

# JUSTICE PRESS RELEASE

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8 February 2008

Embargoed for 00.01 Monday 11 February 2008

## **Best value tendering for legal aid: little thought and no research by Legal Services Commission**

Plans for the introduction of competitive tendering for legal aid, on which the Legal Services Commission is consulting, are insufficiently developed; pay no heed to experience in the United States; and need considerable further work, argues JUSTICE in its response.

JUSTICE considers that:

- Best value tendering (BVT) is, in principle, suitable only for discrete elements of criminal legal aid, in particular duty police station and magistrates court work and possibly disbursements (if handled centrally) and very high cost cases.
- The consultation seriously underestimates the practical difficulties of implementing BVT. Furthermore, the Legal Services Commission shows little sign of appreciating the degree of micro-management that a wholesale best value tendering scheme would entail. It has also taken no account of the lessons from other countries, particularly the United States.
- The majority of criminal legal aid expenditure should be controlled through fixed and graduated fees, the appropriate level of which is informed by the experience of the salaried public defender offices.
- If the commission is determined to proceed with BVT then there are five pre-conditions:
  1. Acceptance that BVT is of use only in limited areas of the scheme and that its introduction should be carefully piloted and researched;
  2. Retention of client choice of any appropriately qualified lawyer;
  3. Separation of disbursements;
  4. Particular attention to the retention of the client's right to choose a black or ethnic minority lawyer;
  5. Protection against lawyers overloading themselves with cases to the detriment of their clients.

Roger Smith, JUSTICE's director, said, 'The Commission should go back to the drawing board. They should also find out more about US experience of competitive tendering – which offers lessons of which the commission seems unaware.'

For further information: ring Roger Smith: work 020 7762 7412; mobile 07785 781 030. A copy of the response is attached.

The Legal Services Commission issued its consultation paper *Best Value Tendering of Criminal Defence Services* in December 2007. Responses are required by 3 March 2008.

Chairman of Council **Lord Goodhart QC**

Director **Roger Smith**

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