



The Law Society



**Civil Contracts Consultative Group (CCCG)
Minutes**

7 March 2011

Date:	Monday, 7 March 15:00-17:00	
Where	LSC Boardroom, Abbey Orchard Street, London SW1P 2BS	
	Video Conference: Guy Barker – LSC – Manchester office Video Conference: Deborah Challis – LSC – South Tyneside	
Chair:	Ruth Wayte (LSC)	
Attendees:	Alan Bean– ALC Andrew Caplen – TLS Ann Lewis – ASA Carol Storer– LAPG Caroline Makin – Resolution Colin Stutt-LSC David Keegan – LSC David McGrady - ILEX	Howard Thompson – MoJ Jacquie Peirce - ILPA John Sirodcar – LSC Kerry Wood - LSC Robert Latham - BC Sara Kovach-Clark – LSC Simon Cliff - TLS
Minutes:	Grazia Trivedi (LSC)	
Apologies:	Dave Emmerson – Resolution; Richard Miller-TLS; Alison Harvey-ILPA; Jan Luba – Bar Council; Ann Graham – TLS; Avrom Sherr-IALS; Ian Bugg – Bar Council ; Vivien Gambling – HLP	

1. Operation of VHCC scheme

DK said that the LSC was covering 2,500 case planned children and family certificates per year as VHCC cases. The majority were single counsel cases handled by South Tyneside’s High Cost Cases Unit (CCU). The minority were QC/2 Counsel cases handled by Special Cases Unit across London, Reading and Cardiff.

The LSC applied 21 staff to this work (18 in South Tyneside, 3 in Special Cases Unit). This was one of the highest ratios of staffing on any legal aid scheme. There had been a recent turnover of staff and sickness in South Tyneside, who were recruiting 2 replacements.

The present turnaround time was about 8 weeks on submission of case plans. That was unlikely to improve beyond 6 weeks given the level of resources. The LSC were paying POAs in 20 days, but bills were taking longer.

The LSC said that the biggest issue was agreeing profit costs with solicitors, and solicitors coordinating barristers’ fees into the case plan. Case plans were often sent back for more information. The barristers were routinely paid on FGF or events model. So the issue was fixing profit costs more simply in what were actually very predictable costs.

The LSC saw the way forward as moving to an ‘Events’ based payment scheme for the following reasons:

1. It was a form of graduated fee scheme with the costs being set on the basis of events.
2. It allowed a simplification of case planning: setting the costs quickly on expected ‘events’, and final adjustment to cover actual ‘events’.
3. The LSC had operated this scheme for many years for counsel by mutual agreement.
4. The LSC offered this voluntarily to solicitors on 2 counsel cases.
5. Over half of these cases were now voluntarily approved on an ‘events’ basis.

AB said that it was a problem that experts could not be paid until the case plan was approved. There were also inconsistencies in the approval of experts in linked cases. Fees may be approved for one funded client and not another in the same proceedings.

DK said that the scheme could be tried out with a few providers at first. He asked for The Law Society's support to take this forward. It was agreed that a sub-group would be set up to action this proposal and to deal with the issue of disbursements. **AP1-DK**

It was agreed that representative bodies would put forward names of people for the sub-group to DK. **AP2-Rep bodies**

2. Future Family Tender and update on NMS allocation

KW updated the group on the current thinking for the family re-tender.

It was likely that the re-tender would still see a significant level of competition from providers for the work available. The group agreed. The LSC was considering several different methods of NMS allocation in order to find the fairest one. KW said that there was no clear view from providers as to whether a competitive tender, favoured by some providers, or a non-competitive tender (pro-rata allocation), favoured by others, was the best approach.

KW said that one option might be to differentiate between providers, e.g. small versus large and allow providers to bid for 'lots' of NMS according to the types of work undertaken and with an option to bid for any remaining work in an area, once the level of competition was clear. There was a general consensus that, ideally, the tender criteria should be published much earlier than before but obviously much depended on the outcome of the MOJ consultation response.

It was agreed that CCCG members with views on the family re-tender process would send their views on how the allocation of work might work, allocation of NMS, things to avoid and any other feedback to KW as soon as possible. **AP3-Rep Bodies**

3. Future communication with providers

3.1 Sub-groups. There was discussion about the LSC's proposals for future communication with providers. The LSC proposed to abolish the CCCG sub-groups because their agendas were mostly a duplication of what was covered by the CCCG. Representative bodies felt that this action would deprive Social Welfare providers of a forum for debate on specific topics that could not be discussed at the CCCG and for airing individual views on policy. JS said that the LSC no longer developed policy; this was now the remit of the MoJ.

JS said he would look at the sub-groups and rationalise their correlation for the purpose of avoiding duplication. **AP4-JS**. It was agreed that

- The CCCG would be the main forum for discussion
- The CCCG would meet every two months on a Monday **AP5-GT** to arrange next meeting
- The Family RBMs would continue but frequency would be decided by necessity. Meetings would be attended via VC and teleconference to facilitate those living outside London.
- If rep bodies wished for a sub-group to meet, they should let the LSC know: a) what sub-group and b) about what particular issue. **AP6-Rep bodies**

3.2 Provider Representative Groups (PRG) The LSC proposed that PRGs meet twice a year in 10 to 12 different locations and that their membership be expanded to any provider that wished to attend. There were no objections to this proposal. The LSC also proposed to hold annual conferences in the North, London and Midlands, for providers with a turnover exceeding £2M. Rep bodies questioned the reasons for holding these conferences and felt that excluded providers would

be concerned about a hidden agenda between the LSC and large providers. JS said that this proposal was in response to a purely business based need to have a dialogue with the 68 firms in the over £2M turnover bracket. He agreed that minutes would be taken at these events and that they would be published, as were PRGs meetings minutes. The PRG meetings minutes were published on: www.legalservices.gov.uk >About us>Providers Reference Groups.

4. Provision of information on current contracts

CS said that it would have been very useful for Rep bodies if the LSC published a spreadsheet containing the names of all contracted providers, the category of law they had a contract in, contact details and procurement area. The LSC didn't have any objections to providing this information but a problem existed in that the list went out of date almost as soon as it was published. S-KC said that contracted providers' details could be found on the Community Legal Advice (CLA) website although the information wasn't in the form of a spreadsheet. S-KC would find out whether it was possible to publish a spreadsheet that was updated at regular intervals. **AP7-S-KC**. Another way of accessing the information was to read the Tender results which were published on the LSC website.

5. Future of Housing Possession Court Duty Schemes (HPCDS)

S-KC said that Housing contracts would run for another 3 years as expected. (AL has since circulated e-mails from the MoJ confirming that funding for HPCDS would continue.)

6. Civil Case Management update

GB provided an update. Volumes of bills were increasing in line with applications after the start of the economic recession. Urgent applications were processed within 10 days and other applications within 20 days. The previous week over 16,000 items of work had been received for processing; this included applications, amendments and bills. Nearly all processing targets were being met but there was risk of slippage. Three LSC offices, in South Tyneside, Manchester and Chester, had teams dealing with enquiries and it was important that incoming calls were confined to urgent matters

Rejected claims The LSC had published a two page guidance that was to be sent by email to all providers that week, on when to ring the 0300 Customer Services line. It was important that providers rang only when it was necessary so as not to clog the system. The response time for calls was now down to well under 2 minutes and further improvements were planned. GB was aware that not all offices were operating in exactly the same way but were working towards greater consistency.

Rep bodies said that providers had been complaining about applications being rejected due to claims being lopped off. For example a taxi fare was considered unnecessary; an attendance was cut by 15 minutes, hourly rates and admin costs were reduced. GB said that hourly rates may have been reduced to bring them in line with what was considered to be the national average. GB said he could be asked to deal with specific cases and with any changing trends. GB said that the LSC and MoJ had been working on guidance for providers on hourly rates for Experts and was expecting release of these rates later in the year. In the meantime members were invited to send GB specific examples where they thought that we had reduced rates unreasonably. **AP8-Rep Bodies**

AB said that independent social workers followed the guidance of 2003. The current hourly rate was that which was considered appropriate by the court. This depended on the skills and experience of the social worker. Solicitors wanted to know where they stood on disbursement rates. The LSC had reduced the hourly rate to £35 which had been considered to be the going rate. GB said that if Experts could justify charging a higher rate, this should be submitted and would be given proper consideration.

Communications Representative Bodies asked the LSC to be clearer about what they needed to process an application. It would have been useful to know when a file would be asked for in order to process a claim. Perhaps it should be decided that a claim for over £2K should be accompanied by the file? GB confirmed that the LSC were working up some clearer guidance to providers on when claims should be accompanied by files and that this would be available through the regular e-alert to firms before the end of March.

The LSC was in favour of electronic communication and did not deem faxes safe or practical as they clogged the system and took longer to process; faxes should be sent only if this had been agreed in advance. Paper communications were discouraged.

7. AOB

Current number of audits CS said that many providers complained about the number and frequency of audits; providers found this to be stressful and resource intensive. JS said that a large number of providers did not comply with contract requirements, many of them failing to comply with even the most basic and essential requirements. Contract notices were issued as a consequence of this. Having said that, JS agreed that the LSC's current audit processes should be revised to achieve a more holistic approach.

Contract changes to introduce Phase 2 fees into the Unified Contract

C.Stutt said that the MoJ was consulting on a funding order to implement Phase 2 fees. That consultation ran to 18th March. On Friday 4th March the LSC began consulting on draft contract amendments to the UC in response to the proposed Order but also covering level 1/level 2 fees. The contract consultation would run to 30 March, with contract notice being issued by 4th April to implement the schemes on 2nd May. C. Stutt invited feedback on the contract documents **AP9-Rep bodies**. SC said that The Law Society would welcome a meeting to discuss, which Colin agreed to [now fixed for Wednesday 16th March].

Future Civil-CCG meetings It was agreed that the next meeting would take place in 2 months time

	Action Points	By Whom	By When
AP1	Set up a sub-group to work on 'events' payment scheme and disbursements payments process	DK	Next meeting
AP2	Send names for the sub-group (mentioned in AP1) to DK	Rep bodies	asap
AP3	Send views on proposals for family tender to KW	Rep Bodies	asap
AP4	Look at CCG sub-groups	JS	Next meeting
AP5	Organise next meeting in two months time	GT	Closed
AP6	Forward views on sub-group meetings to S-KC	Rep bodies	Next meeting
AP7	Find out whether a spreadsheet of all contracted providers' details could be published	S-KC	Next meeting
AP8	Send GB specific examples where they thought that LSC had reduced rates unreasonably	Rep bodies	asap
AP9	Send feedback to C. Stutt on contract amendments	Rep bodies	30 March

Next Civil-CCG on 9 May, at 15.00hrs