



Civil Contracts Consultative Group

Minutes

Date: Wednesday 19th January 2011, 16.00 – 17.30

Chair: Sara Kovach-Clark (LSC)

Attendees: Kevin Westall (MoJ), Christopher Volume (MoJ), Anne Graham (Law Society), Andrew Caplen (Law Society), Carol Storer (LAPG), Ann Lewis (ASA), Avrom Sherr (IALS), Alison Harvey (ILPA), Alan Bean (ALC), Emily Boardman (Resolution), Jan Luba (Bar Council), Ian Bugg (Bar Council), Stephen Cobb QC (FLBA), Mark Reeves (ILEX), Gus Ghataura (ILEX), Vivienne Gambling (HLPAs).

Minutes: Glyn Hardy (LSC)

Apologies: Ruth Wayte – LSC, Richard Miller (Law Society), Christina Blacklaws (Law Society), Dave Emmerson (Resolution), Melissa Morse (MoJ), Richard Charlton (MHLA), Richard Jenner (ASA).

1 – Ministry of Justice civil remuneration proposals contained in *'Proposals for the Reform of Legal Aid in England and Wales'*.

The consultation was launched in the context of the challenging economic climate and the Government's wider efforts to reduce public spending. All Government departments, including the Ministry of Justice (MoJ), face challenging financial settlements over the course of this parliament. The civil remuneration proposals contained in the consultation represent the Government's initial efforts to reduce spend in Legal Aid and represent a balance between making savings, maintaining supply and encouraging innovation.

The specific aim of this meeting was to discuss the proposals to reduce all fees paid under the civil and family legal aid scheme by 10%.

Through its consultation the MoJ aims to gather feedback from Providers, Representative Bodies and client groups on the implications of the proposals on service delivery both within categories and across geographical areas.

Initial impact assessments have been incorporated into the consultation paper based on information currently held by the MoJ on Providers and on patterns of supply. However, the MoJ recognises that Representative Bodies may have gathered additional sources of information and CCCG members were therefore requested to feed in any data collected by their organisations to assist in quantifying what the impacts of the proposals may be.

The MoJ intends to use this information, along with responses to the consultation and information it currently holds to build a clear picture of what the potential impacts might be on supply.

ILPA suggested that analysis of the impact of the 10% fees reduction could be done by utilising LSC Provider lists and Companies House records to analyse Providers' current profit as a percentage of turnover. Advice Services Alliance (ASA) confirmed that Not for Profit Providers' accounts are published on the Charities Commission website.

The Law Society (TLS) confirmed that the Legal Action Group, ASA, and Citizens Advice Bureau had done some work looking at the impact of reductions in legal aid expenditure on the provision of services.

The MoJ confirmed that the savings in the consultation are linked solely to the 10% rate cut, as it has not been possible to monetise the costs and benefits for some of the options (such as capping enhancement payments and changes to risk rates).

The Bar Council referred to Table M in the Cumulative Impact Equalities Impact Assessment in which it is suggested that the proposals may lead to an average 42% reduction in income for barristers undertaking civil work. The Bar Council asserted that this illustrates that the impacts may indeed be greater, since other options, in particular risk rates, had not been monetised.

The MoJ explained that it was not necessarily the case that the proposed extension of risk rates would necessarily mean a reduction in barristers overall income. While it would mean that they would receive less from the Legal Aid scheme, where they did win the case they would be able to pursue the losing party for their costs.

AP: Kevin Westall to provide clarification on the proposals covered in Table M of the Cumulative Impact Equalities Impact Assessment.

The group were concerned at the impact of the remuneration changes on Providers during a time of increasing costs and economic pressure.

The MoJ is in discussions with other Government departments about the impact of the changes on Providers and on options for mitigation. Following these discussions, and consultation with stakeholder groups, the MoJ will publish its consultation response which will represent the agreed Government position.

Several members queried how the proposals fit with other policy developments, such as Lord Jackson's proposals on civil litigation or the Family Justice Review.

The proposals contained in the consultation document represent a funding framework, and work will continue to ensure compatibility with other developments, such as the ongoing Family Justice Review.

ILPA stressed that in any internal dialogue between Government departments it is important that changes are identified from within the appropriate department. ILPA further asserted that changes implemented by one Government department can have significant effects on other departments.

The Bar Council asked for clarification on how the implementation timetable would impact on those Providers who have signed contracts to deliver services under the 2010 Standard Contracts.

Family Providers are currently providing services under the Unified Contract, which has been extended until 30 November 2011. Tenders will be run later this year for delivery of services from December 2011.

In Civil non-Family matters, the Standard Contract allows for the contract to be amended to comply with legislation. It is proposed that such an amendment would be made to incorporate the new rates.

Members sought clarification of how the proposals would impact upon organisations providing advice as part of consortia, should one organisation withdraw from the service.

AP: Sara Kovach-Clark to provide clarification on what would happen to consortia where one partner organisation withdraws from the service.

ILPA asserted that a number of organisations had responded to previous legal aid consultations and that these responses should be fed into the current consultation. LSC confirmed that relevant information and data that it holds is being shared with the MoJ.

A number of members were concerned that the proposals may lead to increased numbers of litigants in person and increased burden on judicial resources.

The MoJ confirmed that there will be a piece of work on transforming justice which will review how the justice system will operate in the future.

Members were also concerned that the proposals to remove some work from the scope of legal aid would also have an adverse impact on those areas remaining in scope.

The MoJ is taking steps to review future supplier bases, and has set up stakeholder groups in Family and Immigration in order to discuss this further. The group suggested that similar groups also be established in other categories.

Resolution questioned whether any work was being done to assess whether any reduction in Providers would act as a barrier to service provision. Resolution pointed to the requirement in the 2010 Standard Family Contracts that there will be 5 Providers in each procurement area. Resolution queried whether this would still be possible in the future.

The MoJ reiterated that the Government has made clear that given the current fiscal situation, it cannot afford the coverage in its current form. It is essential that providers work efficiently and innovatively. Not all types of legal problem need the same method of delivery, and work needs to be done to consider ways to drive down costs, exploring different ways of delivering services whilst maintaining the level of supply needed to support the system.

The MoJ concluded by repeating the request for members to share any analysis or information they may hold individually in order that relevant impacts on supply of services can be quantified.

Feedback from the consultation responses will be key in understanding what the proposed changes will mean in practice. If there is to be a reduction in the number of Providers robust data from CCCG members will assist in understanding what the implications may be.

Any feedback and data should be sent via email to Christopher Volume at Christopher.Volume@justice.gsi.gov.uk

2 – Family Tenders.

The LSC had intended to update members of the direction of travel of the Family tenders. However, at the time of the meeting, it was not in a position to do so. Once the way forward becomes clearer the LSC will take issues forward with stakeholders in the CCCG sub-group meetings.

3 – Any Other Business.

Several members requested that they be provided with a list of forthcoming CCCG and CCCG sub-group meeting dates. The LSC is currently reviewing how it engages with stakeholders to ensure that information is addressed in the correct forum, group roles are not duplicated, and to allow more flexibility to arrange meetings when specific issues arise.

ILPA requested that future CCCG meetings be scheduled for two hours as current meetings tend to run beyond the allotted time slots.

Some members noted that they did not receive updates from the LSC on important developments.

AP: Sara Kovach-Clark to arrange for members to join LSC Update mailing list.

Follow up Note: Following the meeting a link to the LSC website which allows individuals to subscribe to the LSC Update email facility and specify their specific areas of interest was circulated to members on 20 January. The relevant link (which expires on 31 March) is:

http://www.legalservices.gov.uk/aboutus/how/subscribe_to_publications.asp

Summary of Action Points

	Action Points	By Whom	By When
AP1	To provide clarification on the proposals covered in Table M of the Cumulative Impact Equalities Impact Assessment.	Kevin Westall	ASAP
AP2	To provide clarification on what would happen to consortia where one partner organisation withdraws from the service.	Sara Kovach-Clark	ASAP
AP3	To arrange for members to join LSC Update mailing list.	Sara Kovach-Clark	Resolved