

ACTION PLAN IN RESPONSE TO CJJI REPORT ON USE OF LEGAL SERVICES BY THE JUSTICE SYSTEM

CJINI Recommendation	Response	Proposed Action	Lead responsibility	Target date
<i>Strategic/cross-agency recommendations</i>				
The criminal justice organisations should collectively review the use of legal services to include benchmarking and market testing of central government services, internal provision and direct provision from the private sector. They should also determine the scope for greater use of alternative dispute resolution approaches.	Accepted in principle	The current use of legal services by the justice system will be reviewed to determine the extent of internal and external provision. That audit will inform the potential for any benchmarking or market testing.	DoJ	October 2012
The Department of Justice (DoJ), which is leading on the development of a shared services approach to service delivery in the justice system, should incorporate the procurement and management of legal services as a key component of this work. It should expect the advice of the Department of Finance and Personnel and the Central Procurement Directorate and aim to align activity with other parts of the devolved government.	Pending outcome of proposed audit.	Any decision on whether a shared services approach would be feasible will be contingent on the audit of legal services. It would also require active engagement with the Department of Finance and Personnel.	DoJ	Audit to be completed by December 2011

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<p>The PPS and NICTS should agree a common strategy and timetable for achieving a convergence between the level of prosecution and legal aid fees.</p>	<p>Accepted</p>	<p>The business case that supported the recent introduction of the Legal Aid 2011 rules estimates the potential impact on savings to the PPS in the process of seeking convergence in the defence and prosecution rates of remuneration in Northern Ireland. PPS are currently finalising a draft scheme for the remuneration of counsel and preparing a business case with a view to enabling the introduction of a similar PPS scheme by late 2011. Broadly stated this will bring the level of remuneration of prosecuting counsel to within 5% of the fees paid to defence counsel under the 2011 Rules. PPS and NICTS will keep under review the manner in which the new schemes are operating and the financial implications.</p>	<p>PPS/NICTS</p>	<p>Summer 2012</p>

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The cost of legal services should be determined at the commencement of an assignment	Accepted in principle	This can be problematic as it is often difficult to estimate the progress of cases in advance. However, this could be incorporated in any move towards legal services being considered as a shared service. In the meantime, the proposed introduction by the PPS of a scheme similar to that of Legal Aid, will provide clarity as to the fee payable from the point that counsel is instructed.	All relevant CJOs	TBC
<i>Operational recommendations</i>				
The PPS should review the delivery of its court prosecution work, to include the development of in-house advocates and the scope to introduce an Advocate Depute role as used in Scotland i.e. counsel engaged on a full time basis for a set period of time to conduct prosecutions	Accepted	In March 2011 the PPS appointed 3 Higher Court Advocates (HCA) on a 12 month pilot basis to test the concept. The PPS is aware of the Advocate Depute system in Scotland but to date has not formally assessed its suitability to this jurisdiction. Given the size of the annual spend in	PPS	December 2011

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		PPS, approximately £5m, the establishment of a panel list of counsel and the HCA scheme, it is considered that such a proposal may not be financially viable. Nevertheless the PPS will commit to carry out a formal review of this proposal.		
The PPS should continue to monitor the deployment of prosecutors to court and should compare the number of court sessions covered against staff available. There should be clear expectations as to the number of court sessions to be covered by each prosecutor on a weekly basis	Accepted	The PPS is in the process of introducing a 'prosecutor activity sheet' which will capture the number of court sessions covered by prosecutors and help identify the time required to cover all other activities.	PPS	September 2011
There is a need for a PPS review of the cost effectiveness of the distinction between the roles of directing lawyers and those who present cases in court.	Accepted	Any review has to be carried out in the context of the proposed new scheme for the payment of counsel, particularly that relating to the payment of sessional fees in the Magistrates' and County Court. The timing of a review will therefore be contingent upon the	PPS	March 2012

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		introduction of the proposed new scheme.		
The PPS should strengthen and fully enforce its requirement for records of work to accompany all claims for fees to be paid on a non-scale or Very High Cost Case (VHCC) basis.	Accepted	The introduction of a fixed fee scheme would mean that only on a very limited basis, such as pre-committal advice, would records of work/hours be required from counsel. On the introduction of the new PPS scheme for remuneration of counsel new instructions will be issued to counsel on the requirement to provide records of work done.		December 2011
The PPS should consider the guidance on the use of two counsel as used by the Crown Prosecution Service in England and Wales to determine what aspects might be adopted.	Accepted	The report recognised the strength of the existing PPS arrangements. Nonetheless, and in the context of the panel being refreshed for January 2012, consideration will be given to the current guidance in England and Wales.	PPS	December 2011
The PPS should review the arrangements	Accepted	The process of preparing for	PPS	October 2011

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relating to its panel list of counsel prior to the review of its composition. This should include widening access to include barristers currently not members of the Northern Ireland Bar and to solicitor advocates.	(in part)	the review of the panel of counsel has already commenced. The issues raised will be considered as part of that process.		
The PPS should implement a quality assurance scheme on advocacy skills, taking into account developments in England and Wales.	Accepted	PPS has long recognised the value of a quality assurance scheme on advocacy skills and intend to introduce an assessment mechanism during 2011/12.	PPS	March 2012