

CLS Support Email bulletin (contracting) no. 42: the new NfP audit process

1 Purpose of this Email bulletin

- 1.1 The purpose of this Email bulletin is to brief contracted agencies on the new Not-for-Profit (NfP) audit process. All contracted agencies should have received a briefing paper already from the Legal Services Commission (LSC) on the new process.
- 1.2 This Email bulletin has been checked and agreed for accuracy by the LSC.

2 Background

- 2.1 The LSC has dropped Contract Compliance Audits because of its experience of the educational audit process and the results from CLS Support's [survey of contracted agencies about their experiences of the NfP Contract](#) published last year.
- 2.2 However, it is introducing a new NfP audit process. This process will be trying to target those agencies that are considered to pose a high risk to the LSC rather than audit all agencies with an NfP Contract.
- 2.3 Agencies that are audited will be assessed against the general principles that are set out in the NfP Contract and the Specialist Quality Mark (SQM). For example, the LSC will still be checking whether:
 - The work was within the scope of the legal aid scheme;
 - The client was financially eligible;
 - There is sufficient evidence of income included on the file;
 - The file meets the criteria for the Sufficient Benefit Test;
 - Etc.
- 2.4 As we wrote in [Contracting Email bulletin no. 28, "Contracting - the future"](#), ASA and the advice networks have been in discussion with the LSC about their intentions for the new NfP audit process. Although the LSC has consulted us on their proposals and taken on board some of our concerns, we were unable to reach agreement on the timetable for its implementation. ASA has been told that the implementation of the new NfP process will be phased but a small number of agencies will in our view be audited before they have had a reasonable time in which to come to grips with the new process.

3 The risk assessment and audit prioritisation process

- 3.1 The LSC is taking a risk-based approach to prioritising agencies, based on the risk factors below. Each of the risk factors has been given a points

“weighting” to reflect its relative importance in an LSC risk assessment report, known as SOOPER (Supplier Out-Of-Profile Exception Report).

- Size of contract (which attracts 5 points);
- Performance against contract (worked casework hours against contracted casework hours) (5 points);
- Average case time (in Welfare Benefits and Debt categories only) (4 points);
- Percentage of clients for whom more than one matter has been reported within the same category of law (3 points);
- Level 1 time reported as a percentage of overall casework hours (2 points);
- Disbursements expenditure per case (analysed separately for Welfare Benefits, Debt, Housing and Immigration) (1 point).

3.2 The LSC is producing an overall risk score for all agencies by adding together the points attributed to each risk factor. The first round of audit activity (which will last until Summer 2005) will focus on the 50 agencies with the highest risk scores. However, highest risk does not necessarily mean that you are performing badly or are in breach of the NfP Contract. Please refer to detailed SOOPER guidance to be posted on [LSC website](#) as soon as possible.

4 The Audit Process

4.1 The process starts with a letter going out to the agencies selected for audit, requesting files within 14 days. Agencies will be required to submit 20 completed case files chosen at random by the LSC.

4.2 The files will be assessed using contract compliance type questions and also questions on SQM issues. All files will be audited against the file audit questions by a dedicated NfP audit team of file auditors.

4.3 Contract compliance questions will be primarily concerned with the following elements that were identified during the educational audits conducted in 2003/4:

- Means assessment;
- The scope of controlled work;
- The criteria for Sufficient Benefit;
- Data Integrity (this is mainly concerned with the consistency between information on the file and on the Consolidated Matter Report Form);
- Multiple matters;
- Identifying Direct Casework;
- Claiming disbursements requiring prior authority;
- Use of approved personnel.

4.4 SQM questions will be primarily concerned with whether the file has been managed appropriately and what information has been provided to the client at appropriate stages in the case. However, auditors will not be assessing the substantive legal advice provided to clients.

- 4.5 Once the files have been assessed agencies will receive a report on the outcome of the file assessment and matters that the LSC wish to discuss. They will then receive an audit visit. The focus and length of this audit will largely be determined by the results of the file audit.
- 4.6 Audit visits will be conducted by one of the four Account Managers on the audit team. As a result of the audit, the Account Manager may raise General or Critical Quality Concerns against the SQM or Contract Notices where an agency is in breach of the NfP Contract. The Regional Director will also be notified of the results and provided with a recommendation. This will be **pass, pass with corrective action, defer or termination** (if the Account Manager concludes that there is significant risk to the LSC).
- 4.7 Within the NfP audit process the Account Manager will also have the option (in consultation with the Regional Director) to commission a peer review where it is felt that this is the most appropriate course of action.
- 4.8 The LSC has agreed to conduct a comprehensive interim review of the audit process, in conjunction with ASA and the advice networks, at the end of the first round of audit activity.

5 Further support and guidance

- 5.1 Further details will be available in the NfP audit process documentation which will be posted on the [LSC website](#) as soon as possible.
- 5.2 If you need further guidance on any of the issues covered in this Email bulletin, please contact the CLS Support consultancy service on **0870 7700 447 Monday – Friday, 1pm - 4pm** or email cls.support@asauk.org.uk at any time.