Appendix 4 - Legal Services Commission: Developments and Financial Stewardship

This session was led by Emma Archer, Relationship Manager - Birmingham and Joint NfP National Lead and Diane Hayward, Relationship Manager - Cambridge at the Legal Services Commission and chaired by Noeleen Adams, Director of Development and Support at Law Centres Federation.

- **Main focus**

  The main focus of the session was to provide agencies with information on the financial stewardship visits being carried out by the Legal Services Commission (LSC). The visits had been set in motion following the National Audit Office's (NAO) report that led to the LSC's accounts being qualified and NAO concerns over the accuracy of providers' bills and the LSC's control of the legal aid fund that had resulted in an overclaim of around £25 million.

- **Why financial stewardship**?

  The LSC has implemented a programme of financial stewardship measures following increasing pressure from the NAO to reign in the situation. In the past previous audits had been more flexible regarding errors, but it was clear from the NAO report that this couldn't continue. As a result the Commission has written to providers informing them of the changes and the process for checking claims. This will involve audits by the Provider Assurance Team, both on and off-site and financial stewardship visits by LSC Relationship Managers.

- **Relationship Manager visits**

  The implementation of visits by Relationship Managers is being developed in two phases. During Phase 1 the visits are focussing on the following areas that have been identified as common issues –

  - Recurring clients
  - Level 1 & 2 family fees
  - Settlement fees
  - Divorce petitioner fees
  - Tolerance
  - Evidence of means
  - Payments on Account

Phase 2 will begin in autumn 2010 and will cover other areas including crime and immigration.

What happens?

The process for the visits by the Relationship Manager was outlined during the session and covers the following –

- Relationship Managers receive management information and are able to check claims since the new contract came into place in 2007 but are mainly concentrating on the last 12 months;
- In analysing the information they receive Relationship Managers may identify misunderstandings in how claims are being made, eg claiming 6 debt matters for the same client
- The Relationship Manager will then arrange a visit that will involve looking at a small sample of files (around 5 files) either with the provider or on their own
- If errors are identified the provider may be asked to carry out a self review of a larger sample of files

The process is carried out in accordance with a Guidance Manual that has been developed by the LSC. This will be available to providers and is currently being commented on by networks. Once a final version is ready it will be circulated.

Recovery and sanctions

The Commission is under pressure to recover money and is also able to impose contract sanctions on those providers where errors have occurred that requires them not to repeat the breach. If they then do so it could put the contract in jeopardy.

Common issues

The session highlighted the common issues that the financial stewardship visits are attempting to address with a failure by providers to obtain evidence of means continuing to come up as an issue. One of the key issues is where providers state that evidence is awaited. The LSC is clear that these cases should not be billed. Where urgent matters mean that work starts before evidence is available it must be received before the case is billed.

A further issue highlighted in the session was that of Payments on Account. As part of the visits Relationship Managers are talking to Accounts Departments to make sure time recording systems are in place to make sure that Work in Progress is being recorded properly. There are also concerns that some firms/agencies are continuing to manually calculate work in progress despite having time recording and case management systems in place as electronic systems are not considered accurate.

- **Response to visits**

  The LSC believes that the response to visits has generally been positive with providers welcoming the opportunity to make sure they are making accurate claims. If they are right then providers are aware they are making accurate claims and if there are current errors providers are welcoming the opportunity to correct things. In the past the hands off approach left providers not knowing whether their claims were right or not.

- **Next steps**

  Each agency will receive a financial stewardship visit in the next 12 months. Guidance will be updated and the publication of the Guidance Manual should help providers understand the process.