

To all compliance partners

LM/CL

30 September 1999

REVISED REQUIREMENTS FOR TIME RECORDING

As you will be aware, the Board recently consulted on proposed revisions to the Code of Practice in relation to Criminal Legal Assistance. In light of the many constructive comments received, we have made a number of further revisions to the Code, which has now been submitted to Scottish Ministers for approval. We hope that the new code will be published shortly.

In the interim, and in recognition of the changes brought about by the introduction of fixed payments and representations made during the consultation period, Ministers have agreed to the Board's proposals to relax significantly the requirements for time recording. These new provisions, a copy of which is enclosed with this letter, will take effect from 1 October 1999, although the rest of the revisions to the Code will not come into effect until a later date.

This means that, as of 1 October, firms and solicitors need no longer comply with the existing time recording provisions (contained in para 5.2 of the current Code), but must comply with the new reduced requirements. There is no need at this stage for firms to submit revised procedures to the Board: further guidance will be issued on this matter as and when the full Code is published.

The new provisions are less onerous in a number of ways. Firstly, and most significantly, *time spent on most work on fixed payment cases need no longer be recorded*. The *only* time that needs to be recorded in these cases is that spent at court or prison and in travel, where an outlay for that travel is chargeable. Secondly, other criminal legal assistance work which is not chargeable, or which is chargeable on a non-time basis, need no longer be recorded. This includes dictation, travel to and from a local court, preparation etc. Finally, solicitors need no longer calculate elapsed times: all that is required is the start and finish times of each item of work.

The new provisions are the result both of the responses to the consultation and continued constructive discussion with the Law Society of Scotland, through which significant further progress has been achieved. We are confident that the new provisions represent a substantial decrease in the amount of time that has to be recorded by solicitors. This is the minimum required by the Board to ensure that all criminal legal assistance expenditure is legitimately paid to solicitors for work done. We hope that firms and solicitors will see this as a real reduction in the administrative burden on them and look forward to publishing the entire revised Code of Practice in due course.

Yours faithfully

Lindsay Montgomery
CHIEF EXECUTIVE

5.2 PERSONAL WORK AND TIME RECORDING

5.2.1 A chronological record shall be maintained of all criminal legal assistance activities undertaken by each individual.

In fixed payment cases (those to which the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 apply), such a record shall be kept for:

- attendance at court or prison
- travel - where an outlay is chargeable

and, in other cases, such a record shall be kept for all work which is chargeable on a time basis, and the record shall show

date

solicitor's name

name of client or witness

identifier to link to the relevant case file

detail of work done

start and finish times of work done

5.2.2 Start and finish times of work done may be based on actual times or standard units of up to six minutes.

5.2.3 Time not engaged on criminal legal assistance or engaged on criminal legal assistance other than as specified in paragraph 5.2.1 should be noted as such on the record. For this purpose, the record may include a general disclaimer to the effect that, unless otherwise stated, time is not engaged on criminal legal assistance other than as specified in paragraph 5.2.1. In the event of a conflict between the time recorded in the personal time record and that recorded in a case file, or charged in the account, the personal time record shall take precedence.

5.2.4 Procedures shall state where and in what manner these records are held, e.g. personal files, computer systems, diaries etc. and whether the system is based on actual time or units of time of not more than six minutes. Records shall be maintained and accessible for a period of three years.