

Civil Contracts Consultative Group (CCCG) Minutes

10 March 2014

Date:	Monday 10 March 3pm		
Where	Rooms 1 & 2, Clive House, 70 Petty France		
Chair:	Janet Phillipson - LAA		
Attendees:	Alison Harvey-ILPA Avrom Sherr – IALS Ben English - MoJ Brooke Stevens – GDS Carol Storer – LAPG Claire Blades – CAB David Keegan – LAA	David Emmerson - Resolution Ellie Cronin – TLS Gillian Hothersall - LAA Ian Bugg – BC Jan Luba – BC KaPoh Ling – LAA Kathy Hartup – LAA	Matt Howgate – LAPG Neil Lewis – LAA Nick Lewis – MHLA Nicola Jones-King – ALC Sara Stephens - HLP Steve Starkey – LAA Susan Lambert – LAA Zoe Farrant – LAA
Apologies:	John Sirodcar (LAA); Kerry Wood (LAA); Kevin Westall (MoJ); Richard Miller (TLS)		

1. Minutes and actions from 14 January

A correction is needed to AP7 on page 1. This should read 'The LCN's Welfare Benefits line'. It does not refer to the CLA helpline.

A correction is needed to AP8 on page 5. The reference to ECF should be deleted.

Subject to these changes, the minutes were agreed.

Action points from January:

AP4 [Jan] J Luba asked for further clarification of the response received.

AP1 [Mar]: J Sirodcar to contact J Luba clarifying the position re Counsel instructed by the non NE provider.

AP7 [Jan] Issues raised by the NMS report: it was confirmed that the YTD figures did not include HPCDS or telephone advice service. Action can be closed.
The NMS report was discussed under item 7.

AP8 [Jan] This will be discussed under item 7. There had been a request for updated ECF figures to be provided at this meeting; however, D Keegan confirmed that these would not be available prior to the publication of the stats pack on 13 March. Action can be closed.

All other actions were closed.

2. Government Security Classification system

S Lambert outlined the new classification system which will be implemented from 2 April 2014. She clarified that this does not apply to the CCMS system where there is no need to mark any information. Only OFFICIAL-SENSITIVE material needs to be marked, not OFFICIAL. The list of material falling within OFFICIAL-SENSITIVE is not an exhaustive one.

It was noted that external envelopes should not be marked, only the contents. Also there is no need for every document within a file to be marked – only the file itself.

Members were happy in principle for this system to be publicised via the LAA Bulletin, and updated on the website.

AP2 [Mar]: members to feed back to S Lambert any concerns, or anything else they feel should be included on the list.

3. Update on transition to gov.uk website

K Hartup outlined the proposed changes to the gov.uk and justice websites, and thanked members for the feedback provided. Nick Lewis asked for mental health to be included in the overview list.

Members strongly felt that the 'find an adviser' tool should be included in gov.uk content. S Stephens raised the concern that not everyone would be able/willing to complete the 'can I get legal aid' checker, and that more routes to 'find an adviser' should be available.

A Harvey also suggested the checker should be made more general and inclusive, ie 'you may be eligible, contact a provider' as well as 'you are eligible'. S Stephens asked for more generic guidance, and clarification that the list is not exhaustive.

B Stevens updated on the findings from the user needs workshop, and invited members to contact her (through K Hartup) with any observations or concerns.

AP3 [Mar]: K Hartup to circulate updated draft of proposed changes to gov.uk and justice websites.

4. Claims processing – proposed standard brief template

J Phillipson outlined the proposed template which S Starkey circulated. This is mainly for FGF/FAS schemes. It was confirmed that this template will not be mandatory, and can be used as a checklist or a template. It contains the information needed for the claim, not all the information needed for the case itself; A Sherr asked for this to be made clear on the form.

J Luba asked for the template to refer to either 'brief to counsel' or 'instruction to counsel' as the difference between the two is not widely understood.

N Jones-King felt that the mention of 'application to be discussed at the hearing' could be used to reject a claim if not every application was specified on the certificate. The words 'to be discussed at the hearing' could be removed to prevent this.

D Emmerson suggested that Resolution would want to circulate this to members.

AP4 [Mar]: Members to feed back any further observations re proposed standard brief template, for J Phillipson to take back.

5. Vulnerable clients and means information

J Sirodcar's update on this was discussed. Nick Lewis said that it is not always easy to find the information on means where mental health issues are concerned. Can practitioners speak directly to assessors? Nick Lewis raised the issue of patients refusing to sign the CLR. S Starkey confirmed that as long as information was provided as to why this had not happened, this should be enough.

AP5 [Mar]: S Starkey to discuss with Lucy Williams (Mental Health Unit team) the issues regarding means information where mental health issues are concerned, and ask her for a definitive response.

AP6 [Mar] S Starkey to clarify how lead means assessors can be contacted.

6. Update on judgement in case of Re UF

Z Farrant had been asked by MoJ colleagues to mention an issue with regards to inaccurate reporting in the 2nd December Law Gazette. The article referred to the case of UF [2013] EWHC 4289 (COP) heard before the Court of Protection (CoP) in November last year. In this case, the MoJ and LAA were requested to provide evidence clarifying the availability of means-free legal aid in cases where the CoP makes an interim declaration regarding the lawfulness of detention under the Mental Capacity Act 2005 ("MCA 2005").

The MoJ confirmed to the court that regulations made under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) in April 2013 mean that non means tested legally aided representation is available to enable a person to challenge an authorisation to detain them made under Section A1 of the MCA 2005 in proceedings under section 21A of that Act. They also stated that changes made to the regulations in April were designed to clarify that non-means tested legal aid was only available while an authorisation was in force.

Following the hearing, Mr. Justice Charles accepted the MoJ's rationale that the April 2013 change to the pre-2013 regulations to clarify this point was not aimed at the practice he had promulgated in a similar case, even though he remained unable to understand the reason for the change. Contrary to what is said in the article, the MoJ did not concede that the change to the regulations was unlawful, nor did they undertake to reverse it.

The LAA and MoJ were concerned about the inaccuracies of the reporting in this case and that the information that appeared in the Gazette article could lead some providers to believe that the regulations have been changed back to to the pre-April position. Zoe asked whether members had experienced any similar issues with regards to misreporting and /or whether they were aware of any misunderstanding by providers as to what could be covered by funding in these cases

Members confirmed that they were not aware of any issues caused by the article but asked for further details of the article and case reference (These are provided above.)

7. Operational update

7.1 Civil billing information

S Starkey outlined the information provided, which now includes applications information as requested. It was noted that the reject rate has been further reduced, and members were thanked for their assistance in this.

There was a request for information on the backlog in case plans being agreed.

AP7 [Mar]: S Starkey to confirm whether information on the backlog in case plans being agreed can be made available.

In response to a query from J Luba, S Starkey confirmed that LAA now have some draft data on reject levels by Chambers; the Bar CM team are reviewing the data and once it is finalised they intend to begin sharing with their Chambers. We will update Civil CCG when we are in a position to do this.

J Luba asked whether the other data previously requested could be made available, ie:

- Processing rate for civil applications - ordinary
- Processing rate for civil applications - emergency
- Applications for specific authority

S Starkey confirmed that the first two could not be broken down further; however, he would enquire whether this was possible for applications for specific authority.

AP8 [Mar] S Starkey to confirm whether the data regarding applications for specific authority could be broken down further.

7.2 Volume and value figures

No comments.

7.3 NMS

A Sherr asked for further clarification regarding the headings and what they relate to.

A Harvey suggested the figures were incorrect - an issue with double counting in Immigration and Asylum.

AP9 [Mar]: J Sirodcar to seek further clarification re the NMS headings and figures.

7.4 VHCC

Training materials have been developed for the events model for solicitors. Stuart Hollands reported on these at a previous meeting. The materials will be circulated for comment.

AP10 [Mar]: G Hothersall to circulate training materials for members to comment.

Direct contracting with the Bar – a pilot began in November on this which is still under way.

The CFA surveymonkey questionnaire has now been amended following feedback from the providers who took part in the pilot. It was agreed this should be sent in the LA Bulletin and/or by a separate e-alert as soon as possible, and give people two weeks to respond. It should be emphasised that the survey will only take a few minutes to complete. K Hartup suggested it should be included in two Bulletins to encourage returns.

A Harvey asked for confirmation that the information she had provided to D Keegan would be taken into account. This concerned responses from insurers which she had collated earlier.

Post meeting note: D Keegan confirmed that this information had been received and would be taken into account.

AP11: [Mar]: G Hothersall to circulate the link to the CFA survey.

D Keegan confirmed that ECF statistics would be included in the statistical release due on 13 March. This release will cover figures from April to December. The second release on 8 May will cover the whole year. Figures will then be provided quarterly.

AP12 [Mar]: G Hothersall to circulate the link to the statistical release.

Post meeting note: done – for reference, the link is:

<https://www.gov.uk/government/publications/exceptional-case-funding-statistics-april-2013-to-december-2013>

8. Commissioning update

This had been circulated electronically. No issues.

9. Issues raised by representative bodies

A Harvey requested clarification from MoJ regarding the Government response to the Joint Commission on Human Rights, sections 17 and 20, and exemption from the residence test.

Post meeting note: B English responded to this query by email, as below:

The Government response to the Joint Committee on Human Rights was clear on the extent of the further exception for section 17 and 20 cases:

"Alongside other exceptions for protection of children cases previously set out in Next Steps there will be a further exception for sections 17 and 20 Children Act 1989 cases falling within paragraph 6 of Part 1 of Schedule 1." [emphasis added]

Judicial review proceedings in relation to cases under sections 17 and 20 Children Act 1989 would be funded under paragraph 19 of Part 1 of Schedule 1 to LASPO. A claimant applying for legal aid in judicial review proceedings on these cases would therefore not be exempt from the residence test.

Any individual who was refused funding in relation to such a judicial review by virtue of the residence test would be entitled to apply for exceptional funding, which will ensure that legal aid would continue to be provided where required under the ECHR or EU law.

In response to a query, K Hartup gave a brief update on CCMS and confirmed that further technical improvements are being made before it goes live.

AP13 [Mar]: K Hartup to circulate an update on CCMS.

N Jones-King requested that the position regarding travel to see children should be given in the LAA Bulletin. She also requested an update on ankle testing for drugs/alcohol, and on DNA testing.

AP14 [Mar]: E Druker to update members on the position regarding ankle testing and DNA testing.

10. AOB

Carol Storer asked members to publicise the Legal Aid Lawyer of the Year awards which are being held on 1 April.

An update on the additional online provider training modules was circulated before the meeting. Links to these materials will be provided in the Bulletin.

A request had been received from the Association of Costs Lawyers to be represented at Civil CCG. Members agreed this would be appropriate.

AP15: [Mar]: G Hothersall to invite the Association of Costs Lawyers to be represented at Civil CCG.

D Emmerson requested clarity on whether operational information provided at Civil CCG can be shared with members' committees.

AP16 [Mar]: J Sirodcar to confirm whether operational information provided at Civil CCG can be shared with members' committees.

A Sherr raised an issue regarding the online training modules. The peer reviewers' guides are being removed from the system as they are not up to date; it was requested that these should be retained or replaced as they are useful and they should not be difficult to update given they are about process rather than procedure or law .

AP17[Mar]: J Sirodcar to check whether the peer reviewers' guides can be replaced or retained on the system.

The next meeting is on Monday 12 May.

Actions from this meeting		Owner	By when
AP1 [Mar]	J Sirodcar to contact J Luba clarifying the position re Counsel instructed by the non NE provider. Tracey Courtenay-Williams contacted J Luba / S J Bennett to clarify	J Sirodcar	Closed
AP2 [Mar]	Members to feed back to S Lambert any concerns, or anything else they feel should be included on the list. Closed	All	Closed
AP3 [Mar]	K Hartup to circulate updated draft of proposed changes to gov.uk and justice websites. Circulated 14 April	K Hartup	Closed
AP4 [Mar]	Members to feed back any further observations re proposed standard brief template, for S Starkey to take back. Closed – final version circulated 24 April	All	Closed
AP5 [Mar]	S Starkey to discuss with Lucy Williams (Mental Health Unit team) the issues regarding means information where mental health issues are concerned, and ask her for a definitive response.	S Starkey	12 May
AP6 [Mar]	S Starkey to clarify how lead means assessors can be contacted.	S Starkey	12 May
AP7 [Mar]	S Starkey to confirm whether information on the backlog in case plans being agreed can be made available.	S Starkey	12 May
AP8 [Mar]	S Starkey to confirm whether the data regarding applications for specific authority could be broken down further.	S Starkey	12 May
AP9 [Mar]	J Sirodcar to seek further clarification re the NMS headings and figures. Update: awaiting LAA MI team advice – action remains open	J Sirodcar	12 May
AP10 [Mar]	G Hothersall to circulate training materials for members to comment. Circulated 14 April	G Hothersall	Closed
AP11 [Mar]	G Hothersall to circulate the link to the CFA survey. Circulated 24 April	G Hothersall	Closed
AP12 [Mar]	G Hothersall to circulate the link to the statistical release. Circulated 14 March	G Hothersall	Closed
AP13 [Mar]	K Hartup to circulate an update on CCMS. Circulated 31 March	K Hartup	Closed

AP14 [Mar]	E Druker to update members on the position regarding ankle testing and DNA testing.	E Druker	12 May
AP15 [Mar]	G Hothersall to invite the Association of Costs Lawyers to be represented at Civil CCG. Done – Paul Seddon or representative will attend where possible	G Hothersall	Closed
AP16 [Mar]	J Sirodcar to confirm whether operational information provided at Civil CCG can be shared with members' committees. J Sirodcar confirmed these can be shared with members' committees.	J Sirodcar	Closed
AP17 [Mar]	J Sirodcar to check whether the peer reviewers' guides can be replaced or retained on the system.	J Sirodcar	31 March

Actions from January meeting		Owner	By when
AP1 [Jan]	K Hartup to arrange for information from the user needs workshop to be fed back to the group. GDS to be invited to a meeting in March (either the CCCG or a separate meeting) for a longer session looking at next steps and how Civil CCG can feed in. On agenda as item 3 – action can be closed.	K Hartup	Closed
AP2 [Jan]	All invited to inform K Hartup of any inaccuracies encountered using the ‘Can you get legal aid’ checker and any specific places on the existing Justice website where a link would be helpful. Discussed under item 3 – action can be closed.	All	Closed
AP3 [Jan]	All invited to feed back to Gillian if they are interested in visiting one of the offices. Invitation remains open – action can be closed.	All	Closed
AP4 [Jan]	J Sirodcar to find out what is happening re Counsel instructed by the non NE provider. Tracey Courtney-Williams has responded to J Luba – action can be closed. J Luba requested further clarification – taken forward as AP1 [Mar].	J Sirodcar	Closed Taken forward as AP1 [Mar]
AP5 [Jan]	All invited to contribute ideas for web chats or webexes. Some suggestions received, more welcome at any time. Action can be closed.	All	Closed
AP6 [Jan]	S Starkey to investigate providing the top ten reasons for FAS rejects. Responded directly to S J Bennett/J Luba – action can be closed.	S Starkey	Closed
AP7 [Jan]	J Sirodcar to investigate the issues raised re the NMS report. Discussed under item 7 – taken forward as AP9 [Mar]	J Sirodcar	Closed. Taken forward as AP9 [Mar]
AP8 [Jan]	S Starkey to investigate what detail is available that is in a format that can be shared with CCCG. Discussed under item 7 – action can be closed.	S Starkey	Closed
AP9 [Jan]	E Druker to confirm the position regarding travel claims when a solicitor needs to travel to see a child. Discussed under item 1 – action can be closed.	E Druker	Closed