

Email Bulletin (Contracting No.8): Sex and the CW1

1 Introduction

- 1.1 This document has been written following a recent consultancy line enquiry regarding the completion of a certain question on the Controlled Work 1 (CW1: Legal Help and Help at Court) form.
- 1.2 This document should be seen as guidance on completion of the particular question on the CW1 form for both Solicitor and Not-for-Profit General Civil Contract holders. This guidance also applies to the CW2 (Controlled Legal Representation) form.

2 The enquiry

- 2.1 A caseworker contacted the CLS Support consultancy line with an enquiry about completion of the '*Your client's details*' section of page 1 of the CW1 form.
- 2.2 The caseworker had a client who described themselves as 'trans-sexual' and who required Legal Help. On completion of the question relating to the sex of the client, the client wanted to be described as 'Ms' despite having what would commonly be assumed to be a male name and having been born male at birth.
- 2.3 The caseworker raised a general concern with CLS Support over whether it was up to the client to nominate his or her own sexual identity on completion of the form.
- 2.4 This was because the caseworker noted that completion of the '*Equal Opportunities Monitoring*' section of the form was voluntary yet the question of the sex of the client appeared to be part of the mandatory information that the Legal Services Commission (LSC) require for a valid application for Legal Help. The caseworker felt that if concerns were raised over any aspect of completion of the form at audit then this might mean that the application for Legal Help might be invalid.
- 2.5 Equally, the caseworker believed that if it were not up to the client to nominate their own sexual identity, then it would be intrusive to question them in any depth on matters that were of such a personal nature; also, to take any view other than the clients own preference could be perceived as discriminatory and/or conflict with stated organisational principles of equal opportunity.

3 The Answer

- 3.1 CLS Support contacted the LSC to raise the concerns of the caseworker and to determine their view on the proper completion of this particular question on the CW1. We received the following points in response:

- 3.2 The question of the sex of the client is used for statistical purposes only.
- 3.3 This is consistent with the approach that the LSC takes to the questions relating to Black and Minority Ethnic peoples (BME's).
- 3.4 The CW1 can reflect the client's own description of themselves, whatever they are comfortable with.
- 3.5 The completion of this question would not be something that the LSC would ever challenge, for example, on a contract compliance audit.
- 3.6 *"The Legal Services Commission serves a diverse society. That is a society made of men and women; of people of different races, cultures and religions; of people with and without disabilities; of young people and older people; of straight and gay people; and of people with many other differences. We recognise, respect and value that diversity and will strive in all we do to serve the interests of people from all sections of society."* (LSC Equality Scheme, Appendix B: Equality of Service Delivery Policy).