



Where the client comes first



Public Defender Service

Annual Report 2004/05

Public Defender Service

Final year report of the pilot project

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Preface

The Public Defender Service (PDS) was created in 2001 by the Legal Services Commission, which is responsible for the provision of legal aid in England and Wales.

The PDS delivers quality criminal defence services through directly employed solicitors, barristers and accredited representatives. Our staff provide clients with independent advice and representation 24 hours a day, seven days a week in custody and represent clients in Magistrates', Crown and higher courts.

This report reviews the final year of the PDS pilot project. The findings of an independent research programme which evaluates the success of the project will be published in early 2006.

Over the last four years we have expanded the service to eight offices and in 2004/05 we dealt with over 4,500 cases. Our ability to deliver a quality defence provision has been rewarded with exceptional client satisfaction survey results – 90% of clients were very satisfied with the work we did for them and 98% said they would recommend the PDS. This success is mirrored in our audit performance, with every office being awarded a Category 1 cost compliance rating.

We know from reviews of our performance that we are at our most efficient when we have a strong, established client base and are located in areas of particular need. Our Vision for the PDS is to create: "A growing, quality service in which the public have confidence. An accessible and well-marketed organisation in which people are proud to work."

We want the advice we give our clients, how we communicate and deal with them, our management of their cases and the actual outcomes to be of the highest possible quality. To achieve this, we don't just need to be good lawyers, we also need the right systems and processes to support us. So, our focus this year has been on ensuring that the PDS offers consistent quality and our individual offices function collectively as an integrated and co-ordinated service.

We have implemented two key internal processes to ensure that we have robust and efficient quality systems. Our rigorous internal peer review process

mirrors the way the LSC assesses the quality of all suppliers. Experienced lawyers from each of our offices meet regularly to assess files. We have set our standards high – every office has a target of being rated as "competent plus". This is the same quality standard required by the LSC in selecting the 25 service providers to take part in its Preferred Supplier pilot project. We undertake an additional moderation process to ensure supervision of these systems is both objective and effective.

We have also developed a new internal audit to enhance our quality management processes. The Service Audit For Efficiency measures each office's compliance against the General Criminal Contract, Specialist Quality Mark (SQM), cost and time criteria and internal systems. We have shared this system with firms in private practice who have found it a valuable internal management tool and our standard forms and office manuals are available free on the PDS pages of the LSC website, www.legalservices.gov.uk.

Our second annual conference helped cement the improved collaborative working and learning across the PDS, and we have sustained this with more regular meetings between teams and offices.

Looking forward, we continue to grow our in-house Higher Courts Unit. This will provide better continuity for clients and improve efficiency by enabling us to handle cases through both lower and higher courts. As well as employing more solicitor advocates we will support our employees to gain the higher rights qualification.

Finally, I would like to take this opportunity to sincerely thank the staff of the PDS for their continuing commitment to achieving ever higher standards. All of us in criminal defence practice know that this is a challenging area of work, but we also share the special job satisfaction that comes from knowing that we can make a real difference to the lives of our clients.



Gaynor Ogden
Head of Employed Services

The Public Defender Service

The Public Defender Service was created to:

- Provide independent, high quality and value-for-money criminal defence services to the public.
- Nationally and locally, to provide examples of excellence in the provision of criminal defence services.
- Provide benchmarking information to be used to improve the performance of the contracting regime with private practice suppliers.
- Raise the level of understanding within government and the Department for Constitutional Affairs and all levels and areas of the Legal Services Commission (LSC) of the issues facing criminal defence lawyers in providing high quality services to the public.
- Provide an additional option for ensuring the provision of quality criminal defence services in geographic areas where existing provision is low or of a poor standard.
- Recruit, train and develop people to provide high quality criminal defence services – in accordance with the PDS's own business needs – which will add to the body of such people available to provide criminal defence services generally.
- Share with private practice suppliers best practice, in terms of forms, systems etc., developed within the PDS to assist in the overall improvement of Criminal Defence Service (CDS) provision.



PDS people



Anthony Edwards

Professional Head of Service



Mike Jeacock

Executive Director
for Service Delivery



Gaynor Ogden

Head of
Employed Service



David
Singh

Head

Swansea



Graham
Silvester

Acting Head

Middlesbrough



Richard
Whitehead

Head

Liverpool



James
Wilson

Head

Cheltenham



Lee
Preston

Head

Birmingham



Jane
Cosgrove

Central Business
Team Manager



Andrew
Stewart

Branch Head

Pontypridd



Peter
Bradford

Branch Head

Darlington



Clare
Taylor

Branch Head

Chester

Focusing on our clients

When lawyers first join us they often say the reason they want to work for the PDS is that we really focus on what clients need. One of the distinctive characteristics of the PDS is that our lawyers are paid a salary, compared with the private practice model which is based on lawyers earning fees.

So, while we are acutely aware of the need to keep a tight control on costs and deliver services as efficiently as possible, we are able to put the needs of clients first and always act in their best interests.



About us

Gaynor Ogden, a lawyer with eighteen years' experience in criminal law, heads up the PDS with overall responsibility for the operation of the LSC's Employed Services. The PDS offices also have a line of accountability for their legal work to the Professional Head of Service Anthony Edwards, who is a Commission member and a very experienced criminal defence solicitor.

There are seven members of staff in the Central Business Team who assist and guide the eight PDS offices through key activities from business development, business planning, performance and budgeting to IT, HR and recruitment, systems and controlled documentation.

Over the four-year pilot, the PDS Management Committee has developed policy and strategic direction. It was chaired by the Professional Head of Service and committee members were the Heads of the PDS offices, the Business Manager, members of the pilot research team and LSC Executive Director for Service Delivery Mike Jeacock.

During this final year of the pilot a Wider Management Group was formed in place of the management committee, consisting of Mike Jeacock, Gaynor Ogden, Heads and Branch Heads of the PDS offices and the Business Manager. This group reviews performance on a monthly basis and oversees the implementation of business plans, strategic decisions and operational matters.



Our independence

Whilst the PDS is part of the LSC, we do operate as an independent service. Our independence is ensured by the role of our Professional Head of Service Anthony Edwards, our Code of Conduct and the guidance issued by the Professional Head under the Code. This has included guidance on when to advise a client to plead guilty and also on the obligations to act on instructions from clients to apply for adjournments given the Code's requirements to act in a way that allows "proper and efficient administration of justice".

In the current year two additional pieces of guidance have been issued and these appear in the appendices on pages 25-28.

We are also pleased that the Department for Constitutional Affairs (DCA) has recognised our status and has agreed that PDS lawyers may sit as Deputy District Judges.

“ I continue to be impressed with the independence of the PDS and the quality of its service. I was privileged to address the Annual Conference this year where I met many incisive questions on advocacy in the courts – I hope my replies were helpful! ”

Lord Martin Thomas QC

“ One of the reasons I am proud to work for the PDS is that we deal with cases individually and the only thing that guides us is what's in the client's best interest. ”

James Wilson,
Head of Cheltenham office

Case study: Helping Michelle rebuild her life

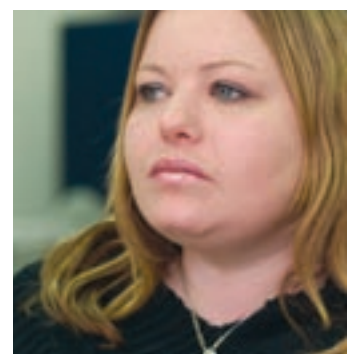
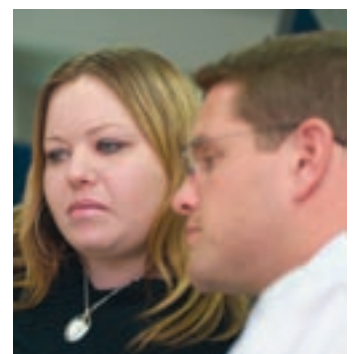
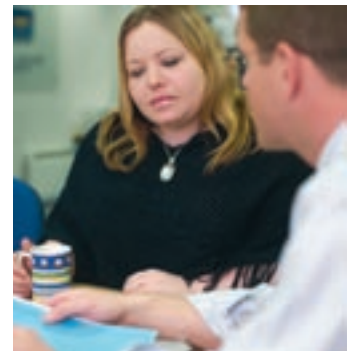
Michelle Spriggs was arrested on suspicion of obtaining property by deception using a debit card and chequebook stolen by her boyfriend. She had been a victim of domestic violence and had spent time in women's refuges. Michelle was heavily influenced by her boyfriend.

There was a seven-month delay between police interview and Michelle being sentenced to four months in custody. Her PDS solicitor Daniel Williams thought the sentence was excessive because there had been such a delay between the offence and the sentence being passed. In addition, Michelle had

pleaded guilty, hadn't committed any further offences and had managed to extricate herself from her abusive relationship.

Daniel appealed the sentence and it was reduced to a six-month Community Rehabilitation Order. The PDS helped Michelle by putting her in touch with agencies who found her somewhere to live and helped her claim benefit when she was released from prison following the successful appeal.

Michelle is now living in her own flat in the Pontypridd area and is looking for work. She has not re-offended.



Setting the standard

We have been asked by the LSC to take part in training sessions for new account managers and lead assessors. As criminal practitioners we have been able to give them an insight into the practicalities of criminal defence work.

“I was first asked in 2003 to get involved with the training of LSC Auditors and new recruits. This involves presenting a one-day training session on the role of a Criminal Solicitor and giving advice on court processes and the law. The groups, I hope, have found it useful and now have a better insight into the work we do. As a follow up a number of the groups have spent time at the office watching us at work, and attending court and police stations with us.”

David Singh, Head of Office, Swansea.

“For the LSC to work with suppliers to help people under criminal investigation and facing criminal charges, it is fundamental that we have knowledgeable and competent account managers and lead assessors. An understanding of criminal law and practice, and the role of the criminal practitioner is invaluable to the role. The involvement of David Singh has provided new starters with a good understanding of those issues and has also provided opportunities to understand more about the PDS. The extension of this to include observing a criminal practitioner in action has proved particularly useful. As a result of the involvement of the PDS, I’m confident we have Account Managers and Lead Assessors with a greater understanding of criminal work – this can only make the LSC better at what we do.”

**Gary Winter,
Supplier Management Project Team, LSC**

Working in partnership

Many PDS employees are involved in professional or support groups. Here are some examples:

- **Nicola Smith:** Chairperson of the Young Solicitors Group
- **Stuart George and Lisa Lewis:** Members of the Crown Court User Group
- **Daniel Williams:** Member of the Youth Court User Group
- **James Fenny:** Management Committee member of The Junction (see page 11)

More than just criminal defence

The PDS gets involved in a wide range of activities beyond its core business. There is much interest in what the PDS does, especially from similar organisations overseas looking for examples of best practice. We also make a point of going out and making connections with key individuals and organisations to promote ourselves and serve our clients better.

PDS wins partnership award

The Pontypridd PDS office recently won the 2004 Work Experience award from the Mid Glamorgan Education Business Partnership for its success with placements.

The PDS office was nominated by Careers Wales as the feedback from those doing work experience at the PDS had been so positive. Head of Branch Andrew Stewart was invited to an awards dinner where he was presented with a trophy, and met some of the other winners from organisations such as HSBC Bank, Persimmon Homes and Welsh Water.



Andrew Stewart accepts Work Experience award

Legal Aid in Australia

Mary Whitehouse, a solicitor/manager of the Legal Aid Commission in Sydney, New South Wales contacted the PDS Central Business Team in order to investigate our experience of Visualfiles – a new case management system. She is working on a system replacement project to provide an integrated business solution for each of the legal aid commissions. One of the components of the system will be a case management system for their in-house legal practices, similar to the system the PDS has adopted. Ms Whitehouse said: “It was very helpful talking to you and I’ve let others in Australia know you are keen to help out if the opportunity arises!”

Mexican connection

Patricia Hernandez, a Mexican lawyer in the UK to study for a year visited the Swansea office in March

2004. She was working on quality issues – in particular, how PDS developments on quality might be relevant to a country like Mexico, which has a much less developed system of legal aid.

Patricia felt it would be extremely helpful for her to see how a PDS office was run and contacted the Central Business Team to arrange a visit. She spent a day at the Swansea office speaking to members of staff and attended Court with Head of Office, David Singh.

Legal Aid lawyers of the future

Thomas Keaney, a solicitor at the Liverpool PDS office attended a London Law Fair in 2004 representing the LSC. Thomas commented; “The one day event was very successful. We had a lot of interest from a wide variety of up and coming lawyers – mainly from people who wanted to make an impact, who wanted to make a change that mattered. A small percentage did not know what the LSC was about initially. After talking to one of the representatives on the stand many became very interested in the LSC and left their details asking for further information.

“We had a big impact on the Law Fair and I think that it is a positive way forward in promoting the LSC. We need to focus on the up and coming lawyers.”

Reaching out to young offenders

Clare Taylor, Head of Chester Office talks about working with Youth Offending Teams (YOT) in her area:

“The basic plan is to develop good working relations for the future. I contacted the manager of the Youth Offending Team in Cheshire and had an initial meeting with him to tell him about the PDS. I then went to meet the court workers for all the Cheshire Courts and gave a similar presentation.

We hope to be able to work with the YOT in a less traditional way to what is usually seen as the defence advocate’s role. This could be for example a talk to young offenders about the implication of ASBOs or the consequences of a breach.”

Case Study: Going the extra mile

David Smith* lives in Hull and is employed by the Army as a driver. His lorry was one of three vehicles involved in a traffic accident on the M5 in Gloucestershire in which one person died. The client was arrested for causing death by dangerous driving and taken to Stroud police station, where he requested the duty solicitor as he was not local to the area.

Although all Cheltenham's duty solicitors were in court, a duty solicitor in Birmingham accepted the call and gave initial advice to the client over the phone. A Cheltenham PDS solicitor then went to see David at the police station and he was interviewed and bailed.

The investigation continued and eventually the CPS dropped the original allegation, but reported David for careless driving.

David received a summons and his insurance company appointed its own solicitor to act for him. He was not happy with their advice or the way they were handling the case and wrote to the PDS to request our help.

We took over the case and obtained an expert's report showing that our client was not at fault. Therefore, we advised our client to plead not guilty and represented him at court. It was a difficult and sensitive case, with the deceased's family present. David was acquitted.

This was a significant result for our client; being a professional driver he would have lost his job had he been convicted; his wife was also pregnant with their first child at the time of the trial.

**Not client's real name*

“ This is a client who was extremely positive about his experience with the PDS because he felt that we really 'went the extra mile' for him. ” James Wilson, Head of Cheltenham Office

Case study: Breaking the cycle of re-offending

'The Junction' is an information, support and counselling service for young people in the Middlesbrough area. James Fenny, a PDS solicitor, met the Head of The Junction whilst representing a mutual client at court and realised what an essential service they provided to young people. He told them about the PDS and the nature of our work, and they were particularly impressed by the holistic approach we take to our clients.

As a result James was invited to meet the staff at The Junction and give a talk about criminal defence services. They were so impressed with what they heard that they invited him to speak at their annual conference on the importance of providing a quality legal service to clients. The Junction subsequently nominated James to join their management committee, due to his enthusiasm and genuine interest in helping clients.

One particular success story was a 15-year-old girl – a prolific young offender who had in fact been

represented by the PDS for about two years. James identified that she would be an ideal candidate for help from The Junction and referred her there. Through the help she received she managed to stop the cycle of offending, and with James's help secured a job at a local restaurant.

This client regularly visits the office to update staff on her progress. The PDS prides itself on offering this level of support to clients

Many of the clients the PDS deals with do not have access to the type of support that The Junction provides. It is only by supporting this vital work, particularly through the work of non-paid volunteers like James, that they can continue to provide this service.

James' work with The Junction was subsequently recognised when he won the award for 'Putting Clients First' at the LSC National Staff Conference in 2005.



Valuing equality and diversity

The LSC is committed to equality of opportunity both as an employer and in the provision of services. All PDS staff undertook Equality and Diversity training between June and October 2004.

The training was designed to enhance employees' understanding of the diversity and equality issues they might face and raise awareness of the LSC equal

opportunities policy. It was essential to equip staff with knowledge in relation to the changes in equality legislation that came into effect from December 2003.

Managers attended tailored courses to enable them to understand the strategic impact of managing diversity in areas such as the development and retention of staff.



Quality of service

The quality of service we give to our clients is extremely important to us. We are reviewed by the LSC in the same way as any other supplier. We also have our own internal measures of peer review, an internal audit system and time compliance. In addition, we review client feedback both positive and negative to ensure that quality is maintained and improved.

Cost Compliance

The Cost Compliance audit involves an examination of files to ensure compliance with the rules and guidance of the General Criminal Contract (GCC). The auditor will look at whether the work is properly evidenced on the file and whether costs incurred are reasonable. Where the percentage of claim deducted on audit is between 0% and 10% the office is rated as category one, a rating achieved by all eight PDS offices.

Time Compliance Results

For the period of the pilot the PDS was required to submit notional bills to the LSC. Since this ended the PDS, in line with other Category One suppliers, has not been subject to full LSC Cost Compliance audits. In order to ensure continued high standards of compliance on files an internal system has been developed which mirrors the LSC audit. This system assesses the chargeable time on files that would be claimable under the GCC.

Cost Compliance audit results

Office	Date	Category
Birmingham	May 2004	1
Cheltenham	Sept 2004	1
Chester	Jan 2004	1
Darlington	Sept 2004	1
Liverpool	Feb 2004	1
Middlesbrough	Sept 2004	1
Pontypridd	March 2004	1
Swansea	Feb 2004	1

Audits are conducted by a team of internal auditors, all of whom continue to receive regular consistency and update training. The team are very familiar with the requirements of the GCC, Criminal Bills Assessment Manual (CBAM) and the Duty Solicitor rules.

The target score for all offices is 90% (equal to the LSC Category One Cost Compliance target). All but one office achieved scores well above 90%, with Liverpool scoring within 1% of the target. The average score for the PDS was over 96%.

Time Compliance Results (February 2005)

Office	Score (%)
Birmingham	98.89
Cheltenham	98.59
Chester	95.28
Darlington	96.75
Liverpool	89.46
Middlesbrough	94.49
Pontypridd	97.21
Swansea	98.28
Average score	96.12

Quality of service

SAFE (Service Audit For Efficiency) scores

SAFE is the PDS's own internal audit process, standing for Service Audit For Efficiency. It examines compliance against the Specialist Quality Mark, the GCC and service procedures. Also reflected in the score is legal quality through file review and internal peer review. The target SAFE score is 80%, and the average score now achieved across the service is just over 90%.

SAFE scores

Office	Date	Score (%)	Date	Score (%)
Birmingham	Sept 04	83	Jan 05	95
Cheltenham	Sept 04	91	Jan 05	82
Chester	Sept 04	73	Jan 05	95
Darlington	Sept 04	59	Dec 04	86
Liverpool	Sept 04	59	Jan 05	94
Middlesbrough	Sept 04	57	Dec 04	80
Pontypridd	Sept 04	83	Jan 05	95
Swansea	Sept 04	90	Jan 05	95

NB: Target is 80%

PDS workload targets

Office	Number of new files opened in 2003/04		Number of new files opened in 2004/05		Number of new files to be opened in 2005/06
	Target	Actual	Target	Actual	Target
Birmingham	600	419	600	427	600
Cheltenham	700	683	700	1,052	1,000
Chester	300	274	400	385	400
Darlington	500	455	500	540	600
Liverpool	800	814	800	719	800
Middlesbrough	700	612	700	582	550
Pontypridd	650	491	500	421	500
Swansea	800	543	700	508	550*
Total	5,050	4,291	4,900	4,634	5,000
Percentage of files opened to target	85		95		

* Target reduced due to a significant change in staffing levels

External Peer Review results 2004/05

External Peer Review is a method of independent assessment used by the LSC. It is conducted by experienced peer practitioners and assesses the quality of advice and legal work carried out by PDS lawyers. 'Competent Plus' is the LSC target rating for all preferred suppliers.

Office	Score
Birmingham	Threshold competence *
Cheltenham	Competent Plus
Chester	Competent Plus
Darlington	Competent Plus
Liverpool	Competent Plus
Middlesbrough	Competent Plus
Pontypridd	Competent Plus
Swansea	Competent Plus

* appeal pending

Client satisfaction

Every client is sent a client feedback form at the conclusion of his or her case. This form asks a series of questions about the service we provide, and whether the client would recommend us to anyone else. We use the information we receive to improve our service and better understand our clients' needs. Some of the key questions and their responses are shown below.

Percentage of clients who were very satisfied with the work we did for them

90%

Percentage of clients who thought we were very approachable

93%

Percentage of clients who would definitely or were likely to recommend us to someone who needed help or legal advice

98%

Percentage of clients who thought the result of their case was the same, better or much better than we advised them

99%*

Percentages calculated on number of client feedback forms returned, and full answers given. E.g. 'not applicable' responses were withdrawn from calculations.

* up from 93% last year

Complaints 2004-2005

	PDS Clients	Solicitors	3rd Parties
Total complaints	18	6	2
Unjustified complaints	15	5	2
Part justified complaints	3	0	0
Justified complaints	0	1	0

Feedback from satisfied clients

“ Dear Carole,
Just wanted to thank you for doing a good job for me and for getting me hooked up with the bail support agency... Going on the bail support was a real life saver – it really helped me to get my head together cos after doing so well for so long I was only on a road that was leading to one place. I don't know if I told you or not but I have got an interview for a job... so with a bit of luck I might get it. Anyway Carole thank you very much for all your help – you played a big part in helping me get myself straightened out. Thanks. ”

Thank you letter from a client in Liverpool

“ The Public Defender Service has provided me with the very best defence team I've known in over 30 years and many convictions. Lisa Lewis has worked hard and well beyond the call of duty in her support and investigative perseverance. The Public Defender Service is fortunate to have her. ”

Comment from a Pontypridd office client feedback form

Value for money

“ The PDS compares well with best practice in the private sector in terms of efficiency and time management. It is my opinion that the instruction of the PDS in large cases can effect considerable savings to the public purse. ” Gilles Ward, independent costs draftsman

We recognise that providing a value for money service in some areas is a challenge for us. The research into the PDS pilot will be published in early 2006 and subject to its findings, we will be exploring alternative and more cost effective methods of delivery for the future. We are pleased that this year we have dealt with more cases but at a lower overall cost.

We commissioned a report from a senior costs draftsman Gilles Ward MA Hons, LLB, DipLP, LLM, Solicitor (Scotland). His findings show that we can make substantial savings in dealing with higher cost work.

The Balanced Scorecard was introduced as an enhanced method of collating and displaying monthly performance management information within the

PDS. It provides information on office performance in four key areas:

- Quality Supply – quality & efficiency
- Financial & Value for Money
- Learning & Growth through People – training & communication
- Customer Focus – complaints, feedback, Duty Solicitor data

The targets are derived from the annual business plan and are discussed and agreed by the Head of Employed Services, Heads of Office and Branch Heads, Quality Managers and the Central Business Team. The Balanced Scorecard is a dynamic tool, which will continue to evolve to reflect the changing priorities and success criteria applied to the PDS at any given time.

Office running costs are set out below. ‘Central’ refers to the Central Business Team which operates from Birmingham. Total running costs for the life of the pilot project can be found in Appendix 1 on page 24.

Costs 2004/2005

Office	Budget	Cost
Birmingham	£444,654	£423,552
Central	£374,000	£373,359
Cheltenham	£622,432	£662,802
Chester	£433,364	£421,437
Darlington	£335,142	£351,456
Liverpool	£685,274	£682,617
Middlesbrough	£489,282	£463,291
Pontypridd	£342,462	£316,580
Swansea	£434,969	£427,117
Total	£4,161,579	£4,122,211

Salary Bands for PDS Staff

Band	Salary*	Position
D	£53,315 to £70,411	Heads of Office
C	£33,633 to £48,431	Branch Office Heads and Senior Lawyers
B2	£29,986 to £42,848	Duty Lawyers
B1	£23,330 to £30,838	Non-Duty Lawyers and Quality Managers
A3	£21,142 to £27,913	Accredited Police Station Representatives
A2	£15,618 to £20,579	Trainee Solicitors, Trainee Accredited Representatives, Administrators
A1	£12,571 to £16,610	Administrators

*Salary Scales effective 1st August 2004, outside London

Our role in the Criminal Justice System

The PDS has an important role to play in terms of benchmarking for the LSC. The Commission has gained first hand experience of running a criminal defence practice. PDS lawyers have also been a resource available to policy developers in the Commission, which has brought practical knowledge to the policy making process.

Each office is encouraged to take an active part in local criminal justice initiatives and has an outreach plan which has been developed to make it easier for clients to access support services. Most offices are involved with drug intervention agencies and Youth Offending Teams.

A Community Justice Centre (CJC) has been set up in Liverpool. The CJC champions restorative justice within the community and takes a holistic approach to low level offending. The aim of the Centre is to identify new and successful ways of tackling local problems by working in partnership with local people. The PDS was part of the steering group involved in setting up the CJC.

The PDS has also played a role in the development of CDS Direct, which is being piloted currently.

“ I have no doubt that without the input from a specialist defence practitioner – particularly one for whom profit is not an issue – the project would not have made the progress that it has done. ”

Comment from John Sirodcar, Head of Direct Services Programme, LSC, about CDS Direct

Taking our services to where clients need them

Lee Preston, Head of the Birmingham PDS Office

Inspired by the Cheltenham office's outreach programme, our challenge was to construct a scheme that would be relevant to Birmingham, a vibrant city with a concentration of advice agencies, rehabilitation centres and other agencies offering help to a large population of the socially disadvantaged and disenfranchised.

Our Client Diversion Officer, Stephanie Brownlees established a network of contacts within the advice community, including for instance the Birmingham Tribunal Unit and the Birmingham Money Advice and Grants agency. These helped us to create a cross referral system whereby we were instructed in criminal matters and were able to refer non-criminal matters such as benefits problems, to the appropriate agency.

The second stage took us into the shelters and hostels for the homeless. Having established a diversionary network, with good contacts and access to advice on housing, drugs and financial matters, we were able to meet those who most needed help and not only address their criminal law requirements, but also offer diversion by way of making appointments to see those who could help with their underlying problems.

We are at the early stages of this long-term project, but have already made several successful referrals and will continue to work hard to divert people away from crime.

Developing people

The PDS is committed to recruiting, training and developing people to provide high quality criminal defence services. We adopt a varied approach to development, which may include training courses, work shadowing, volunteering or mentoring. There are currently three trainee solicitors in the PDS and since we opened in 2001, four solicitors have qualified with us.

Nick Stallard Solicitor, Swansea



“Prior to joining the PDS in May 2001 I had worked in local practice for eight years and for the last six of those years I was involved in criminal litigation, and became one of the first accredited representatives in Swansea. I was in the process of completing examinations to allow me exemption from the Common Professional Examination, which would then enable me to enrol on the Legal Practice Course when I joined the PDS. Whilst completing these examinations I was made aware of the support offered, which included payment of fees, purchase of course materials and study leave.

I successfully completed the examinations and then enrolled on the Legal Practice Course at De Montfort University in Leicester. The two-year course entailed me attending lectures on Fridays, Saturdays and Sundays once a month. Again I was offered support from the PDS, which included assistance with costs together with the purchase of materials that were required.

I then undertook the Professional Skills Course some four weeks after completing the LPC and I qualified as a solicitor on October 1st 2004.

Having commenced studying part time whilst in private practice I have no doubt that I would have qualified as a solicitor eventually, however with the support of the PDS and my colleagues in the office I am sure that I qualified much sooner.”

Leanne Galbraith Accredited Representative, Middlesbrough

Leanne Galbraith has benefited from the PDS approach to developing staff. Whilst working as an Accredited Representative in Middlesbrough, Leanne has completed her four-year ILEX studies funded by the LSC, with just one or two exams left. She has also been accepted as a Fellow of the Institute of Legal Executives earlier than anticipated which means that she was able to start her LPC in September 2005 rather than September 2006.

Said Leanne: “I am really looking forward to starting the Legal Practice Course and am extremely grateful to the PDS for the help and support I have received. I definitely see my future with the PDS.”

Stephanie Brownlees Solicitor, Birmingham

Stephanie Brownlees, a recently qualified solicitor, is a mentor for external students currently working through the Legal Practice Course (LPC). She mentors one student per academic year from the College of Law offering support and guidance, for example on training contracts, their C.V. or interview techniques.

“The programme was initially aimed at ethnic minorities who were under-represented in the legal system,” said Stephanie. “However, the college has widened the criteria and it is now open to students who face any issues such as age, ethnicity, the fact that they are not attaining the grades they need or that they have no legal work experience.”

Staff survey

Every year the LSC undertakes a staff survey to gain insight into what the organisation needs to improve on and what it should focus on in the future. The results shown below are specific to PDS staff who answered the survey.

Percentage of staff who intend to still be working with the LSC in 12 months time



Percentage of staff who feel happy and secure in their jobs



Percentage of staff who feel that their job makes good use of their skills and abilities



Percentage of staff who are willing to go the extra mile to help the LSC/PDS succeed



Percentage of staff who feel that they are given a real opportunity to improve their skills



Training and recruitment

The PDS continues to support employees in gaining Higher Rights, training contracts, and police and Magistrates' Courts accreditation together with other vocational qualifications.

We recognise the need to attract new criminal legal aid lawyers into the profession, and are developing initiatives to capture the imagination of people choosing to go into law at the earliest possible opportunity. We take part in open days at colleges and universities local to our PDS offices.

At the end of 2004/5 there were seven PDS employees with Higher Rights, and eleven at the time of going to print.

PDS Office Staff at 31st March 2005

Office	Head*	Duty Solicitors	Solicitors**	Trainee	Accredited Representatives	Quality Managers***	Admins	Temps	Total
Birmingham	1	1	2	-	-	1	2	-	7
Cheltenham	1	3	1	1	3	1	3	1	14
Chester	1	3	-	1	1	0.5	2	-	8.5
Darlington	1	2	-	-	-	0.5	3	1	7.5
Liverpool	1	4	2	2	2	0.5	3	-	14.5
Middlesbrough	1	1	1	-	2	0.5	3	-	8.5
Pontypridd	1	2	-	-	1	0.5	2	-	6.5
Swansea	1	1	2	-	2	0.5	2	-	8.5
Total	8	17	8	4	11	5	20	2	75

*Including Branch Head, who are also Duty Solicitors

** Including Barristers

*** Three of the quality managers have responsibility for two offices: Liverpool/Chester, Darlington/Middlesbrough and Swansea/Pontypridd



Communications

As an organisation with multiple locations, it is important that staff are kept informed and are able to get involved as much as possible in the development of the PDS. Here we detail some of the activities that go towards achieving this.

Staff conference

The PDS Staff Conference took place in Birmingham on March 3rd and 4th 2005, and was attended by 85 delegates along with a number of high profile guests including LSC Chief Executive, Clare Dodgson and leading barrister and criminal law specialist, Lord Martin Thomas, OBE QC.

Anthony Edwards (Head of Professional Service) and Gaynor Ogden (Head of Employed Services) congratulated staff on their hard work throughout the four-year pilot and discussed how the service could grow and develop further. Highlights included a lively workshop about the importance of staff safety at work facilitated by the Suzy Lamplugh Trust, and a hard-fought quiz, in the evening, won by a team from the Middlesbrough office.

The Conference was regarded a great success by all who attended, as these quotes from attendees show: "All the workshops were informative and useful." Solicitor, Swansea

"Empowering and inspiring... a real cohesive experience for the whole organisation." Barrister, Cheltenham

"I found the talks very useful – particularly Tony's on the Criminal Justice Act. These made the conference very constructive... The Birmingham office was a great location – so much more pleasant than an anonymous hotel conference room." Head of Office, Cheltenham

Intranet

In January 2004, the LSC announced a new project to improve the intranet site.

Zoë Salmon of the Central Business Team coordinated the project for the PDS and worked with a team of three others from across the Service to redesign the PDS pages.

Staff are encouraged to use the intranet as their first point of call to find out information. The team worked to make sure the new pages contained relevant information such as legal updates and guidance for lawyers and news pages to communicate stories and achievements across the Service.

Management meetings

Management Teams across the PDS hold regular meetings with the Central Business Team.

The Wider Management Group meets to discuss local office performance, to make operational and policy decisions and to communicate local office news and achievements.

The Quality Managers meet with the Central Business Team separately; the focus of their meetings is to discuss quality issues and review office performance.

The Central Business Team use the PDS Case Management System to provide performance reports for discussion at the meetings. The Balanced Scorecard is also reviewed monthly.

Many of these meetings are held by video or teleconferencing to save costs on travelling.

Minutes are written at the end of each meeting and are posted on the intranet with a summary bulletin for staff to discuss at their local team meetings.

Innovation and future plans

The future of the PDS depends significantly on the research due to be published in early 2006. We hope to build on the work that has taken place over the course of the pilot, and continue to provide quality services to clients. We would like to continue to improve access to quality services by developing our outreach and diversion programmes, and expanding our service into areas where there is currently little or no supply. This might also include expansion into other areas of law. Our future strategy will include exploring more cost effective and innovative methods of delivery. We will continue to act as the research and development section of the Criminal Defence Service (CDS), making processes and systems available to other legal service providers and testing new methods of working. We are working to develop our case management system so it can be accessed via the internet. This would enable us to work more flexibly and may also mean that the system can be offered to private suppliers.

“ A growing, quality service in which the public have confidence. An accessible and well marketed organisation in which people are proud to work. ” The PDS vision



Appendix 1

PDS Costs to date April 2001 to March 2005

Office	Year	Set-up Costs	Running Costs	Totals
Birmingham	01 to 02	£214,998	£309,406	£524,404
	02 to 03	£0	£479,658	£479,658
	03 to 04	£0	£405,446	£405,446
	04 to 05	£0	£423,552	£423,552
	Office total	£214,998	£1,618,062	£1,833,060
Central	01 to 02	£419,346	£74,532	£493,878
	02 to 03	£109,185	£142,770	£251,955
	03 to 04	£0	£333,552	£333,552
	04 to 05	£0	£373,359	£373,359
	Office total	£528,531	£924,213	£1,452,744
Cheltenham	01 to 02	£59,853	£22,359	£82,212
	02 to 03	£161,202	£424,840	£586,042
	03 to 04	£0	£501,428	£501,428
	04 to 05	£0	£662,802	£662,802
	Office total	£221,055	£1,611,429	£1,832,484
Chester	01 to 02	£0	£0	£0
	02 to 03	£175,224	£37,509	£212,733
	03 to 04	£8,739	£365,997	£374,736
	04 to 05	£0	£421,437	£421,437
	Office total	£183,963	£824,943	£1,008,906
Darlington	01 to 02	£0	£0	£0
	02 to 03	£126,867	£34,298	£161,165
	03 to 04	£12,500	£263,523	£276,023
	04 to 05	£0	£351,456	£351,456
	Office total	£139,367	£649,277	£788,644
Liverpool	01 to 02	£164,348	£385,332	£549,680
	02 to 03	£0	£488,927	£488,927
	03 to 04	£0	£564,784	£564,784
	04 to 05	£0	£682,617	£682,617
	Office total	£164,348	£2,121,660	£2,286,008
Middlesbrough	01 to 02	£185,002	£338,404	£523,406
	02 to 03	£0	£523,166	£523,166
	03 to 04	£0	£471,600	£471,600
	04 to 05	£0	£463,291	£463,291
	Office total	£185,002	£1,796,461	£1,981,463
Pontypridd	01 to 02	£0	£0	£0
	02 to 03	£108,754	£162,944	£271,698
	03 to 04	£0	£333,416	£333,416
	04 to 05	£0	£316,580	£316,580
	Office total	£108,754	£812,940	£921,694
Swansea	01 to 02	£276,287	£374,664	£650,951
	02 to 03	£0	£502,900	£502,900
	03 to 04	£0	£523,171	£523,171
	04 to 05	£0	£427,117	£427,117
	Office total	£276,287	£1,827,852	£2,104,139
Yearly totals	01 to 02	£1,319,834	£1,504,697	£2,824,531
	02 to 03	£681,232	£2,797,012	£3,478,244
	03 to 04	£21,239	£3,762,917	£3,784,156
	04 to 05	£0	£4,122,211	£4,122,211
	Overall total	£2,022,305	£12,186,837	£14,209,142

Appendix 2

Public Defender Service. Guidance 1/2005. CDS objectives

Introduction

1. By paragraph 1.2. of the Code of Conduct for employees of the Legal Services Commission who provide services as part of the Criminal Defence Service (the Code) I am responsible for providing advice and guidance under the Code.
2. I have been asked by employees of the Legal Services Commission to give advice as to whether all the published objectives of the Criminal Defence Service (CDS) are consistent with paragraphs 2. and 3.2. of the Code.
3. Paragraph 2 provides
 - “2.1. the primary duty of a professional employee is to protect the interests of the client so far as is consistent with any duties owed to the court and any other rules of professional conduct. Subject to this, a professional employee should do his or her utmost to promote and work for the best interests of the client and to ensure that the client receives a fair hearing. A professional employee should provide the client with fearless, vigorous and effective defence and may use all proper and lawful means to secure the best outcome for the client.”
 - “2.2. A professional employee shall not put a client under pressure to plead guilty and in particular shall not advise a client that it is in his or her interests to plead guilty unless satisfied that the prosecution is able to discharge the burden of proof.”
4. Paragraph 3.2. provides

“a professional (employee) has a duty to maintain his or her professional independence and not to allow this to be compromised by prosecuting authorities, the courts, the Commission, clients or any other source”.
5. I have consulted with the Law Society and the Bar Council before issuing this guidance.

Legal and professional background

6. In providing this guidance I have had regard to:

(A) S.12 Access to Justice Act 1999 (the Act) provides that

“the Commission shall establish, maintain and develop a service known as the Criminal Defence Service for the purpose of securing that individuals involved in criminal investigations or criminal proceedings have access to such advice, assistance and representation as the interests of justice require”.

(B) The relevant rules of professional conduct that are summarised in Cordery on Solicitors at section F paragraph 1.1. provides that “in a solicitor who has accepted instructions on behalf of the client is bound to carry out those instructions (with diligence)”

Paragraph 2..3. provides that “The solicitor’s authority stemmed from the retainer given to him by his client and his authority to act is limited by any special conditions imposed..... by the retainer”

Objectives of the Criminal Defence Service

7. In its 2004/2005 business plan the Legal Services Commission declared the objectives of the Criminal Defence Service to be as follows
 - Providing legal advice and representation to individuals under investigation or charged with criminal offences (objective 1)
 - Facilitating the fair efficient and effective operation of the CJS and influencing positive improvements in it (objective 2)
 - Helping individuals address the causes of their offending behaviour and reducing the offending through effective links with other CJS initiatives and the community legal service (objective 3).

8. In my opinion objectives 2 and 3 must, to fall within the Code, be read as subject to and conditional upon objective 1. This is because any advice assistance or representation must in accordance with the statute be directed to the individual and must be given in the interest of justice; that is to meet the needs of that individual in that particular case. The Act does not contemplate a wider “public good”. Any other approach would also be contrary to the provisions of paragraph 3.2 of the Code.
9. In my first guidance (1/2002 published as an appendix to the first annual report of the Public Defender Service) I gave advice, which is now relevant to objective 2, in relation to the obtaining of an adjournment of court proceedings at a client’s request.
10. This guidance relates to objective 3 that has a particular relevance because the Service is already involved in the Criminal Justice Intervention Programme and will give legal advice at the Community Justice Centre in Liverpool. Conditional cautioning (which encourages rehabilitation and reparation) is introduced by the Criminal Justice Act 2003 and will introduce a series of further programmes where, on admission of guilt, a client can be diverted from the criminal courts.
11. In guidance 1/2002 I indicated the steps that should be taken before a client is to be advised to admit guilt; an action that would trigger many of the diversionary programmes I advised as follows:
- “7. The professional employee should seek to obtain a sufficient disclosure of the prosecution evidence so that he or she may be satisfied that the Crown is able to establish its case. The client should not be required to indicate a plea otherwise than on the basis of an informed decision (see R v. Calderdale magistrates Corut ex p Donahue & Cutler 2001 Crim LR 141)
- “8. If the client wishes to proceed without such disclosure specific instructions to that effect should be obtained and recorded.”
12. The implementation of the “bad character” provisions of the Criminal Justice Act 2003 make it particularly important that that advice is applied as any diversion from prosecution is likely to amount to “reprehensible behaviour” that may be led by the Crown in any later prosecution.
13. Paragraph 2 of the Code places the primary obligation on the professional employee to protect the interests of the client and to secure the best outcome for the client. Because a professional employee’s authority is based on their professional retainer it is for the client to decide what is in his or her own best interests and not for the professional employee
14. In accordance with this guidance a professional employee shall only recommend outcomes with the aim of reducing offending behaviour where this is consistent with the discharge of his or her professional duties as I have set them out.
15. In discharging those duties, a professional employee shall not see his or her role as deciding for the client what is in their best interests or what would be the best outcome of the case. It is not, for example, for a professional employee to decide for a client that he should reduce his offending behaviour, or that he should aim to achieve a case outcome that would help achieve this objective.
16. However, a professional employee should bear in mind that a client’s objectives may often be broader than achieving the outcome least restrictive to his or her liberty. A diversionary scheme may assist a client to obtain bail. A client may for example prefer a diversion if it helps to tackle a drug problem rather than appear in court be convicted. Such a course may also have significant benefits in law and advice to that effect should be given. As far as possible the employee should enable and assist the client to make his or her own informed decisions.
17. Thus where appropriate, and in so far as it is consistent with the client’s instructions a professional employee may assist a client who is provably guilty or who admits an offence to obtain advice or help that may help him or her reduce offending behaviour and reduce re-offending. This is likely to be by referral to another agency including a provider of civil legal services.
18. A professional employee should therefore be fully advised as to the diversionary outcomes available so as best to be able to inform and advise the client. I advise that each office of the Public Defender Service should maintain a register of available diversionary schemes in their area, the better to perform this duty.

Appendix 3

Public Defender Service. Guidance 2/2005. Police Station Advice.

Introduction

1. By paragraph 1.2 of the Code of Conduct for employees of the Legal Services Commission who provide services as part of the Criminal Defence Service (the Code) I am responsible for providing advice and guidance under the Code.
2. Paragraph 3.2. of the Code provides that “a professional (employee) has a duty to maintain his or her professional independence and not to allow this to be compromised by prosecuting authorities, the courts, the commission, clients or any other source.”
3. Paragraph 14.1 provides “subject to the provisions of this Code and any other rules of professional conduct an employee shall not do anything to bring the salaried service into disrepute in the course of his or her employment or otherwise”
4. Because of conflicting advice given on external training courses I have been asked by employees of the Public Defender Service, and particularly by accredited and probationary representatives, to clarify the position in relation to two specific areas.
 - (A) The extent to which an employee can continue to act at the police station for a client who is, to their knowledge, using a false name; and
 - (B) The extent to which an employee may pass information from one person in detention to another.
5. I have consulted the Law Society and the Bar Council before issuing this guidance

Guidance

- A.
 6. It is axiomatic (and is implied by paragraph 14.1 of the Code) that all employees are bound by the provisions of the Criminal Law. The most significant law in relation to police station work is that relating to the offence of perverting the course of justice.
 7. The offence is committed when a person acts or embarks upon a course of conduct that has a tendency to and is intended to pervert the course of public justice (*R v. Vreones* [1891] 1 QB 360).
 8. The course of justice begins as soon as an incident is made known to the police and certainly by the time an investigation begins. This will therefore cover all stages of police station work (*R v. Rowell* 65 CR App R 174; *R v. Cotter* [2002] Crim LR 824)
 9. A positive act to pervert the course of justice is required; inaction in itself is insufficient (*R v. Andrews* 1973 QB 422; *R v. Clark* [2003] Crim LR 558)
 10. If a client is, to the employee’s knowledge, using a false name, the employee can and should continue to advise the client. Such advice does not have a tendency to pervert. It involves no third party. It will often include advice that the client may, by acting in this way, commit the offence of perverting the course of justice. However, the decision whether to desist or continue is for the client to make.
 11. However, I advise that, having advised generally and if the client continues in the deception, the employee should withdraw from the case.
 12. The employee is limited in these circumstances in the making of representations to any police officer and in my opinion he or she should not attend upon the client in police interview. It has been argued that it is proper to remain in the interview if no positive step is taken on the client’s behalf and there is to be no intervention. However, this means that the best advice may not be given in interview and, in any event, attendance is itself a positive act. It does and is intended to give support to the client against the pressures that such an interview inevitably creates.

13. When withdrawing the employee must not give any explanation to the police as to his or her reason as this would amount to a breach of the duty of confidence to the client (see chapter 16 Guide to the Professional Conduct of Solicitors 1999).

B.

14. If an employee is asked to see two or more suspects in the same case great care must be exercised. To pass information from one to the other in a way that knowingly assists that other to present a consistent but untrue defence would amount to the offence of perverting the course of justice and would breach paragraph 3.2 of the Code. If there is any concern the employee should act only for one suspect.

15. In order to avoid problems arising when a solicitor already acts for client 1 (C1) and is asked to act for client 2 (C2) the following steps should be followed. The professional employee should ¹

(1) Advise C1 that he/she can only act for C2 if:

- (a) there is no conflict;
- (b) the employee is authorised by C1 to make disclosure of all relevant information to C2 and
- (c) it is proper to make that disclosure in accordance with the terms of this guidance

(2) Advise C2 that the employee can only act for him/her if:

- (a) there is no conflict; and
- (b) the employee is authorised by C2 to make disclosure of all relevant information to C1;
- (c) it is proper to make that disclosure

16. Particular care should be taken when a client

- (a) requires information about another client's instructions before giving his or her own; or
- (b) is insistent that a professional employee should pass information to another client

17. The need to avoid the improper transfer of information should be kept constantly in mind

ANTHONY EDWARDS. PROFESSIONAL HEAD. FEBRUARY 2005

¹ Based on work by Christopher Murray of Kingsley Napley, Chairman of the Law Society's Criminal Law Committee but amended to meet the needs of this guidance.

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