



## Civil Contracts Consultative Group (CCCG) Minutes

11 March 2013

Date:	Monday 11 March 3pm		
Where	MoJ, 102 Petty France, London SW1H 9AJ		
Chair:	Ruth Wayte – LSC		
Attendees:	Alison Harvey-ILPA Ann Lewis – ASA Avrom Sherr – IALS Carol Storer– LAPG David Keegan – LSC Deborah Challis - LSC	Grazia Trivedi-minutes Jan Luba – Bar Council Joy Merriam - TLS Karen Finley - MoJ Neil Lewis – LSC Nicola Jones-King – ALC	Rachel Rogers – Resolution Richard Miller – TLS Sarah Stephens – HLP Sarah-Jane Bennett-BC Simone Hugo-Lake - LSC Steve Starkey – LSC Tim Collieu – LSC
Apologies:	Elizabeth Gibby – MoJ	John Sirodcar – LSC	Kerry Wood – LSC

	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	Closed
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	Closed
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	Closed
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	Closed
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	Closed

## 1. Minutes and actions from January

R Wayte requested a change to the minutes in section 7.1, after which they were approved.

- AP15 N Lewis said that the volume and value figures report could be shared externally. R Wayte said that the LSC would ensure that security markings were applied to all the information brought to the CCCG as directed by the Cabinet office. If a document contained no privacy markings, it could be shared.

## 2. Integrated Delivery Programme.

A written update had been circulated to the group prior to the meeting.

## 3. Legal Aid Reform Implementation

### 3.1 Tenders T Collieu updated the group on the recent tender round.

- 2/3 of firms that had been successful in their bid for a contract had completed the verification process.
- The LSC had contacted all of the 533 firms that had not yet completed the verification process in order to offer assistance and any clarification needed. Of these, 230 had passed verification in at least one of the categories they had bid for. The deadline for receipt of verification was 31 March.
- T Collieu explained that due to the creation of the Legal Aid Agency [LAA] on 1 April and the bank holidays, if the LSC received a signed contract from a firm after 12:00pm on 28 March, they would not be able to countersign it in its present format. The LAA would have to send another contract for signature that was issued in the name of the Lord Chancellor, not the Chief Executive of the LSC.
- The LSC was actively communicating with providers to let them know at what stage in the process they were and this was received positively by providers.
- There had been 14 straight withdrawals and approximately 20 firms that had to withdraw due to a change of circumstances since the tender.
- The LSC did carry out checks to validate the information given by providers. Contracts would not be sent out for signature if the LSC was not satisfied with the arrangements put in place by the provider, e.g. with regards to supervisor requirements.

In response to a query from J Luba, T Collieu confirmed that a CLA telephone adviser could refer a client for face to face advice on a debt matter provided that an assessment had been made that the telephone advice was unsuitable for that client.

J Luba asked for clarification on how telephone advisers chose a provider for face to face advice. D Challis said that the system chose a provider closest to the client; if the client named a provider of their choice the adviser would comply.

A Harvey asked what progress had been made with regards the eligibility and transitional regulations. K Finley would check and get back to the group. **Action 1 [Mar] Post meeting note:**

The last batch of main implementing statutory instruments was laid in Parliament on the day of the CCG meeting (11/3/2013). They concerned financial eligibility for legal persons; recovery of defence costs and the transitional arrangements.

**3.2 Training** S Stephens said that she telephoned to book an event as soon as it was advertised but got confirmation of the booking on this day [11 March] for a training session in a week's time which was too short a notice.

#### 4. Operational update

**4.1 Rejects** S Starkey talked the group through the update. Rejects had increased during December and January and for this reason S Starkey asked representative bodies to urge their members to use the [checklists](#)<sup>[1]</sup> when filling their claims. He said that the LSC processing team had been using the checklists to reduce their own level of errors which had dropped during the previous 3-4 weeks to 1% to 2%. S Starkey said that:

- 1500 claims were rejected every week
- Approximately 20 rejects per week were challenged by providers
- 42% of these challenges were down to LSC error, i.e. less than 10 a week
- 21% were classed as inconclusive, i.e. dispute as to whether required evidence had been submitted initially with the claim
- 37% of challenges were incorrect and the original reject decision stood
- All reject challenges were currently processed by the Chester region via the reject claim fix email service: [lsccivilclaimfix@legalservices.gsi.gov.uk](mailto:lsccivilclaimfix@legalservices.gsi.gov.uk). All challenges were logged and this information was shared with contract managers to ensure that they had fully up to date reject information.
- The current billing backlog was about 10,000 hours, the equivalent of 2 weeks intake. The LSC would obviously like to bring this down but given that they were seeing significant increases in intakes they really could do with help in trying to bring the level of rejects down
- The KPI for rejects in the new contract was 5% or less
- The LSC was considering mandating the use of checklists.

Carol Storer suggested that:

- A LSC e-mail alert be issued which addressed only rejects **Action 2 [Mar]**
- Repeating the message again and again was a worthwhile effort
- The checklists and fix-it email should be easily found on the website

R Wayne also suggested that during the LAR provider training the new KPI of 5% or less rejects be mentioned during the contract session.

There was a debate about the merits of mandating the use of checklists. J Luba said that, before the LSC resorted to mandating their use, representative bodies ought to:

- Press their members to use the checklists and
- Make them responsible for improving the quality of their submissions

**4.2 Client and Cost Management System – CCMS** S Starkey talked to the group about the changes the LSC/LAA were going to make to the way claims were received and managed from 1 April in preparation for the introduction of the new on-line system, CCMS, later in the year. One of the

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<sup>[1]</sup> [www.justice.gov.uk](http://www.justice.gov.uk) > Legal aid > news/latest updates > civil news > New claims checklists and email support team to tackle rejects

main changes was the withdrawal of the fax service to be replaced by an e-mail service. The changes would be flagged up in the following March e-mail alert.

The group was shown a copy of the guidance that the LSC would publicise in the email alert; J Luba asked S Starkey to make it clearer in the guidance where specific claims should be sent.

**4.3 VHCC Family Events.** D Keegan said that solicitors were being encouraged to use the events model and numbers had increased from 10 to 30 a month. A workshop on Events had taken place in Tunbridge Wells, attended by 20 providers. The LSC planned to consolidate the material used in an online training session.

J Merriam asked whether the Events model did cover in-house solicitor advocates in the High Court; D Keegan said that there had been difficulties to extend the model to fit solicitor advocates in the High Court because of the shortage of billed cases, but advised J Merriam to contact Ross Brown [VHCC caseworker] who would be able to look into her case. D Keegan said that a model would be developed when a big enough sample of such cases was available to enable the LSC to come up with a figure.

**4.4 VHCC Family Barrister Payment.** D Keegan said that there had been a constructive meeting with Ian Bugg and Susan Jacklin for family in February. There was a constructive discussion which resulted in a proposal which in principle would see major cases handled under Events and under direct contract with the barristers. Most cases would be for 1 counsel under 10 day cases being paid under Family Advocates Scheme (FAS), with exceptions for cases to be agreed. The working group would now need to take this proposal forward. This would simplify the administration and speed up payment for most cases.

**4.5 VHCC Civil Non-family Contract.** D Keegan said that a group with representatives from LSC, TLS, the Bar Council and LAPG had been developing a new High Cost Contract. Vish Dhall had drafted the contract, and the representative bodies had proposed revisions. The majority of proposed adjustments would be included into the new contract. In some areas no changes would be made because the points would be addressed via the standard terms approach.

## **5. Issues raised by the representative bodies**

**5.1 ToR** It was agreed that the LSC would give careful consideration to the nature of any written material it wished to share with the CCCG. If the LSC deemed certain information to be of a confidential nature, not to be shared outside the CCCG, they would explain the reasons for this. R Wayte agreed that in the past the LSC may have been too prudent in applying restrictive markings to documentation circulated within the group. R Wayte confirmed that unless stated otherwise by the LSC, papers available to the CCCG could be shared externally.

**5.2 Volume and value figures report** A Harvey requested a monthly volume report for immigration and asylum new matter starts [NMS], broken down by procurement area from 1 April because she suspected that considerable overbidding had been done by some providers. There was great concern that some providers held onto NMS that they were not going to use while others had used all of theirs thus preventing them from taking on new cases. The outcome was that clients were left unrepresented. R Miller requested that comparative figures for legal help matters for the previous two years be included in the report. **Action 4 [Mar]**

**Several points were made by the representative bodies:**

1. The report showed a significant drop in NMS usage in all categories.
2. Anecdotal evidence suggested that clients could not find a solicitor to represent them because they had no capacity and this did not tally with what the figures in the report showed.
3. The most popular providers quickly used up all their NMS and the less popular ones did not use all of theirs.
4. R Miller said that usage had declined by approximately 70k NMS in each of the previous two years and this freed the LSC from budgetary pressure; consequently they ought to be in a position to allocate extra NMS to any provider that requested them in the course of a schedule, rather than refusing to do so as was currently the case.
5. There were issues with referral:
  - a) It was difficult for a provider to refer a client to a competitor
  - b) It was fair to say that the premier providers were the first to run out of NMS and a referral could mean sending a client to a poor quality provider, particularly in specialist areas.
  - c) The client had no way of finding a list of providers that had capacity to take their case.
  - d) Referral agencies such as CAB ought to know what providers had capacity so that they could be contacted directly rather than calling the premium providers only to be informed that they could not take on new cases. J Luba would send intelligence to D Challis in relation to this. **Action 5 [Mar]**
6. A Sherr said that there needed to be a better control of how NMS were used/allocated in order to address the downward spiral in usage.

**The LSC representatives said that:**

7. There was no shortage of NMS in procurement areas.
8. The number of calls to the CLA helpline had also dropped significantly in the previous 12 months.
9. Many providers did not request an increase of their NMS allocation.
10. Providers in the higher categories, e.g. family and housing, were urged not to use more than one NMS, albeit where appropriate according to the clause in the contract.
12. Providers that had run out of NMS could be given up to 50% more but this was done only if the procurement area had run out as this was a contractual requirement.
13. Contract Managers would make a judgement call to increase NMS in a procurement area that was about to run out of NMS.
14. Clients could find out about available providers by calling the telephone advice service.

## 8. AOB

**8.1 Experts Guidance** Representative bodies had requested that the LSC consolidate all experts' guidance into one document. Glyn Hardy [LSC Service Development] had completed this task and a draft had been circulated prior to the meeting. Discussion ensued and requests for adjustments/changes were made and noted down by D Keegan. Representative bodies were invited to send any additional comments to G Trivedi by 15 March. **Action 6 [Mar] Closed**

D Keegan talked about the main points of interest in the guidance, including the section on differentiation between fees paid to experts in London versus outside London. A Sherr noted that crime had not been included and D Keegan said that crime operated in a different market and had not been looked at.

In response to a query about the reasons for the London/out-of-London rates, D Keegan said that where there was an abundance of experts, i.e. London, the hourly rate was driven down; however the LSC/MoJ were in effect verifying if there was a difference as they worked through categories of experience. Work had been done on family experts and housing disrepair surveyors. The LSC were presently reviewing clinical negligence specialists and referring information to MoJ.

J Merriam said that she had found it difficult to locate lip reader experts in London. D Keegan asked the group to let him know about any areas they felt should be reviewed by the LSC. He added that, although it had in the past taken considerable time to make adjustments to the rates, he was confident that the LSC had enough expertise in the field so that changes could be introduced more swiftly.

D Keegan said that the number of prior authority applications had reduced significantly since the guidance had been published.

J Merriam said that uncertainty remained in relation to experts' hours. Providers knew that if they anticipated that their expert(s) would be needed for more hours than what was allowed in the funding order, they would have to apply for prior authority; however the application would be assessed and determined after the expert(s) had done the work, which sometimes amounted to a significant number of hours. If the claim was rejected or downsized, providers would have to pay the expert(s) themselves.

D Keegan asked J Merriam to send him details of such a case so that he could look into it. He went on to say that the LSC wanted providers to feel confident about the way the system worked and he was keen to resolve any remaining issues. J Merriam said that the system worked much better now and the profession appreciated the LSC's efforts to make it work. J Merriam agreed to send details of a case **Action 7 [Mar] Closed**

**Post meeting note:** Joy Merriam has provided the example and LSC staff have been re-briefed. D Keegan has agreed a statement J Merriam can use:

*"In terms of the wider guidance issue the LSC recognise that providers will want further reassurance on cases that fall outside the scope of the guidance, for example where there are more family members being assessed than are quoted. In such circumstances the LSC should provide a prior authority. Case workers are being briefed along these lines for future cases."*

A Harvey knew of cases where immigration providers had been granted prior authority but were then refused payment because the LSC caseworker deemed the experts' advice to be *general*, e.g. the same information was contained in other reports, or the work done did not justify the amount of time claimed for. D Keegan asked A Harvey to send him the information so that he could look into it. **Action 8 [Mar]** R Wayte asked that the Service Development team look up the section in the Costs Assessment Manual that covered Immigration experts reports, and especially in relation to Country Experts **Action 9 [Mar]**

J Luba noted how useful it was to share draft guidance with representative bodies, even in the confines of the CCCG. He suggested that all future guidance be shared with CCCG before publication, e.g. the guidance D Keegan was working on to replace the solicitors and barristers current guidance on VHCC non-family civil cases.

R Wayte said that a distinction ought to be made between statutory guidance, owned by the Lord Chancellor and a draft of which could not be consulted on, and draft guidance that the LSC might be able to share with rep bodies. R Wayte agreed that draft guidance review ought to be the remit of the CCCG. J Luba suggested that an e-mail address be added to the webpage where the guidance was published for readers to feedback their comments.

	Actions from this meeting	Lead	By When
AP1 [Mar]	<p>Check what progress had been made re transitional and eligibility regulations</p> <p><b>Post meeting note:</b> The last batch of main implementing statutory instruments were laid in Parliament on the day of the CCCG meeting (11/3/2013). They concerned financial eligibility for legal persons; recovery of defence costs and the transitional arrangements.</p>	K Finlay	closed
AP2 [Mar]	Issue an e-alert for rejects only	S Starkey	15 April
AP3 [Mar]	Clarify the information given to providers about where bills should be sent from 1 April	S Starkey	31 Mar
AP4 [Mar]	<ol style="list-style-type: none"> <li>1. Find out if monthly volume data on immigration and asylum, by procurement area can be given to A Harvey</li> <li>2. add to the report the comparative figures for legal help matters for the previous two years</li> </ol>	N Lewis	1 April
AP5 [Mar]	Send examples of clients that could not find a provider to take on their case to D Challis	J Luba	15 Apr
AP6 [Mar]	Send feedback on the Guidance on the Remuneration of Expert Witnesses to G Trivedi	Rep bodies	Closed
AP7 [Mar]	<p>Send details of a case requiring many hours of experts hours to D Keegan</p> <p><b>Post meeting note:</b> J Merriam has provided the example and LSC staff have been re-briefed. D Keegan has agreed a statement J Merriam can use:</p> <p>"In terms of the wider guidance issue the LSC recognise that providers will want further reassurance on cases that fall outside the scope of the guidance, for example where there are more family members being assessed than are quoted. In such circumstances the LSC should provide a prior authority. Case workers are being briefed along these lines for future cases."</p>	J Merriam	Closed
AP8 [Mar]	Send details of the immigration case for which prior authority was approved but then payment was refused to D Keegan	A Harvey	15 Mar
AP9 [Mar]	Service Development to look up the section in the Costs Assessment Manual that covered Immigration experts reports	S Hugo-Lake/ N Lewis	15 Apr