

Civil Contracts Consultative Group (CCCG) Minutes

14 July 2014

Date:	Monday 14 July 3pm		
Where	The Law Society – 113 Chancery Lane, Fetter Room		
Chair:	John Sirodcar - LAA		
Attendees:	Alison Harvey-ILPA Avrom Sherr – IALS Carol Storer – LAPG Chantal Beedell – LAA David Crawford - LAA David Keegan – LAA Eleanor Druker – LAA	Fiona Scolding - BC Gillian Hothersall – LAA Jacky White - Shelter Jan Luba – BC Jon Cable - MoJ Kevin Westall – MoJ Laura Wensley - LAA	Nicola Jones-King – ALC Paul Seddon – ACL Richard Miller - TLS Sara Stephens – HLP Steve Starkey – LAA Vicky Ling – Resolution Will Hayden - LAA
Apologies:	Kathy Hartup – LAA; Sarah-Jane Bennett - BC		

1. Minutes and actions from May

The May minutes were agreed as final.

There was discussion of whether action points should be marked 'action closed, issue pending' if the action had been done (or put on the current agenda) but the issue was still unresolved. JS to consider what would be the clearest format.

Post meeting note: Suggested in future, action point to be noted "to be discussed at next meeting" where appropriate, and only closed if discussion agrees that the issue is closed.

Action points from May:

AP3 [May]: M Edwardes to consider whether any more statistical information can be provided on telephone advice.

An update on this will be circulated in advance of the September meeting, and the item will be added to the agenda. LAA will try and send out early advice as to proposals.

AP6 [May]: D Keegan to cover survey in next Bulletin and arrange meeting with specialist groups to discuss CFA.

Discussed under item 5. Action can be closed.

2. Peer review best practice guide

J Cable updated the meeting on this. A Sherr mentioned that his note to the peer reviewers had not been sent, and J Cable apologised for this.

J Sirodcar reported that the views already received said that the guides should be updated, and felt that the peer reviewers would agree.

J Cable felt that the process itself will not have changed and therefore little will need to be updated; A Sherr felt that it would be sensible for peer reviewers to do the updating, as this mirrored the way they were created.

V Ling clarified that the guides need to reference current practice and procedures, and in Family and Immigration in particular, there were changes which were not currently mentioned.

AP1 [July]: It was agreed that the guides for Civil and Crime would be updated. J Cable to contact A Sherr to progress this.

3. Court-assessed Civil bills

J Cable updated the meeting on this. At the end of their audit of the LAA's accounts for 2013/14 the NAO highlighted that they had concerns about the LAA's reporting of the level of error on civil taxed bills. The NAO identified that although the LAA is not responsible for assessing these bills the LAA is responsible for reporting any error identified on taxed bills through the LAA's monthly "core testing" process, as the LAA is responsible for the Regularity of all legal aid expenditure.

The LAA's case management teams currently receives all bills that have been taxed by the Courts and those teams are responsible for reviewing the non-discretionary elements of those bills to ensure they have been correctly assessed, The LAA can and does challenge those elements of these bills where an error has been made. The LAA is now being held to account for all aspects of expenditure on taxed bills.

The LAA's Case Management teams are not changing their approach. They will continue to receive bills that have been taxed by the Courts, review them as before and raise any concerns they have about the non-discretionary elements of the bills.

The LAA's Core Testing team will, however, be changing its approach in two ways:

- First, because of the way the team calculates its sample sizes they will be examining more civil taxed bills than in previous years.
- Secondly, they will as required be going back to providers to ask for supporting information on civil taxed bills on all elements of the bills; something which LAA have not done in the past. This may mean some more work for providers. However, it is not unreasonable for LAA to assume that the evidence should be available and thus this should not prove to be unduly problematic.

At present the LAA may and sometimes does recoup on civil taxed bills where, for example codified rates have been exceeded or costs limits have been exceeded. This position will continue. LAA do not envisage any (significant) increase in the level of recoupments on civil taxed bills. (Clause 14 of the Contractual Standard Terms give us the right to recoup). Assuming that the work claimed for can be supported by appropriate evidence, which is retained on file and can be made available if requested, then providers should not encounter any significant difference.

J Cable confirmed that there will be no further increase to the sample size of civil taxed (detailed assessed) bills in the future, unless the current increased sample size reveals an average increase in issues (i.e. higher average of recoupment). P Seddon said that should this occur then the Association of Costs Lawyers would wish to inspect the samples and the assessments and issues raised on the civil taxed bills that have given cause for the MoJ/LAA to assert that the sample size should be further raised. This request was acknowledged by J Cable and J Sirodcar and no objections were raised against this.

S Starkey mentioned that consideration is being given to bringing this work in-house to the LAA.

R Miller asked if a note of the legal structure could be circulated to members.

In reply to a query from J Luba, it was confirmed that this does not only apply to county court assessment but to all court assessments.

There was discussion around the implications of bringing the work in-house, and it was stressed that a clear basis was needed for this, as well as clarity on the right of appeal. There was also some discussion of the intended sample size, which was felt to be small.

It was clarified that the decision to take the work in-house is separate from the findings from sampling. The business case would be based on whether it was more cost-effective to do this in-house.

It was also clarified that LAA assessments would be sampled, and that under-assessment would be picked up.

AP2 [July]: J Cable to respond clarifying the legal structure for court assessed Civil bills, and the appeal processes, ideally by the beginning of August.

4. LAA Annual Report

J Luba had asked for discussion of the Director of Casework's report and the statistics included with the LAA annual report.

There was discussion of Steve Hinde's comments regarding the statistics in the LAA Business Plan and in the Annual Report. LAA's statisticians are in discussion with him regarding this.

J Luba highlighted the fall of take-up and whether there was any action that could be taken to stimulate demand. J Sirodcar did not think that either LAA or MoJ had plans to run any such campaigns.

P Seddon commented on the perception that there is no legal aid available, or that providers are put off by the complexity. The LAPG fact sheet was mentioned as a useful resource. It was confirmed that it is possible to search for a provider online.

K Westall said that to secure approval for any campaign, there would need to be significant clear evidence of the value of doing this. MoJ are looking at this and are looking into appropriate communications and this will need Ministerial approval. LAA's intention is by November to have an online tool to help determine whether legal aid is available, and what to do if not, to be used alongside the CLA telephone service.

A Harvey requested that an update on this be circulated in advance of the November meeting. K Westall offered to circulate a note before September detailing what had already been done; a verbal update would be given in September as to next steps. This will then be followed by a note in advance of the November meeting, and an item on the November agenda.

AP3 [July]: K Westall to circulate note before September meeting, regarding previous MoJ communications re legal aid availability. Item on agenda of September meeting – verbal update on future plans. Further note in advance of November meeting and agenda item to discuss.

There was discussion of providers not applying for additional matter starts, and being told another firm within their procurement area has them. This implies advertising the services of a competitor. There was also discussion of communications around mediation, and whether anything further could be done.

P Seddon asked whether it was possible to have a breakdown of the types of bills and claims processed by LAA.

AP4 [July]: P Seddon to email J Sirodcar with details of what would be useful for a breakdown of types of bills and claims processed by LAA.

5. Operational updates

5.1 Operations update

S Starkey outlined the report and members discussed. S Starkey confirmed that email is now used to get further information before a hard reject and this was providing helpful.

5.2 VHCC

David outlined the VHCC performance report and members discussed. It was confirmed that the top part of the page refers to Family with 1 advocate, whereas the bottom part contained Family 2-advocate cases and other civil cases. D Keegan confirmed that these turnaround times are for individual transaction, and do not represent the first submission of case plans to their final agreement. Previous sampling on family cases indicated that case plan could take up to 2 years to agree. D Keegan recommended the Care Case Fee Scheme for avoiding these negotiations and therefore payment. These cases were agreed in a single transaction where properly completed.

P Seddon had a query regarding the pilot scheme for rejections – there is no email address on the claim form, where does it come from? S Starkey to clarify.

AP5 [July]: S Starkey to clarify where the email address used for e-mail contact post rejection is taken from.

Post meeting note: S Starkey has responded as below. Action can be closed.

Our current guidance is that we check on the covering letter or the claim form itself for the e-mail address; if it can't be located then we wouldn't look any further. Whilst there is provision on the Claim 5A for this, there isn't on the CLAIM 1 so currently we are heavily reliant on covering letters being attached that contain an e-mail address. However, looking at the claim form, there is plenty of space in the 'Your Details' section to include both a name as well as an e-mail address. so this would appear to be by far the best way to ensure that caseworkers have ready access to a fee earner's contact details.

We will include this practical suggestion in the next available e-bulletin but I would be grateful if you could pass this tip on to your members. The box below shows a Claim 1 example with name and e-mail address.



Your details

Account number: Roll number:

Name of firm:

Your case reference:

Contact name for enquiries:

P Seddon also had a query re high cost case plans which have not been approved. D Keegan asked for specifics and will respond.

AP6 [July]: P Seddon to email D Keegan with specifics of his query re high cost case plans, and D Keegan to respond.

5.3 CFA Survey

D Keegan thanked members for their help in publicising this survey. There were 80 returns, and results are now being written up. In addition, 8 main providers were contacted and more information was received from them. A meeting will be set up in August to look at the results and discuss. Results will be anonymised and circulated in advance of the meeting.

Post meeting note: meeting organised for 12 August at 3.00 pm in 102 Petty France, to review the survey and conclusions that can be drawn from it. Members invited to attend and can bring a practitioner if they wish.

There is also a meeting planned for 21 July with Family experts, to discuss a new draft version of the guidance on experts. It is hoped to publish this in August.

6. Commissioning update

C Beedell updated on the tender process for mental health and community care contracts– all is on course for contracts to start on 1 August.

A Harvey had a query regarding Immigration Removal Centres, and whether a note was available of the round table meeting with the Home Office. L Wensley will investigate this.

AP7 [July]: L Wensley to investigate what has happened following the meeting on Immigration Removal Centres, and respond to A Harvey.

7. Issues raised by representative bodies

7.1 Travel claims for 10 miles or less

Discussions are ongoing on whether/how the guidance needs to be amended to clarify the issue. Paul S asked to be included in discussions on the guidance. LAA are due to respond by early August.

AP8 [July]: S Starkey to respond by early August regarding guidance to clarify the position on travel claims for 10 miles or less.

7.2 Consumer regulations

R Miller raised the issue of new consumer regulations which may impact on offsite work and police station work. They do not apply to social care, and TLS feel they should not apply to legal aid either. A letter has been prepared to go to the relevant Minister, and TLS would like LAA's support on this. J Sirodcar mentioned that Alice Mutasa raised the issue at Crime CCG also.

AP9 [July]: R Miller to consider circulating draft letter to members.

7.3 Claims for payments re advocates bundles

V Ling said that Resolution were very positive about the idea but wanted to discuss specific details. E Druker and V Ling agreed to discuss this after the meeting, and summarise later for the minutes.

AP10 [July]: E Druker to provide summary of discussion on claims for payments advocates bundles.

7.4 CCMS

S Stephens said that she had been hoping for earlier confirmation that the system was ready to use. J Sirodcar confirmed that large volumes are going through, and after two weeks of stability, roll out is continuing to larger firms. V Ling commented that feedback from Resolution members is that the system is difficult to use and they feel it is worse than paper. J Sirodcar commented that the survey was taken during a period where there were stability issues, and many comments concerned these issues specifically. However, V Ling felt that the concerns raised by the survey were more general. J Sirodcar confirmed that a date for CCMS becoming mandatory has not yet been decided. However, three months' notice will be given before use becomes mandatory.

P Seddon raised the issue of there being no published contingency plan regarding claims. J Sirodcar confirmed that it will be published externally once it is needed. P Seddon raised an issue which happened with a pilot provider and J Sirodcar said he would investigate.

C Storer thanked Resolution for the work done on CCMS which practitioners should be grateful for. There has been huge effort to make the system work. She mentioned that some members felt they were being leant on by Contract Managers to start using the system. J Sirodcar confirmed that there should be no pressure to use but said he would check that this message was being properly disseminated.

In response to a query from J Luba, it was clarified that reference made to the system having been rolled out to 'one third' probably referred to Tranche 1, ie a third of the way through the alphabet.

8. AOB

J Sirodcar notified that as from September, he would still be chairing Crime CCG but Civil CCG would be chaired by Laura Wensley.

The next meeting is on Monday 8 September.

Actions from this meeting		Owner	By when
AP1 [July]	It was agreed that the guides for Civil and Crime would be updated. J Cable to contact A Sherr to progress this.	J Cable	4 Aug
AP2 [July]	J Cable to respond clarifying the legal structure for court assessed Civil bills, and the appeal processes, ideally by the beginning of August.	J Cable	4 Aug
AP3 [July]	K Westall to circulate note before September meeting, regarding previous MoJ communications re legal aid availability. Item on agenda of September meeting – verbal update on future plans. Further note in advance of November meeting and agenda item to discuss.	K Westall	1 Sep
AP4 [July]	P Seddon to email J Sirodcar with details of what would be useful for a breakdown of types of bills and claims processed by LAA.	P Seddon	11 Aug
AP5 [July]	S Starkey to clarify where the email address used for e-mail contact post rejection is taken from. Post meeting note – see response under item 5.2. Action can be closed.	S Starkey	11 Aug
AP6 [July]	P Seddon to email D Keegan with specifics of his query re high cost case plans, and D Keegan to respond.	P Seddon / D Keegan	11 Aug
AP7 [July]	L Wensley to investigate what has happened following the meeting on Immigration Removal Centres, and respond to A Harvey.	L Wensley	1 Sep
AP8 [July]	S Starkey to respond by early August regarding guidance to clarify the position on travel claims for 10 miles or less.	S Starkey	4 Aug
AP9 [July]	R Miller to consider circulating draft letter to members.	R Miller	1 Sep
AP10 [July]	E Druker to provide summary of discussion on claims for payments advocates bundles.	E Druker	1 Sep

Actions from May meeting		Owner	By when
AP3 [May]	M Edwardes to consider whether any more statistical information can be provided on telephone advice. Written update to be given in advance of September meeting. Keep action open	M Edwardes	8 Sep
AP6 [May]	D Keegan to cover survey in next Bulletin and arrange meeting with specialist groups in June to discuss CFA. CFA survey deadline has now been extended to 6 June, and an eAlert sent out. A meeting will be organised once results have been analysed. Post meeting note: meeting organised for 12 August at 3.00 pm in 102 Petty France, to review the survey and conclusions that can be drawn from it. Members invited to attend. Action can be closed.	D Keegan	Closed

