

Civil Contracts Consultative Group (CCCG) Minutes

15 July 2013

Date:	Monday 15 July 3pm		
Where	Lower Ground 1C, MoJ, 102 Petty France, London SW1H 9AJ		
Chair:	John Sirodcar - LAA		
Attendees:	Alison Harvey-ILPA Avrom Sherr-IALS Carol Storer – LAPG Carole Georghstone - LAA Gillian Hothersall - LAA Ian Bugg – BC Jan Luba – BC	Joe Risk - LAA Jon Cable – LAA Karen Finlay - MoJ Kathy Hartup-LAA Kerry Wood – LAA Nicola Jones-King – ALC Peter Church - LAA	Sarah-Jane Bennett-BC Sara Stephens – HLP Simon Cliff - TLS Steve Starkey – LAA Stuart Hollands – LAA Terry Davies – LAA Vicky Ling - Resolution Zoe Farrant-LAA
Apologies:	David Keegan – LAA Deb Challis – LAA Eleanor Druker – LAA Elizabeth Gibby – MoJ Jenny Robson – LAA	Joy Merriam – TLS Kevin Westall – MoJ Laura Wensley – LAA Neil Lewis - LAA	Nick Lewis – MHLA Rachel Rogers – Resolution Richard Miller – TLS Simon Pugh - ASA

1. Minutes and actions from 13 May

The minutes were approved with the following amendments:

- 4.2.3** Comment from Neil Lewis added to end of paragraph as a post-meeting note, to clarify. **Post meeting note:** Neil Lewis explained that criminal grad fees do not pay a differential rate based on the status of the person undertaking the work. The LGFS pays for litigation and the AGFS pays for advocacy. If a solicitor with higher rights undertakes the advocacy in a case then, under the AGFS, they will be paid the same as any other advocate (including employed barristers and self-employed barristers) for that work. They may also claim the LGFS fee if they undertook the litigation work too.
- 5.1** E Druker to find out more about the change in legislation that had resulted in an increase of clients in Mental Health, and report back. This has been added to the actions as **AP13 [May]**. **Closed – see post meeting note in May minutes and below.**
- AP4 [Mar]** Taken forward as **AP1 [July]** - Z Farrant to update A Harvey by end July.
- AP9 [Mar]** Service Development to look up the section in the Costs Assessment Manual that covered Immigration experts reports. N Lewis to check progress.

All other actions from March were closed down.

It was agreed that actions from earlier meetings would be added to the action list on the last page of the minutes from now on.

- AP1 [May]** J Luba/D Challis to confirm.
- AP2 [May]** J Sirodcar to report back on provider training later in the year.
- AP5 [May]** S Starkey clarified that this was about ECCLAIM1s (legal help escaped cases, rather than certified ones). The letter concerned was treated as a complaint, but individual appeals would not have been. LAA have recently held an escaped cases improvement event and one of the actions arising from this is the production of a new form which helps to make the requirements much clearer and hopefully will reduce rejects if used. This will be included in the next release of the forms pack in December. However, LAA have no issues with providers using these in advance if they found them to be helpful. The forms were circulated to members.
- S Starkey asked the group to encourage their members to use the reject fix email service as the most efficient way to deal with queried claims that were rejected.
- AP6 [May]** D Keegan to feed back. Post-meeting note: D Keegan confirmed action was closed. He emailed J Merriam on the VHCC Family solicitor-advocate case prior to the last meeting, and that case was resolved. This was confirmed at previous meeting.
- He also mentioned that a meeting will be held on VHCC Family on 25th July, with representatives of The Law Society, Resolution, ALC and high volume VHCC firms. David Keegan is convening this meeting and invitees have already confirmed

attendance. There is no expectation that any other Civil CCG members need to attend this meeting.

- AP8 [May]** Discussed under item 8.
- AP 9 [May]** There was a discussion of wider issues concerning the website. C Storer has a meeting with MoJ to discuss. Taken forward as **AP2 [July]: C Storer to contribute a written report on website issues for next meeting, to which K Hartup will contribute** (see **AP10 [May]** below).
- AP10 [May]** K Hartup is working with the digital team to improve the functionality of the website; if any group members wish to contribute issues and concerns which have not already been raised, they are welcome to email her. She will liaise with C Storer, to feed into the report for next meeting. (See **AP2 [July]** above).
- AP11 [May]** It has been agreed that External Implementation Group for IDP meeting minutes can be circulated to Civil CCG members. J Sirodcar will arrange this for the future.
- AP12 [May]** K Westall to report back on this issue. **Post meeting note:** K Westall circulated the following update after the meeting, which closes the action.
- The Ministry apologises for any confusion arising from the wording of paragraph 3.2 in Annex K. We recognise that the demographic information referred to is collected directly from clients, albeit via the LAA's provider base.
- Unfortunately, there was a high rate of missing data and non-response with regards to client demographics (in particular ethnicity and health status). The causes for this are unknown and it is not possible to identify whether any bias was introduced to the data. Therefore what we were trying to convey was that it is therefore recommended that caution is observed when interpreting the data on client demographics, due to incomplete datasets.
- We will ensure that this point is clarified in the final IA that will be published alongside the government response.
- AP13 [May]** Closed. Post meeting note from May stated:
- Post meeting note: The rise in MH cases is likely to be caused by an increased use of Community Treatment Orders by the NHS since their introduction a few years ago. The use of CTOs is three times greater than what was predicted by the Department of Health when developing the powers and it seems that Trusts are using CTOs in addition to conventional sections in the Mental Health Act rather than as an alternative. Both have a right of appeal to the Mental Health Tribunal. Also, levels of use of conventional sections are rising because hospitals have fewer beds for voluntary patients and don't hospitalise them until they reach crisis and have to be sectioned.

All other actions from May were closed down.

2. Financial stewardship: Year end core testing results

Jon Cable and Carole Georgestone outlined the LAA's work on core testing. The documents discussed are attached for reference.

J Cable reported that the LSC accounts had been unqualified for the first time in three years. He and J Sirodcar both thanked the group for their contribution to this result. Strong controls and vigilance will be needed to ensure that LAA can remain unqualified.

The slide pack summarised LAA's work within Legal Help, particularly within Eligibility. The slides described the position before the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force. It was mentioned that since the Act came into force there has been zero error; however, this was not universally agreed.

A Harvey asked whether it was possible to find the source of the errors and said that a low error rate may be indicative of providers being too risk averse and not taking on eligible clients. J Sirodcar responded that the need for a very low error rate was paramount. A breakdown of available data from April 13 . **AP3: J Sirodcar to request breakdown of data re individual causes of error for 13/14 and circulate.**

N Jones-King suggested some providers may be over-cautious, e.g. in Family, putting through as Level 1 instead of Level 2 because of the contractual consequences of putting through a level 2 claim that is wrong. Errors in connection with VAT were mentioned. A Harvey commented that there had been issues in the past with understanding who the client was for Immigration matters and that this affects VAT, so worth looking at whether this is the source of error.. J Sirodcar confirmed that LAA had made approximately 700 visits in the last few months and found a good understanding of LASPO requirements.

J Luba asked why the focus of the core testing was on Legal Help rather than certificated work. J Sirodcar confirmed that the focus is where the level of error is greatest. It is not possible for LAA to individually assess every claim, but is more effective to introduce as much validation into CWA as possible. Certificated work is also assessed prior to payment. J Luba commented that in certificated work money can only be lost if an error is made twice, by supplier and by the Legal Aid Agency. Making a claim in error for certificated cases causes no loss unless Agency incorrectly pays.

No one had figures for the exact breakdown between provider errors and Legal Services Commission/Legal Aid Agency errors but it was estimated at c. 1/3: 2/3

K Hartup commented that the three areas of greatest error are covered in the LA bulletins, and asked for comments on how LAA can encourage wider readership of these. J Luba suggested recirculating the current bulletin in September when it is more likely to be read. **AP4: any other suggestions to K Hartup by Monday 22 July.**

AP5: K Hartup to provide link to the LAA's 'Immigration story' which is being sent to Immigration providers.

3. IDP: Client and Cost Management System (CCMS) update

C. 40 providers in the North East are piloting this. The pilot will be extended to 20-30 more firms in the North East in the next few weeks. J Sirodcar updated the group on recent developments.

Feedback had revealed positive reactions to some aspects such as the DWP check. However, there were less positive reactions to some aspects including:

System design

System performance in the early days which is now significantly better

New ways of working needed

LAA is continuing to work on these and on exploring the possibility of new ways of working in some areas, and suggestions for updating the training materials. Feedback is being collated from a recent event, and will go back to pilot providers. LAA will update the group on progress and on any major decisions.

4. Rep bodies' views re apparent low usage of NMS and possibly certificates

J Sirodcar said that he had not yet prepared the statistics on this. A Harvey expressed concern that we are not in a position to discuss these at this meeting. People may be going without the legal aid to which they are entitled.

There was much discussion of possible reasons for low usage of NMS. Suggestions included:

- clients being unable to provide evidence as police/GPs do not provide when requested. VL commented that in domestic abuse cases clients are told what evidence they need to provide and do not return with the evidence. They cannot get it. N Jones-King explained that when a client is given a precedent letter they return with that letter signed by the organisation. What is needed is a version on the organisations' headed paper. Asked why clients do not bring what is needed N Jones King explained that clients are confused, distressed, vulnerable, and do not speak English. They give up. S Stephens explained that clients struggle to get information together
- website may be unclear – clients unaware help is available, it implies even with e.g. housing that you have to call the advice line.
- perception that legal aid has gone

Can people get to a local provider. A Harvey commented that in immigration many providers have only 100 matter starts. People wait for cases that will hit the escape fee and areas nominally in scope: domestic violence, trafficking, bail, are in practice largely out of scope. K Wood expressed doubt at this.

T Davies reported that MoJ were working on improvements to the website.

J Luba suggested an analysis of NMS figures since April could help to provide reasons behind the headline figures. He identified a need to look topic by topic, procurement area by procurement area, provider by provider. Global figures do not provide the necessary information. J Sirodcar said he queried whether the role of CCCG was to examine this level of detail. It would be difficult to provide useful information while keeping individual providers unidentifiable. Also it is likely to be too soon after LASPO to be a stable state for analysis.

J Luba also requested NMS figures at national level against last year, by subject – particularly usage of the telephone service. **AP6: J Sirodcar to find out what detailed figures would be available and useful, and circulate by end July.**

I Bugg asked what contract managers are seeing: J Sirodcar said that feedback was that demand is not there at present.

I Bugg mentioned that last September representative bodies in family (at domestic violence sub-group) had said that the system would not work unless the Agency approached those from whom information needed to be gathered. It was said that GPs would not demand a fee for a report, but fees are demanded. MoJ had previously said they would liaise with the police, GPs etc re evidence. He asked whether this had happened and whether MoJ could repeat the exercise. **AP7: Karen Finlay to consider and report back.**

5. Update re list of contracted providers

5.1 Allocated NMS

A Sherr asked whether LAA could explain why providers have 1 or 4 NMS. Jan L commented that those with 4 NMS could be for Housing. K Wood referred to the update email from Tim Collie regarding the allocated NMS, and later confirmed that the relevant information is on the website **AP8: K Wood to circulate the link to the list of allocated NMS.**

K Wood later updated the meeting regarding those with 1 NMS – this is either because providers only bid for 1 NMS, or were allocated more but sent some back.

5.2 Consolidated current list of LAA Housing Possession Duty Scheme Contracts

J Luba queried whether this had been circulated and whether it showed ex-DCLG. K Wood said she would check. **Post-meeting note:** Jan L confirmed that the list had been received. K Wood confirmed that it did include HPCD schemes that were previously DCLG funded. She also confirmed this list would be published on the website. **AP9: K Wood to circulate the website link to this list when it is available.**

6 Operational update

6.1 Civil billing information

S Starkey outlined the reports. There is currently no increase in the usage of checklists, and evidence has shown that this drastically reduces rejects. Also, it is becoming evident that many resubmitted claims still have errors. LAA's target now is to process 90% of claims in 25 days (as opposed to the earlier target of 30 days).

Suggestions for improving the EC claim 1 forms have been received. Information on FGF/FAS is being validated and will be made available. Guidance on the rates calculator and billing manual will be available by the end of July, and will be refreshed and updated continually. **AP10: S Starkey to circulate FGF/FAS information and finalised guidance.**

J Sirodcar asked the group to circulate to their members the messages regarding awareness of reject levels, use of cost draughtsmen, and use of the reject fix email facility.

In response to a request from I Bugg, S Starkey confirmed that it was possible to provide a breakdown of the information related to the Bar. J Sirodcar also mentioned that LAA was working towards providing information at Chambers level.

N Jones-King commented that there were issues with electronic systems because of the difficulty of providing a seal. J Sirodcar said this would be considered.

AP11: S Starkey to feed back on seal issue by early August.

6.2 VHCC

D Keegan was unable to attend. **AP12: D Keegan to provide update.**

Post meeting note: D Keegan provided an update as follows:

VHCC Contract: the new 2013 contract is in use.

VHCC Family – Solicitors: a meeting is scheduled for 25th July 2013 to review progress on Events process.

VHCC Family – Barristers: a meeting was held on Friday 12th July. The new direct contract with barristers was discussed. The LAA responded to the Bar's proposal for FAS+ exceptional additional payment with a draft. The plan is to have a pilot in October with a limited number of chambers.

7 Commissioning update

7.1 Verbal update on contracts

K Wood reported that the withdrawn and failed bids have now been analysed. **AP143 K Wood to circulate table of withdrawn and failed bids.**

7.2 Breakdown of redistribution of matter starts in Family, Housing, Immigration & asylum in June 2013

K Wood outlined these, mentioning that there are insufficient providers for Housing in Shropshire and Dorset, so a notice has been put up inviting expressions of interest. Also Tameside and Kensington & Chelsea have fewer than 5 Family providers; however, this has historically been the case, and no action is currently being taken. **AP14: K Wood to circulate table of redistributions.**

In response to a query from A Harvey, K Wood confirmed that a meeting on Immigration removal centres was to be held shortly. K Wood said that the Legal Aid Agency would meet ILPA before any decision is made. **AP15: K Wood to feed back from meeting on immigration removal centres.**

8. Issues raised by representative bodies

8.1 Volume and value figures

An email had been received from Ellie Cronin raising several queries. Most of these had already been covered in this meeting. Regarding the legal aid impact test, K Finlay confirmed that it is now called a Justice Impact Test. It is wider than just legal aid. The MOJ corporate finance team monitor this. There have been no transfers from other government departments during this period. The topic of "LAA Audits" is to be covered at the Law Society's Access to Justice Committee.

A Harvey indicated that according to a meeting on 1 July 2013 there had been only six grants of exceptional funding in the first quarter. C Storer said that at the 1 July meeting data was promised –

volume and value figures to be presented at this meeting. A Harvey identified a need for analysis also. The number of applications is down on what was predicted and this needs investigating. J Sirodcar commented that it was probably too early to confirm the stable level of applications for exceptional cases, but that he would investigate. **AP16: J Sirodcar to feed back any findings at next meeting.**

In response to a query from S Stephens, S Starkey confirmed that the electronic system notifies providers immediately if there is an show cause issued. With the current system, the embargo only applies once the notification has been received.

Getting in touch with the Legal Aid Agency

C Storer identified that this is a problem. She proposed a dedicated email checked every half an hour. J Sirodcar said the Agency has to reduce costs by 23% and it does receive a high volume of inappropriate queries that providers should be reducing. As an example, hundreds of civil bill rejects because the bill is not signed. A Harvey recalled that in the previous meeting there had been discussion of separating out the good and bad providers, with a slow lane for those producing a high volume of errors. If that was done then it should be possible to let the good providers have the email for which C Storer asked. J Sirodcar acknowledged the sentiment and said that LAA was considering the best way forward.

9 Proposal to change date of payments to providers

Peter Church outlined this proposal (attached for reference). This will ensure that any IT problems over a weekend do not cause delays. CCG confirmed no objections.

10 Query re recoupment

In response to a query from C Storer, J Sirodcar replied that as far as he is aware, a weekly statement is only sent out to those who are not in debit. However, providers could ask their CM for a weekly statement as a short-term fix if needed. **AP17: J Sirodcar to confirm criteria for providers receiving weekly statements.**

The next meeting is on Monday 9 September.

Actions from this meeting		Owner	By when
AP1 [July]	<p>Updated from AP4 [Mar]. Original action:</p> <ol style="list-style-type: none"> 1. Find out if monthly volume data on immigration and asylum, by procurement area can be given to A Harvey 2. add to the report the comparative figures for legal help matters for the previous two years <p>This will be produced every few months. Z Farrant to update A Harvey by end July.</p>	Z Farrant	31 July
AP2 [July]	C Storer to contribute a written report on website issues for next meeting, to which K Hartup will contribute.	C Storer	9 Sep
AP3 [July]	J Sirodcar to request breakdown of data re individual causes of error in 13/14 and circulate.	J Sirodcar	Closed
AP4 [July]	All to send any other suggestions for encouraging wider readership of Legal Aid Bulletins to K Hartup by Monday 22 July.	All	22 July
AP5 [July]	K Hartup to provide link to the LAA's 'immigration story' which is being sent to Immigration providers.	K Hartup	Closed
AP6 [July]	J Sirodcar to find out what detailed figures would be available and useful, and circulate by end July.	J Sirodcar	Closed
AP7 [July]	K Finlay to consider MoJ repeating previous liaison exercise, and report back. Update: Andrew Tucker to update at meeting	K Finlay	9 Sep
AP8 [July]	K Wood to circulate the link to the list of allocated NMS.	K Wood	9 Sep
AP9 [July]	K Wood to circulate the website link to the list of LAA Housing Possession Duty Scheme Contracts when it is available. Post meeting note: circulated by Max Pumphrey on 23 July.	K Wood	Closed
AP10 [July]	S Starkey to circulate FGF/FAS information and finalised guidance.	S Starkey	9 Sep
AP11 [July]	S Starkey to feed back on seal issue by early August.	S Starkey	6 Aug

AP12 [July]	D Keegan to provide VHCC update. Closed – see post meeting note at item 6.2 above.	D Keegan	Closed
AP13 [July]	K Wood to circulate table of withdrawn and failed bids.	K Wood	9 Sep
AP14 [July]	K Wood to circulate table of redistributions.	K Wood	9 Sep
AP15 [July]	K Wood to feed back from meeting on immigration removal centres.	K Wood	9 Sep
AP16 [July]	D Keegan to feed back any data available re exceptional cases at next meeting.	D Keegan	9 Sep
AP17 [July]	J Sirodcar to confirm criteria for providers receiving weekly statements.	J Sirodcar	Closed

Actions from May Civil CCG			Owner	By when
AP1 [May]	Send examples of clients that could not find a provider to take on their case to D Challis Update: J Luba / D Challis to confirm.	J Luba	9 Sep	
AP2 [May]	Think about what topics should take priority in providers' training and feedback to J Sirodcar Collate all feedback and circulate to CCCC Update: JS to report back on provider training later in the year.	Rep bodies J Sirodcar	Closed 11 Nov	
AP3 [May]	Find out whether a list of 2010 contract providers existed and circulate it to CCCC	K Wood	Closed	
AP4 [May]	Circulate a list of Housing Possession Schemes	K Wood	Closed	
AP5 [May]	Find out whether a letter of complaint about a CLAIM1 that had been rejected by the LAA in error was classified as a complaint or as an appeal against a decision. Update: see item 1 of minutes.	S Starkey	Closed	
AP6 [May]	Look at the case mentioned by J Merriam and feedback Post-meeting note: D Keegan confirmed closed.	D Keegan	Closed	
AP7 [May]	Find out data for the previous year on Mediation cases volumes	E Druker	Closed	
AP8 [May]	Find out whether the extra information requested by the representative bodies to be included in the volume and value report could be attained for future reports. Update: discussed under item 8	J Sirodcar	Closed	
AP9 [May]	Send any issues and suggestions relating to the online eligibility test to C Storer Update: see item 1 of minutes.	Rep bodies	Taken forward as AP2 [July]	
AP10 [May]	Let K Hartup know about any improvements that could improve the www.gov.uk Update: see item 1 of minutes.	Rep bodies	Taken forward as AP2 [July]	
AP11 [May]	Arrange for circulation of future IDP meetings minutes Update: this has been agreed. J Sirodcar will arrange for future meetings.	J Sirodcar	Closed	
AP12 [May]	Look into the issue of clients' E&D information on the billing form not being accepted because given by the provider Post-meeting note: see item 1 of minutes.	K Westall	Closed	
AP13 [May]	E Druker to find out more about the change in legislation that had resulted in an increase of clients in Mental Health, and report back. (This action appeared in section 5.1 of the May notes, but was not listed as an action until the 15 July meeting.) Closed – see post meeting note from May in item 1 of minutes.	E Druker	Closed	

Actions from March Civil CCG			
		Lead	By When
AP2 [Mar]	Issue an e-alert for rejects only	S Starkey	Closed
AP3 [Mar]	Clarify the information given to providers about where bills should be sent from 1 April	S Starkey	Closed
AP4 [Mar]	3. Find out if monthly volume data on immigration and asylum, by procurement area can be given to A Harvey 4. add to the report the comparative figures for legal help matters for the previous two years Update: This will be produced every few months. Z Farrant to update A Harvey by end July	N Lewis	Taken forward as AP1 [July]
AP5 [Mar]	Send examples of clients that could not find a provider to take on their case to D Challis	J Luba	Taken forward as AP1 [May]
AP8 [Mar]	Send details of the immigration case for which prior authority was approved but then payment was refused to D Keegan	A Harvey	Closed
AP9 [Mar]	Service Development to look up the section in the Costs Assessment Manual that covered Immigration experts reports.	N Lewis	Closed

