



The Law Society



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

**14 January 2013**

Unrestricted

Date:	Monday 14 January 3pm		
Where	The Law Society, 103 Chancery Lane, London		
Chair:	Richard Miller – TLS		
Attendees:	Alison Harvey-ILPA Ann Lewis – ASA Avrom Sherr – IALS Carol Storer– LAPG Deborah Challis - LSC Denise Leicester - TLS Eleanor Druker – LSC	Grazia Trivedi-minutes Jan Luba – Bar Council Janice Alder – LSC Kathy Hartup – LSC Kelly Ellis – LSC Kevin Westall – MoJ Melena Ward – LSC	Paul Burnham – LSC Rachel Rogers – Resolution Ruth Wayte – LSC Sarah Blanchard - LSC Sarah Schofield – LSC Sarah Stephens – HLP Sarah-Jane Bennett-BC
Apologies:	Nicola Jones-King – ALC John Sirodcar – LSC Neil Lewis – LSC	David Keegan – LSC Joy Merriam - TLS Steve Starkey – LSC	Elizabeth Gibby – MoJ Kerry Wood – LSC Jenny Beck - LAPG

	Actions from the November meeting	Lead	By When
AP1 [Nov]	Inform CCG about whether funding would be backdated to cover work done prior to the exceptional funding application	D Keegan	Carried forward
AP2 [Nov]	Subscribe R Miller and A Harvey to the LSC email alert	GT	Closed
AP3 [Nov]	Circulate a note on the Experts meeting of 8 October	D Keegan	Closed
AP4 [Nov]	Share views on how the face to face Legal Aid Reform training should be structured	Rep bodies	Closed
AP5 [Nov]	Send details of a meeting with Mike Tent (MoJ) re Domestic Violence to K Westall in order to get feedback on progress made	R Miller	Closed
	K Westall to feedback to R Miller	K Westall	Closed
AP6 [Nov]	Look into R Miller's query re means testing that included a person's home. <u>Post meeting note:</u> There has never been a proposal that an elderly person on pension credits who owns their own home should automatically be financially ineligible for legal aid. The proposal - with which we intend to proceed - is simply that people in receipt of certain benefits (including Guaranteed State Pension Credit) will in future be subject to the same rules about capital when calculating their financial eligibility for civil legal aid as everyone else. As set out in Appendix A-below, under this policy an elderly person on a low income could own a home worth up to £300k and still be eligible.	K Westall	Closed
AP7 [Nov]	Respond to R Miller's letter re telephone advice	J Sirodcar/ K Westall	Closed
AP8 [Nov]	Circulate the link to where the LSC had published the mechanism for calculating NMS	K Wood	Closed
AP9 [Nov]	Attach the data on the number of contract notices being sent out.	J Sirodcar	Closed
AP10 [Nov]	Send examples of words to add to the housing disrepair guidance to David Keegan	S Stephen	Closed
AP11 [Nov]	Review the wording in the housing disrepair guidance	D Keegan	Closed
AP12 [Nov]	Circulate a high level organogram of the LSC	G Trivedi	Closed

## 1. Minutes and actions from November

Apologies from the LSC's work-stream leaders were acknowledged. This was due to a diary clash with the LSC's Senior Leadership Group meeting; deputies were in attendance at the meeting. J Merriam and E Gibby had also been unable to attend.

Jan Luba requested that the minutes of the previous CCCG be amended in two places, after which they were approved.

- AP1 [Nov]. J Alders said that the LSC and MoJ had been discussing the detailed rules for backdating of funding and a document was being produced. It was proposed that a separate meeting with interested parties on ECF take place in the near future. It was agreed that the meeting should take place before the end of January. **Action 1 [Jan]**
- AP7 [Nov]. R Miller had received the letter from J Sirodcar clarifying the circumstances in which it was appropriate for a telephone adviser to recommend a client for face to face advice; he had assumed that the whole group had also received it, which was not the case. K Westall said that only contract consultant bodies had been sent the letter with the assumption that they could/would circulate it as necessary. There was a debate about whether the information requested in the course of a CCCG meeting should be disclosed to every member of the group. R Miller noted that only a hard copy of the letter had been sent and requested that an electronic version of the paper be sent to the whole group **Action 2 [Jan] Closed**

## 2. Integrated Delivery Programme

K Ellis updated the group on the programme. She introduced her colleague P Burnham who was responsible for IDP's communications and training and would therefore become known to providers as the programme progressed. The main points were:

- The pilot had successfully been launched in relation to Special Children Act cases, involving 4 of the largest Public Law providers.
- Work continued to add more categories of law onto the system. The team was confident that the process could be extended to the other providers in the north-east that had registered for the pilot and would also increase the number of cases.
- Providers that had been using the system had found it easy to use and had found the training sufficiently supportive
- The programme had engaged with members of the Bar in the north-east. So far no counsel had been instructed on a pilot case on the system but the programme would ensure that when this happened support was provided.
- Communication to providers and counsel nationally would be ramped up in the Spring
- A level of confusion existed among the profession about the implementation dates of IDP, although the group noted communication so far (e.g. PRGs) had been clear. K Ellis confirmed that the first tranche would go live in Aug, then Oct and the last one in Dec. K Ellis asked Rep bodies to let her know whether specific communication should go out to clarify this matter further.

### 3. Legal Aid Reform Implementation

**3.1 Forms.** S Schofield said that all forms in both civil and crime would be updated to reflect the changes brought by the reforms in LASPO. The main points were:

- All forms would be updated and the new versions would become mandatory from 1 April 2013
- Existing forms that had been signed up till 31 March would only be accepted on the old (existing) forms but any dated from 1 April would only be accepted on the new forms
- The link to where the new forms would be published would be circulated to the CCCG
- Providers would be kept informed via the LSC update and encouraged to run down their stock of old forms

A Harvey requested that the new forms be clearly marked with something like a watermark to avoid confusion. **Action 3[Jan] Post meeting note:** The LSC are unable to add a watermark, but the forms are dated and will be on a separate part of the website.

**3.2 Training** S Schofield said that providers would have access to the online training modules on the providers' training website; face to face training would also be available. Twenty-eight face to face training events would take place throughout England and Wales; these would be publicised as soon as dates and venues were confirmed. A Harvey asked that the CCCG be sent the [link to the published training details](#).<sup>1</sup> **Action 4 [Jan]** Closed

Different areas of the reform would be covered in separate modules and the areas were:

- An overview of the scheme covering the regulations in the contract and the legislation
- Transitional arrangements
- Scope changes by category
- Eligibility changes

S Schofield said that one of the training suggestions put forward by the representative bodies (a webinar on the exceptions that apply to the removal of clinical negligence cases from scope, and how the test for eligibility would be applied) may not be necessary as this was covered in other modules.

S Schofield had liaised with C Storer and the Law Society to get a few volunteers to test the online training to make sure it was fit for purpose.

The registration process for online training was being tweaked so that additional information could be obtained from providers, i.e. contract number, to enable the system to highlight for them the key training modules relating to their areas of work, i.e. category specific modules. Providers would be kept informed about the training programme.

The training would be available to anyone who was signed onto the provider training website. S Schofield would find out whether the account number field was going to be mandatory, thus preventing non contract holders from accessing the training. **Action 5 [Jan] Post meeting note:** The account number is a mandatory field (for contracted providers) but there are other 'organisation types' that the user can choose from, which include 'regulatory body' and 'other' which do not require an account number.

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<sup>1</sup> [www.justice.gov.uk](http://www.justice.gov.uk) > legal aid > news/latest updates > Civil news > LSC launches training on Legal Aid Reforms

There was discussion about how category specific training could be included into face to face sessions. It was suggested that having a general topic in the middle of the day and one area-specific session at each end would work well.

There was discussion about the training that representative bodies would be providing for their own members and it was agreed that the information would be shared so that activities could be coordinated and resources readily available to all. **Action 6 [Jan]**

The online training would commence in February and face to face sessions would start in March and the LSC would publicise it through their regular updates. The CCCG would be kept informed as well. The LSC were considering whether to have CPD points authorised for the training.

J Luba asked S Schofield if she could liaise with S-J Bennett in relation to organising training for the Bar. He said that the Bar was running a training event on Saturday, 16 March and asked whether the LSC might be able to send someone to support this training. **Action 7 [Jan] Post meeting note:** The LSC are attending this event to provide an overview and details of the training events and on line modules but will not cover the detail of the training itself.

### 3.3 Regulations

R Wayte said that they were proceeding according to a staged implementation timetable which depended on parliamentary activity. K Westall said that the Remuneration regulations would not be ready till February but the rest was expected to be ready by the end of January. C Storer asked if it was possible to know when each of the SIs was being laid. K Westall said that he was sure that MoJ had previously provided information about this and would confirm what had been previously been said **Action 8 [Jan]** MoJ had previously confirmed that the legislation would be laid in time for go-live in April. There was no change to this position.

K Westall said that, as set out in the policy statement, the rates paid under the new regulations would continue to be those paid now, subject to some potential minor changes following the recent MoJ file review into expert fees that were in the process of being discussed with providers. Given that in the majority of cases codified rates could apply to both in-scope and out-of-scope cases (where funded under ECF), it was not expected that the new regulations would specify which particular rates could be paid in ECF cases.

J Luba asked how the Welfare Benefit work that remained in scope might be delivered now that the appeals from the first tier tribunals had gone. R Wayte said that an announcement had been made about this and would send it to him **Action 9 [Jan] closed.** R Wayte informed the group that existing Welfare Benefits CLA (telephone service) providers would run the contract for six months from 1 April and the LSC would run a competitive tender for a Welfare Benefits contract to commence in October 2013. R Wayte added that as a result of the parliamentary interjection there would be slightly less Welfare Benefits work than before.

J Luba asked whether progress had been made about the funding arrangements for judicial reviews. R Miller said that in the draft LASPO Act 2012 (Amendment of Schedule 1) Order 2012, there was a provision amending Schedule 1 in the context of judicial review in paragraphs 5 and 6. There was also a provision in paragraph 4 relating to EU and international agreements concerning maintenance. He asked whether MoJ was currently proposing to bring those issues back before the House. R Wayte said that there was confusion as to whether or not the regulations needed to be amended or whether this could be clarified in guidance. **Action 10 [Jan]. Post meeting note:** MoJ have confirmed that the regulations will be amended.

The merits regulations were not defeated in the 3<sup>rd</sup> December debate but they gave an undertaking to amend reg 53(b) and hope to lay this soon for it to come into effect on 1<sup>st</sup> April.

Representative bodies said that it should be easier for the profession to access the information on regulations and were worried that they might miss something important. K Hartup confirmed that the LSC was planning to develop a page that providers could visit to access key information that would prepare them for post 1 April 2013 business. This would probably be located under the 'News/Latest Updates' tab of the legal aid section of the Justice site.

#### 4. Operational update

J Alder talked the group through the operational report; targets had been maintained over the Christmas period and the LSC expected to achieve 97%-98% of claims processed within target. The backlog of FGF/FAS which had peaked in August 12 had been reduced significantly.

##### 4.1 Rejects

J Alder asked representative bodies to encourage their members to use the billing checklist; where firms had been using them there had been a drop in their rejected claims. Caseworkers were also using the checklists and this had resulted in an improvement in quality control results. J Alders distributed a rejects report that covered the period 1 Nov 2012 to 4 Jan 2013.

The introduction of the [lscivilclaimfix@legalservices.gsi.gov.uk](mailto:lscivilclaimfix@legalservices.gsi.gov.uk) e-mail service had also had a positive impact on resolving queries relating to rejected claims. All e-mails had been responded to within 24 hrs, with the exception of 4 for solicitors' claims and 1 for advocates. Webex training and face to face training had also helped to reduce rejects.

J Luba thanked J Alders on behalf of all the representative bodies for their success in reducing the number of rejects. He said that he knew of a couple of colleagues that had not had a response in November and it was agreed that he would forward their details to Janice Alders. **Action 11 [Jan] Closed**

#### 5. Commissioning update

M Ward updated the group on the tenders. Contracts would start going out to providers for signature in March provided all the information requested for the verification process had been received by the LSC. So far the LSC had received 130 responses to the verification request.

There was a discussion around NMS allocation and process. R Miller asked how many immigration providers had been allocated 100 NMS or more. M Ward would find out and update the group. **Action 12 [Jan] closed**

**Post meeting note:** Following assessment 385 offices have been awarded 100 or more immigration and asylum matter starts although all bids are still subject to verification so this is not a final figure.

R Miller said that representative bodies in the CCG had been expressing their concerns for sometime about the number of NMS allocated in this category of law being insufficient to ensure the financial viability of some firms. R Miller said that ministers should realise that the matter starts system did not work. Immigration providers had nothing to lose to challenge a decision

with a judicial review, which was expensive and resource intensive for the LSC. Ministers ought to understand that a different arrangement may work better.

M Ward explained that the decision to retain matter starts was one made at Ministerial level further to concerns about maintaining budgetary control. The fact that many organisations had bid for high volumes of matter starts despite the reductions in scope was further indication that there was not a real appreciation of the impact of the legal aid reforms and that some form of control needed to be retained. Thus far no legal challenges to the tender process had been received and as such consideration of alternative arrangements at this stage was not appropriate.

A Harvey said that good providers risked losing out because the contracts they had been awarded risked being too small for them to be viable. There was concern that this had happened to good providers when those less good had also been awarded contracts. Representative bodies hoped that the verification process was robust so that bad providers could be flushed out. M Ward said that contract management was an effective way to monitor providers' performance and credentials. A list of providers that had been awarded contracts and the number of NMS allocated to them would be published, as always, after the contract start date in April. There was a debate about the best way to deal with bad providers; representative bodies favoured the option of the LSC using the intelligence they had on providers to root out those whose performance was below par. Rep bodies were reluctant to report a provider that was also one of their members. M Ward said that the LSC relied on the verification process and contract management to check performance, quality of advice and integrity. R Miller said that the Law Society encouraged members to report shockingly bad practice to the LSC with the condition that careful consideration be given to the complaint to avoid the risk of defamation. J Luba said that efforts to stop poor practices protected the profession and members of the public. It was suggested that time might be set aside to discuss this matter with input from the SRA. **Action 13 [Jan]**

If a provider withdrew from legal aid during the life of the contract the LSC would consider the impact of this and make a decision about redistribution of the remaining NMS.

## 6. Contract management

**6.1 CLA visit** R Wayte read out a list of CCG members that would visit the CLA telephone operations hub on 22 February and if anyone else wished to go they should let John Sirodcar know by 18 January. S Stephens asked whether it might be possible to make another visit after 1 April. R Wayte would find out. **Action 14 [Jan]** closed **Post meeting note:** A further visit is being considered for autumn 2013.

## 7. Issues raised by the representative bodies

**7.1 Volume and value figures report** There was discussion about the report. The representative bodies reported that many of their members had run out of NMS and could not take up any more clients until 1 April; however the LSC confirmed that unused NMS were still out there. J Luba said that it would seem some providers were holding onto unused NMS and were not flagging up the fact to the LSC. R Wayte said that providers were asked whether they had NMS that they knew they were not going to use but it was not that common to receive a positive response.

R Wayte confirmed that the allocation of NMS was based on past usage; providers that had used 100% of their allocated NMS and were re-allocated 100% of what they had requested could in theory apply and obtain 50% extra NMS provided there were any spare to give. Those providers

that had not used all of their allocation would receive a number not exceeding the total NMS used; the surplus thus created could be redistributed. Representative bodies were in favour of the LSC clawing back NMS from providers that, come January, still held unused matter starts so that they could be redistributed to providers that had run out and wanted more. R Wayte said that getting NMS back was not a simple process and the pitfalls of pursuing this course of action were too many to make it feasible. R Wayte would speak to J Sirodcar about providers running out of NMS.

C Storer asked whether the volume and value figures could be shared with committee members and governing bodies. E Druker said she would check whether this was possible, the issue being that the figures in the report constantly changed. **Action 15 [Jan]**

A Harvey expressed concern at what appeared to be increasing restrictions on sharing information and about CCCG members being told what could be shared rather than what could not. The default setting should be that documents could be shared. Anything that could not be shared should be clearly marked and people should have the option of not receiving it. R Miller suggested that the Terms of Reference be checked and reviewed in light of the LSC becoming part of MoJ **Action 16 [Jan]**

**7.2 Experts.** K Westall said that new provisions would be in place in relation to housing disrepair experts. A report was due on the files review carried out by MoJ and K Westall would share the outcome of this review with CCCG. The LSC was in discussion with representative bodies about rates in other areas in the way that they had done for HLPAs. If any tweaking needed to be done to the rates MoJ would do it.

In response to a query E Druker said that the [family experts guidance](#) had been published.<sup>2</sup>

**7.3 Expiry of contract** A Lewis said that the Advice Services Alliance had raised the issue of how the LSC would deal with run off work at each of the last five CCCG meetings. She stressed how important it was to not-for-profit organisations to find out the position as they were often very small charities whose cash flow depended on the decision taken by the LSC. She said that J Sirodcar had agreed to meet with A Lewis shortly after this meeting to let her know what to expect. R Wayte said that this was correct however as discussion were still progressing between the LSC and MoJ on this matter and it was sensible for J Sirodcar to meet ASA when a decision had been made.

The LSC had sent out the letter about remainder work to providers that had not bid for a new contract and had received very little feedback to date, although the deadline for a response was 31 January. That information was needed to inform a decision about remainder work.

**7.4 Provider Reference Group update** R Wayte said that a [summary note](#) of the last round of PRGs had been published on the Justice Website<sup>3</sup>. Solicitor PRGs would be replaced by Legal Aid Reform training in the spring but PRGs for the Bar would still go ahead. The next round of Solicitors PRGs would be in the autumn.

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<sup>2</sup> [www.justice.gov.uk](http://www.justice.gov.uk) > Legal aid > Funding and costs assessment > Use of experts in legally aided cases

<sup>3</sup> [www.justice.gov.uk](http://www.justice.gov.uk) > Legal aid > News latest updates > Provider Reference Groups

## **8. AOB**

**8.1. CCCG minutes** R Wayte said that the CCCG minutes would no longer be published following transfer of the LSC's website to the Justice website in accordance with MoJ's policy. The LSC would make an e-mail address available to members of the public to request minutes. Representative bodies could also publish them on their bulletins and newsletters. Members might wish to consider disclosing the content of the minutes as a draft before they were approved at the following meeting.

Unrestricted

	Actions from this meeting	Lead	By When
AP1 [Jan]	Meet before the end of January to discuss the issue of interim payments for work done on exceptional funding applications	D Keegan	31 Jan
AP2 [Jan]	Send the response to The Law Society relating to telephone advice in e-form	K Westall	Closed
AP3 [Jan]	Identify the new forms clearly to avoid confusion. <b>Post meeting note:</b> The LSC are unable to add a watermark, but the forms are dated and will be on a separate part of the website	S Schofield	Closed
AP4 [Jan]	Circulate the link to the published training events to the CCCG	S Schofield	Closed
AP5 [Jan]	Find out whether it would be mandatory to provide an account number when logging onto the provider training website <b>Post meeting note:</b> The account number is a mandatory field (for contracted providers) but there are other 'organisation types' that the user can choose from, which include 'regulatory body' and 'other' which do not require an account number.	S Schofield	Closed
AP6 [Jan]	Share information about LAR training so that resources and activities could be coordinated to benefit everyone	Rep bodies / K Hartup	Closed
AP7 [Jan]	Liaise with S-J Bennett to organise training for the Bar and find out whether a LSC representative could support a Bar training event on 16 March. <b>Post meeting note:</b> The LSC is attending this event to provide an overview and details of the training events and on line modules but will not cover the detail of the training itself	S Schofield	Closed
AP8 [Jan]	Confirmation of the position on regulations timetable	K Westall	31 Jan
AP9 [Jan]	Send the announcement on how the Welfare Benefits work that remained in scope would be delivered after 1 April	G Trivedi	Closed
AP10 [Jan]	Enquire about the availability of legal aid for judicial review cases and update the group. <b>Post meeting note:</b> MoJ have confirmed that the regulations will be amended. The merits regulations were not defeated in the 3 <sup>rd</sup> December debate but they gave an undertaking to amend reg 53(b) and hope to lay this soon for it to come into effect on 1 <sup>st</sup> April.	S Hugo-Lake/ R Wayte	Closed
AP11 [Jan]	Send details of two colleagues that had not had a response from the LSC re a rejected claim to Janice Alders	J Luba	Closed
	Look into the matter and update J Luba	J Alders	Closed
AP12 [Jan]	Find out how many immigration providers had been allocated 100 NMS or more and update the group <b>Post meeting note:</b> Following assessment 385 offices have been awarded 100 or more immigration and asylum matter starts although all bids are still subject to verification so this is not a final figure	M Ward	Closed
AP13 [Jan]	Decide whether CCCG should meet with SRA to discuss how to deal with bad providers in May	CCCG	11 Mar
AP14 [Jan]	Find out whether it might be possible to visit the CLA telephone hub after 1 April <b>Post meeting note:</b> A further visit is being considered for autumn 2013.	J Sirodcar	Closed
AP15 [Jan]	Check whether the volume and value figures report could be shared externally	E Druker	15 Feb
AP16 [Jan]	Review the Terms of Reference in advance of the LSC joining MoJ and in particular include a protocol for sharing information with external stakeholders.	CCCG	11 Mar