



The Law Society



Civil Contracts Consultative Group (CCCG) Minutes

14 May 2012

Date:	Monday, 14 May 15:00-17:00		
Where	The Law Society, Carey Street Reception Room, London Teleconference: Debra Challis – LSC, Alan Bean – ALC		
Chair:	Richard Miller – TLS		
Attendees:	Adam Griffith – ASA Ann Lewis – ASA Carol Storer– LAPG Alison Harvey-ILPA David Keegan – LSC	Elizabeth Gibby – MoJ Giles Peaker-HLPA Jan Luba – Bar Council John Sirodcar – LSC Karen DFinlay - MoJ Kathy Hartup – LSC	Neil Lewis – LSC Nick Lewis – MHLA Rachel Rogers – Resolution Ruth Wayte – LSC Steve Starkey - LSC
Minutes:	Grazia Trivedi (LSC)		
Apologies:	Avrom Sherr – IALS Ian Bugg – Bar Council	Kerry Wood – LSC Kevin Westall – MoJ	Dave Emmerson – Resolution Andrew Caplen – TLS

Welcome and introductions.

Actions from the previous meeting		Owner	By when
AP1	Agree a date to meet and discuss the VHCC non-family contract proposed amendments Post meeting note: As has been discussed previously, it is not possible to finalise a date for this action in the short term as resources are concentrated on the implement of LASPO. This action will be listed for review in July.	R Wayte	9 July
AP2	Produce a paper updating the group on the matter starts provision and the possibility of regular reports	JSirodcar	Depending on AP3
AP3	Provide concrete examples of instances when providers had not been able to take on a case because of NMS cap, i.e. names of providers, dates and context.	Rep bodies	asap
AP4	Feedback to N Lewis response Re the <i>Standard Fees Clause</i> .	A Bean	asap
AP5	Provide K Westall with specific examples of family cases including names, facts etc, where applying for prior authority had been a problem	Rep bodies	asap
AP6	<ul style="list-style-type: none"> DK to review HLPA data and provide update to KW re review of surveyors' fees. DK/KW to respond to V Gambling. (Circulate to the rest of the group when agreed) 	D Keegan	Closed
		K Westall	Closed
AP7	Confirm that NAO accept the Prior Authority process. Post Meeting Note: The LSC is required to ensure that payments made are accurate and reflect work actually undertaken. We will discuss with Provider Assurance and provide an update at the next CCCG meeting (N Lewis).	N Lewis	14 May
AP8	<ul style="list-style-type: none"> D Keegan to email A Bean with the types of files needed from solicitors advocates and A Bean to procure a sample of at least 20 files 	D Keegan	Closed
		A Bean	30 March
AP9	Review the content of the CLA telephone advice webpage re open day at Hinckley. Post meeting note: The LSC have reviewed the wording that was put on the website regarding the Hinckley open day and do not consider that there was any ambiguity.	M Ward	Closed

AP10	Circulate a paper on the future of cost appeals. Post meeting update: The LSC's position on the cost appeal committee will be dealt with in the LSC's response to the 2013 Standard Terms consultation which is expected to be sent to the rep bodies at the end of this month.	LSC	Closed
AP11	Circulate a list of the different mechanisms available to providers wishing to contact the LSC and issue guidance. Post meeting note: The LSC covered this in an email alert to providers on 28 th March #125. The update was split into e-mail contact and phone contact. The link to the overall update is: http://lscupdate.org.uk/t/4P-R4UO-552IZCXO31/cr.aspx	S Starkey	Closed
AP12	Set up a meeting with Family Reps to take forward VHCC Family procedures	D Keegan	Closed
AP13	Log the questions received between March and May to determine whether queries, and the answers to them, could be appended to the minutes for wider circulation	G Trivedi	Closed
AP14	Provide an update to AHarvey regarding the issues raised at a meeting with the immigration detainees' organisations in October 11 re the exclusive contract in detention centres. Post meeting note: This was sent with the minutes	N Lewis	Closed
AP15	<ul style="list-style-type: none"> Flag up the incorrect text on the <i>DirectGovNet</i> web to the LSC Ensure that the changes are made Post meeting note: The webpage has now been amended as per Anne Lewis' suggestions	ALewis K Hartup	Closed

1. Minutes and actions from the March meeting

1.1 Minutes R Miller asked for a change to be made to the last paragraph of AOB, re LSC work leads' contact details. This was agreed.

JLuba asked that Action 1 be listed for review at the July meeting rather than September, which was agreed. The minutes could then be published on the LSC website¹.

1.2 Actions

- AP1 Taken forward to July
- AP2 There was discussion about what data rep bodies wished to see on a regular basis - covered in Item 7
- AP3 J Sirodcar had not received feedback from rep bodies. The LSC believed this not to be an issue.
- AP4/AP5/AP6 –covered in Item 7
- AP7 N Lewis said that the NAO did not 'approve' of specific processes but had not raised any concerns in relation to the prior authority process; it was the LSC's responsibility to show the NAO that the right controls were in place so that the correct amounts were paid in each case.
- AP9. Rep bodies said that the LSC's regular use of acronyms made their communications incomprehensible at times. KHartup - LSC's stakeholders' communications manager took this feedback on board.
- AP10. The LSC would retain the Costs Appeal Committee for the time being but changes would be made to its membership when the LSC became an Executive Agency. Proposals would be shared with the CCCG.
- AP12. The LSC had met with TLS, ALC and Resolution in April to revise all the documents and procedures for Family and Events. At this very constructive meeting a number of improvements that could be made were identified.

¹ www.legalservices.gov.uk > CLS > Civil contracts > Agreement with The Law Society > Civil Contract Consultative Group

The LSC also met with the Family Law Bar Association (FLBA) in April and were looking at ways of improving agreement of counsel's fees and speeding up payment. Again, in a very constructive meeting ideas were generated for development.

Special Cases Unit Public Law/Action Against the Police cases: DKeegan said that the Special Cases Unit (SCU) in Brighton had received complaints about not turning these around quickly. Additional staff had been recruited and the procedures re-organised with a view to turning these round in a timescale consistent with judicial review proceeding.

2. Integrated Delivery Programme (IDP)

There was discussion about the IDP update. The LSC confirmed that the Bar would be involved in the South Tyneside pilot due to start in the autumn 2012. After the pilot providers would be given time to prepare for phase 2 of the Legal Aid Reform (LAR). The Bar would be involved in the first (of three) tranches of the CCMS roll out, due to start in the summer 2013 and expected to take 12 months. The updated Provider Reference Group slides, a summary note and a Q& A paper from the PRGs would be published on the LSC's [PRG's page](#)².

3. Operational update

3.1 Civil billing information SStarkey updated the group. Rejects levels were still high (20%) and continued to be a drain on resources. The LSC had selected the 50 firms with the highest level of rejects and had identified the reasons for this. JSirodcar would share the report with the group within a month. **AP2** JLuba suggested that a similar list of 'worst offenders' for counsel would be very useful.

The LSC had published a consolidated document [Provider Error Guidance](#)³ – covering counsel and solicitors, listing all the reasons for rejects, and giving guidance to providers on how to avoid their claims being rejected. CStorer asked that the link to the document be included in the minutes – see footnote 3.

The LSC had introduced the Priority Return system by which a *Priority Return slip* was sent to the provider with the rejected claim and a request for the missing information. When the claim was resubmitted together with the missing information and *priority return slip* it would go to the front of the queue.

AHarvey said that the fee structure in immigration cases was too complex. She agreed to send a summary of the issues to the LSC for consideration. **AP3**

The LSC proposed that a 9-5 telephony service be resumed but only to answer urgent queries. It was agreed that rep bodies and the LSC would work together on a communications strategy to convey this message to the profession. **AP4**. The new telephony hours would be trialled for 3 months from 11 June.

3.2 VHCC update

- Family cases. These were mainly processed in South Tyneside. In March substantial progress had been made with initial case plans taking 7 weeks to process against a target of 8 weeks. This was a substantial improvement on the 12 weeks it was taking the previous summer.
- 2 Counsel Cases were dealt with by the Special Cases Unit. Whilst SCU were turning around approvals of QC and scope increases for abduction as urgent, the approval of case plans had fallen outside the target of 4 weeks. The aim was to focus on these to get back within 4 weeks – and the LSC would be asking the profession that chasers should not be sent prior to this.

² www.legalservices.gov.uk >About us>Provider Reference Groups

³ [LSC Update #127](#) and www.legalservices.gov.uk >CLS>Civil forms (Documents>Forms information>Civil Error Guidance)

- *Family Events Model* This was seen as the best way of speeding up the approval of costs in family cases. The pilot was progressing steadily. The LSC had offered a 4 week service, but were providing quicker than that at present. Those firms who had used the model had found that the LSC turned them around very quickly and made payments off the back.

3.3 Data pack Rep bodies requested that the LSC provide a quarterly account on: a) the volume of matter starts reported by firms; b) the volume of bills claimed; c) the value of bills claimed, broken down by category of law. Neil Lewis would inform RMiller in writing as to what the LSC was able to provide. **AP5**

Rep bodies asked the LSC for an update on the FOI request in relation to matters started at the individual firm level and for every firm and every category of law. Neil Lewis would find out the outcome. **AP6**

4. Commissioning update

RWayte updated the group on the forthcoming tender. There was discussion about panel membership requirements, ramping up of the accreditation schemes and enforcement of the standards, i.e. through effective supervision. It was agreed that Nick Lewis would meet with the LSC to discuss Mental Health accreditation standards. **AP7** (Closed)

5. Contract management

5.1 Provider assistance. RMiller said that the Solicitors Assistance Scheme was in place to help solicitors, and The Law Society was updating their online *Legal Aid Tool Kit* which helped providers to deal with the strategic and business challenges facing them. JSirodcar asked RMiller whether the LSC could see a first draft of the updated *Legal Aid Tool Kit*. RMiller would check with colleagues before agreeing. **AP8**. ALewis said that nfp providers could get assistance from networks or from the Advice Services Alliance (ASA) who had a consultancy line. ALewis and The Law Society would email the information to GTivedi **AP9** (Closed)

5.2 Audit activity JSirodcar informed the group that providers were notified by the LSC by letter about a forthcoming audit. The LSC published a [list of audits](#)⁴ on their website, which JSirodcar would circulate. **AP10** (Closed) The LSC would consult with the CCCG regarding their audit strategy for the following year at the next meeting.

6. Legal Aid Reform Implementation

There was discussion about what arrangements would be made to enable providers to represent clients in areas of law that were going out of scope but that came under the *exceptional funding* regime. RWayte said that where a category specific contract was in existence the LSC preferred to limit applications for excluded cases or exceptional funding to those providers that held a contract.

In response to the question '*where would a client go for representation in an area of law that was out of scope – such as an employment appeal*', RWayte said that the matter could be dealt with by a Discrimination contract holder, who a) had the expertise to understand the issues of an employment case; b) was aware of the implications of LASPO and c) had appropriate supervisor arrangements. More would be known about the way this issue would be taken forward when the specification consultation was published.

7. Issues raised by the representative bodies

7.1 Immigration removal centres. A Harvey spoke about the issues that arose from a meeting in October in relation to Detention Duty Advice and expressed her concerns. ZFarrant said that she would take these forward with the LSC representative that attended that meeting. **AP11**

7.2 Running down of existing contracts There was discussion about what would happen to a client's file if the case could not be transferred to another provider. The LSC's position was that, if a firm had a retainer with the client,

⁴ www.legalservices.gov.uk >CLS>Auditing (Documents>Auditing and file verification – Aug 11)

rules applied to whether that retainer could be terminated; even if the work had gone out of scope the retainer could not be terminated because it would continue to be paid. The problem that rep bodies identified with this approach were: a) the firm no longer had the relevant staff to continue the work; b) the firm was no longer able to continue i.e. it closed down. There was a question about the volume of cases that fell into these two scenarios. The LSC believed that educating providers was key to prevent clients being left unrepresented and that there was a fundamental difference to be taken into account between certificated work and legal help.

It was agreed that rep bodies would meet in June with the LSC and MoJ to discuss. **AP12** Rep bodies to send a list of different scenarios and any additional information to ALewis before the meeting **AP13**

7.3 Allocation of MS for 2013 The LSC confirmed that the impact assessment, which was going to be updated following LASPO, would determine allocation. Some important concessions were expected to be made around domestic violence. Rep bodies expressed concern that MoJ might under-estimate the usage of NMS and, if providers felt that this was going to happen, they would significantly overbid, thus impacting on the outcome of the tender process.

7.4 Experts-family Practitioners continued to be concerned about: a) claims being capped when applying for prior authority; b) the length of appeals; c) experts not on the list being treated as independent social workers; d) the need to list all experts.

The LSC said that in family law there were signs that psychologists and psychiatrists were moving towards accepting the rates. The other experts' area in family, risk assessment, was now included in the statutory regulations and needed to be given a clear definition.

DKeegan said that there was no longer a right of review under the contract. The LSC had finished off the old requests for review but on a non-contractual basis and would not be reviewing in the future unless the solicitor argued there had been a gross error. The LSC would not be accepting general requests to just reconsider.

7.5 Experts-housing The LSC was continuing to analyse data on disrepair experts' fees and was making progress towards mapping data provided by HLPAs and Shelter to the distribution of disrepair matters. D Keegan agreed to provide information on concluded disrepair cases and housing providers to MoJ/HLPA before the following meeting **AP14**.

7.6 BACS payments The LSC confirmed that these had not gone down in the last three months of the financial year. N Lewis would check when the annual stats pack would become available. **AP15 Post meeting note:** the pack is due for publication on 5 July

7.6 Payments by firm rather than office J Sirodcar would get an update from finance **AP16**

9. AOB

A timetable about when things were going to happen, i.e. consultations, would be available shortly. **Post meeting note:** refer to the e-mail sent by Vishal Dhall on 26 June.

It was confirmed that from 1 April 2012 the amount of contribution the LSC made towards providers' accreditation costs had been halved from what had been up until then.

CStorer asked the MoJ provide a list of EGibby's team, their contact details and their roles. **AP16** (closed)

Actions from this meeting		Lead	By When
AP1	Agree a date to meet and discuss the VHCC non-family contract proposed amendments	R Wayte	9 July
AP2	Share with the group the report on the 50 firms with the highest level of rejects	JSirodcar	Closed
AP3	AHarvey to send a summary of the issues relating to the fee structure for immigration to GTrivedi for the LSC to consider	AHarvey	Closed
AP4	Liaise with TLS on LSC communications for the re-introduction of a 9-5 telephone service	K Hartup/ R Miller/S Starkey	Ongoing
AP5	Respond to R Miller's request re data pack	N Lewis	30 May
AP6	Update the group on the FOI relating to NMS data	N Lewis	9 July
AP7	MH representative to meet with the LSC to discuss requirement standards	ZFarrant/ Nick Lewis	Closed
AP8	Check whether The Law Society could share a first draft of the updated Legal Aid Tool kit with the LSC	RMiller	9 July
AP9	Email contact details for individuals or organisations that providers could turn to when in need of business or pastoral advice	RMiller/ ALewis	Closed
AP10	Circulate the online link to the list of LSC audits	JSirodcar	Closed
AP11	Update AHarvey on progress of the actions relating to the Immigration Removal Centre meeting held in October	ZFarrant	9 July
AP12	Arrange a meeting in June to discuss the running down of existing contracts	Rep Bodies/ LSC/MoJ	Closed
AP13	Send any additional information and scenarios re running down of existing contracts to Ann Lewis before the June meeting	Rep bodies	Closed
AP14	Provide information on concluded disrepair cases & housing providers to MoJ/HLPA before next meeting	D Keegan	29 June
AP15	Check when the annual stats pack would be available and advise the group. Post meeting note: the pack is due for publication on 5 July	N Lewis	Closed
AP16	Confirm the LSC plans/timetable for payment by firm rather than office	JSirodcar	9 July
AP17	Provide a list of E Gibby's team, their contact details and their roles	E Gibby	Closed