate special reviews were requested due to the issues identified in the initial reviews. In all the failed reviews, extended reviews were deferred for a period of at least 6 months to allow the solicitors to address the issues identified in the routine reviews. These extended reviews

are conducted by two different peer reviewers from the original reviewer and take place in the office of the solicitor concerned. No extended reviews have taken place so far in cycle 2 due to Covid 19.

EXTENDED AND SPECIAL REVIEWS CONSIDERED BY THE COMMITTEE

29. Since the pandemic there have been no extended or special reviews carried out or considered by the committee for cycle 2 reviews. There were some extended reviews from the first cycle that were considered by the Committee in the reporting period April 2019 - March 2021 and these are the statistics that are listed below. Follow on, onsite reviews re started in September 2022.

	1 April 2022-March 2023	1 April 2019 to 31 March 2021 (24 months)	1 April 2017 to 31 March 2019 (24 months)	Total Decisions taken by the Committee to 31 March 2023
Extended Reviews considered by the Committee (Deferred and Immediate)	1	8	20	63
• Pass	0	6	15	49
• Fail	1	2	5	9
Special Reviews considered by the Committee	0	0	0	3
• Pass	0	0	0	2
• Fail	0	0	0	1

30. The Committee considered 1 extended review during 2022/2023, this was failed and a final is scheduled for late 2023. 8 were considered from 2019/2021, 6 of the extended reviews were passed. Out of the 2 failed deferred extended reviews, one solicitor has now come off CLAR, the other was due a Final review in November 2020, and this has been delayed.

FINAL REVIEWS CONSIDERED BY THE COMMITTEE

	1 April 2022-31 March 2023	1 April 2019 to 31 March 2021 (24 months)	1 April 2017 to 31 March 2019 (24 months)	Total Decisions taken by the Committee to 31 March 2023
Final Reviews considered by the Committee	2	1	2	5
• Pass	2	0	2	4
• Fail	0	1	0	1

31. In period 2022/2023 the committee considered 2 final reviews from cycle 1. These both took place on-site and were both passed by the reviewers and Committee.

32. During 2019-2021 the Committee considered another final review. The reviewers involved both recommended a fail. The Committee agreed with the decision and recommended that the matter should be referred to the Board for possible de-registration. This was the first final review to be failed by the Committee. After hearing further representations, the Board agreed that another final review should take place in a further years' time, although this period was extended due to the pandemic.

NO FILE REVIEWS

33. We have procedures to allow us to review solicitors on the Criminal Legal Aid Register (CLAR) who have no files either in their own name, or that they had worked on that could be used for the purposes of peer review. Where there are between 6 and 8 files available a normal routine review will take place. Less than this and the files and an assessment form require to be completed and then sent on to the peer reviewer for their comments and recommendation.

34. The results are then passed to the Criminal Quality Assurance Committee for consideration. There are various decisions available to committee for these types of cases. The Table below explains these.

No file and part file reviews considered by the Committee	1 April 2022-31 March 2023	1 April 2019 to 31 March 2021 (24 months)	Comments
Reviews where solicitors had no criminal files to assess.			
• Created	28	11	<i>The reviews passed by the CQAC will be reviewed again in 3 years' time.</i>
• Passed	7	2	
• Failed	2	1	
• Postponed due to Covid		3	<i>The failed reviews are to be looked at again in 9 months' time, but this was delayed due to Covid.</i>
• Came off CLAR after initial contact	14	5	
• Under review	2	0	
• Moved to routine review	2	0	

Moved to a part file review	1	0	
Reviews where solicitors had less than 6 files available to review Created - Passed - Failed - Delayed due to Covid - Non-compliance from firm - Off CLAR - Still to be considered by CQAC	6 2 0 0 0 1 3	5 3 0 1 1 0 0	<i>All that were passed by the CQAC will be reviewed again in 3 years' time.</i>

AREAS OF GOOD PRACTICE IDENTIFIED IN THE PEER REVIEWS

35. In the Peer Reviewers' reports, the following issues were highlighted by the reviewers as areas of good practice:

Communications

- Keeping clients informed of progress.
- Good, detailed letters sent to client.
- Obtaining detailed instructions from clients at the outset.
- Well documented support for vulnerable clients.

File Keeping

- Good quality notes of meetings taken and kept on file.
- Clear evidence of file checks being undertaken.
- Full and clear notes kept of clients' instructions.
- Well organised files for court.

Legal work

- Managing client expectations well.
- Clear consideration of disclosure.
- Good preparations for trial.
- Early identification of CCTV evidence apparent.
- Good negotiations and discussions with the Crown.

Legal aid issues

- Online declarations completed well.
- Applications for Prior Approval submitted well.
- Accounts well prepared and set out.
- Copies of the online applications kept in file.

36. A selection of anonymised quotes from actual peer reviews which highlight the areas of good practice found, and quotes from files identified as excellent is shown at Appendix 1.

AREAS IDENTIFIED IN THE REVIEWS WHERE IMPROVEMENT IS NEEDED

37. In the Peer Reviewers' reports, the following issues were highlighted by the reviewers as areas where improvement was needed:

Communications

- No letter confirming outcome of case sent to client.
- Poor initial instructions taken.
- Discussions on early pleas not noted.
- No record of meetings held with clients.
- No terms of engagement letters.

File Keeping

- Insufficient file recording.
- Lack of instruction to agents on file.
- Hard to read handwritten notes.
- Gaps in files.

Legal Work

- Experts not instructed timeously.
- Failure to record perusal of disclosure.
- Cases allowed to drift.
- Possible abuses of court process

Legal Aid Issues

- Full fixed fees claimed in duty cases.
- Declarations not signed and/or dated.
- Correct income not recorded in ABWOR matters.
- Legal aid being applied for at the last minute.

38. A selection of anonymised quotes from actual peer reviews which highlight the areas where improvements were needed is shown at Appendix 2.

LAW SOCIETY SUPPORT SCHEME

39. The Law Society of Scotland has a scheme of support which can be given to sole practitioners and smaller firms to improve their practice following a failed routine review. This scheme is intended to help solicitors who fail a review and

who wish help with introducing improvements prior to the next stages of the Peer Review process.

40. Solicitors who obtained the “competent plus” scores in their own reviews are asked if they are willing to be considered for providing this assistance. The Law Society invites all solicitors with a competent plus marking to be part of the Support Scheme, which they run. A Memorandum of Understanding on the operation of this scheme has previously been agreed.
41. When we intimate a refused routine review, our refusal letters include details of the Support Scheme and how a solicitor can seek support under the scheme by contacting the relevant member of staff at the Law Society to use the service. When contacted by a solicitor who has failed his/her routine review, the Society refer the solicitor to a Support Scheme Solicitor on a confidential basis. The Society use a rota scheme to select the solicitor who can provide support, although if for professional or personal reasons the solicitor who has failed his/her review wishes to use another solicitor, this will be considered.

ASSISTANCE FROM SLAB

42. Solicitors who fail routine peer reviews also receive assistance from us. When a review is failed, the QA Co-ordinator sends the solicitor a package which contains a sample of Terms of Engagement letters, a tick list that they can start using for all of their files plus a copy of some of the good comments we have had for some reviews. This is all part of the aim to help to improve the standards of service provided to clients as well as offering assistance with the peer review process.

	Governance Links <i>[any relevant information linked to key heads of corporate governance.]</i>
1	Finance and Resources N/A
2	Risk N/A
3	Legal and Compliance N/A
4	Performance N/A
5	Equalities Impact N/A
6	Privacy Impact and Data Protection N/A
7	Communications and Engagement N/A

AREAS OF GOOD PRACTICE IDENTIFIED IN THE PEER REVIEWS

The following are some specific quotes from the actual reviews which passed, highlighting these areas of good practice found:

This was a domestic case at Dundee Sheriff Court involving a Polish man with poor English. The case went to trial over two days and he was ultimately found not guilty on the charge of domestic assault and a charge of vandalism by scratching the complainer's car. The case would have been challenging not least because of the poor English of the accused. There were defence witnesses identified but one had to be rejected by the solicitor. This was again a case where the solicitor used a steady hand to guide the accused through the process - in this case a trial over two days. Using interpretation, the solicitor advised her client very comprehensively and clearly. This file merits a mark of 4.

The client had a case at Glasgow JP Court for s.144 RTA and two possession of drugs charges. He had pled not guilty either by himself or through another solicitor (although this is not clear the case does not seem to have required transfer). The client consulted with the solicitor who applied for legal aid and prepared the case. The case was adjourned as the client was not brought to court having just received a sentence and the Crown were approached to reconsider the case - they decided to proceed. At the trial a plea was negotiated to the RTA charge and the client was admonished. The file is assessed as a level 4 given the efforts to have the case dropped and the good plea and outcome which were able to be negotiated. The client was seen in custody to discuss the case as well.

New Client/New Matter Forms were used in files to note client contact and other details. File attendance records were used and heavily populated files. These were typed and easy to follow. They appeared to be tailored to the client and case. Terms of engagement evidenced in files. Pro forma court attendance records used which were followed up with letters to clients. Members of staff followed up inquiries for the solicitor. There was also evidence of file checking.

It was good to see s196 advice given in initial letters to client (as well as advice at meetings). Good notes of meetings with clients and faultless correspondence. It was also obvious in several files that defence preparation work was carried out when appropriate. All matters relating to legal aid appear to have been dealt with appropriately. The minutes on the complaints clearly showed the progress of the case. Copies of clients outstanding cases on files was a good practice noted. Good advocacy skills coupled with very good file make up have resulted in very good outcomes for the clients.

Every file had everything that formed part of the criteria, which shows an awareness of expectation. There was evidence of systematic checks. There was evidence of legal and practical knowledge. This lawyer clearly knows what they are doing and they are doing it to a general high standard.

The solicitor correctly recognised at the first meeting that her client was challenged from a mental health perspective. The solicitor made considerable efforts to obtain medical information and used her skills to ensure that the accused was examined by a psychiatrist and thereafter a clinical psychologist.

FILES RATED AS EXCELLENT

The scoring system for each of the 8 files reviewed as part of the Routine Review is on a 1 to 5 basis with 1 being very poor and 5 being excellent. There were several files marked as excellent and the reviewers gave the following comments on some of these files:

This was an extremely well prepared high court trial resulting in an acquittal. The client was provided with a very good level of service from the agent under review who went the extra mile to provide her client with a very professional service. Nice to see such a well prepared file.

An excellent file. The applicant was charged with a domestic assault on a summons some months after birth the alleged incident. The solicitor made an excellent initial note of the client's position and thereafter prepared the case well for trial, which in the end was not required as the case was eventually deserted simpliciter. This preparation included a clear note regarding disclosed material and follow up meeting within the client carefully going through this and obtaining a sketch plan of the locus and photograph to assist in cross examination.

This was an extremely difficult case involving historical sex abuse. There were many complex issues, some of which only became apparent as a result of careful Defence preparation. Although a number of different solicitors had input to the case, it was principally handled by the solicitor under review. The trial commenced and evidence was led. There were Compatibility Issue Minutes lodged and debated. After complex legal debate, for which detailed and extensive legal research was carried out, the Crown were compelled to withdraw the charges and the Sheriff acquitted the accused. The preparation of the case was excellent and the solicitor left no stone unturned in his endeavours to investigate/precognose all relevant matters raised by the accused. There was Crown evidence from psychologists and sanction was obtained to instruct a Defence report. There was good liaison with the Crown. There was correspondence sent to the accused explaining in careful detail the procedures and outcomes of hearings. This was a model case. Mark of 5. An excellent file.

The solicitor was dealing with a very difficult situation and did so well.

The client was suffering from mental illness but gave clear instructions to the solicitor to appeal the substantial custodial sentence imposed.

Thereafter the client was transferred several times between prison and hospital and refused to meet with the solicitor as a result of her illness.

The solicitor repeatedly tried to visit the client, kept her updated in relation to progress and had numerous meetings/consultations with counsel to decide the appropriate way ahead. Ultimately the appeal was refused at least partly because the client was now in hospital. A very good file. The solicitor could not have done more

AREAS IDENTIFIED IN THE REVIEWS WHERE IMPROVEMENT IS NEEDED

The following are some specific quotes from the actual reviews, highlighting the areas where improvement was needed:

A petition case alleging a breach of a curfew bail condition. Not much on the file as the agency was transferred to new agents, a handwritten note indicating that this solicitor had withdrawn from acting. There has certainly been a reasonable amount of work done as a paper synopsis form on file indicates an account for several hundred pounds and the case having been indicted along with other charges. Beyond the legal aid application paperwork, the synopsis form already mentioned, the petition, a brief handwritten note on the initial consultation and another brief handwritten note on the file explaining the withdrawal, there is nothing else on the file to allow any assessment of service to take place.

The accused pled not guilty. There are handwritten notes on the file. It is assumed that these are the solicitors' notes taken at a meeting with client. At the Intermediate Diet the solicitor had to attend the High Court and he records that he instructed an agency solicitor to appear. He further records that the client instructed a plea of guilty and was fined £80, a disposal with which she was apparently happy. There was no record of perusal of disclosure or discussion of same with client. There was no record of any instruction to the agency solicitor and no report from him on the file. No explanation for change of plea and no indication of why the potential lines of defence were abandoned.

S196 advice is patchy with little example of this seen in the files. One of the big issues relates to legal aid: there is nothing filed that allows me to ascertain what is submitted to the board and hence cannot comment on these questions. The mandates were not present on two files. There is simply a systematic absence of legal aid correspondence in general. This negatively affects the outcomes. I have some concerns about pleas of convenience which appeared in a surprisingly high number of files. There is a balance between practical advice to clients and overstepping the mark into inviting these. In general file attendances with clients could have more detail and are very brief.

This is a case with minor charges which took eleven months to conclude and in which the only relevant defence information was not sought until almost eight months after the commencement of proceedings. Although the outcome was good it ought to have been achieved at a much earlier stage. Also the legal aid application was not made within 14 days and the dates for commencement of proceedings and date of the Not Guilty pleas being tendered were incorrectly entered thereby not alerting SLAB to the late submission. The Legal Aid online mandate was signed but not dated by the authorised solicitor.