



The Law Society



Legal Aid
Agency

Civil Contracts Consultative Group (CCCG) Minutes

**10 November 2014
V2**

Date:	Monday, 10 November 15:00	
Where	MoJ – 102 Petty France London SW1H 9AJ	
Chair:	Laura Wensley – LAA	
Attendees:	Alison Harvey-ILPA Avrom Sherr – IALS Carol Storer – LAPG David Keegan – LAA Eleanor Druker – LAA Grazia Trivedi – LAA Hilda Massey-Deputy Director for Legal Aid Policy - MoJ Ian Bugg - BC Jan Luba – BC Jenny Beck – LAPG Joe Risk-LAA	Kathy Hartup – LAA Kerry Wood – LAA Matthew Cunningham – ASA Melena Ward-LAA Nicola Jones-King – ALC Paul Seddon – ACL Rachel Rogers-Resolution Richard Miller – TLS Sara Stephens – HLP Steve Starkey – LAA
Apologies:	Joy Merriam – TLS	Julie Bishop - ASA Jackie White – ASA/Shelter

1. Minutes from September were approved

1.1 Actions

AP3 [Jul] The Law Society had drafted a guidance on consumer regulations and had submitted it to MoJ for approval, which was granted. The guidance had consequently been published. Circulate the link to the [guidance](#). **Action 1[Nov]. Closed**

AP6 [Sep] El Druker said that the LAA had already sent out several reminders to providers about protocol on bundle costs so it was deemed preferable to send out another in January rather than October. **Action 2 [Nov]**

AP7 [Nov] The detailed Management Information request that the Rep bodies had made was being looked at by the LAA's MI team (i.e. the number of claims submitted each year for the past 3 years that had been reduced to the fixed fee or had been nil assessed). S Starkey confirmed that escaped cases were managed through the CWA computer system which recorded all adjustment made to legal help claims. The complication was that adjustments could be made for a wide variety of reasons: e.g. to correct an error, or as a result of audit activity or following an assessment by the Escaped cases team.

He explained that whilst the MI team had access to CWA data on all adjustments going back to April 2012, it was unlikely that they could provide specific data linked directly to escaped cases because separating out the other adjustments was likely to prove very difficult. The local Escaped cases teams based in Liverpool & South Tyneside did however have records that would give a much clearer indication of trends but, as the data was manually compiled, it was never going to be 100% accurate and currently took no account of any appeal activity. The appeal activity was monitored separately.

S Starkey agreed to get and share with CCCG locally compiled escaped case processing data for the period April to June 2014. **Action 3 [Nov] Closed**¹

S Starkey said that in the period 1st June to 30th June 2014 7% of claims had been nil assessed, 2.3% had been reduced to the fixed fee, 10.2% had been reduced but paid as escaped, 28.1% had been rejected and 52.4% had been paid in full. He would provide a breakdown of claims by category over the 3 month period July to September 2014. **Action 4 [Nov] Closed**

Rep bodies intended to share this information with their members so that they could be clearer about claim submission. Rep bodies also asked to know the main issues that caused claims to be nil assessed and rejected and the mean reduction by which the claims were assessed down.

Action 5 [Nov] Closed

The LAA planned to publish guidelines on what type of cases successfully went to appeal.

2. LAA update

2.1 Operations update

S Starkey talked through the main points in the report. Overall the position in bills processing remained well above the KPI.

In relation to rejected claims those in immigration had the highest rate [44% against < than 10% overall] and this was likely to be due to immigration escaped cases being submitted on the old form. Email the details of the new form to A Harvey. **Action 6 [Nov] Closed**

Send the details of the most common reasons for immigration claims to be rejected to A Harvey. **Action 7 [Nov] Closed**

2.2 VHCC update D Keegan said:

VHCC Family Developments with solicitors. DK confirmed that a working group [with reps from ALC, Resolution, TLS and LAPG] had been set up to improve the present VHCC Care Case Fee Scheme. It had been agreed that the working group would also look at developing the Experts Guidance rather than running two working groups in parallel. The intention was to have new guidance out by March 2015.

D Keegan confirmed that the new guidance would be shared with the Bar before it was published. **Action 8 [Nov]**

A Harvey asked whether the group would consider requests for changes to the Experts Guidance in other categories of law. DK confirmed that it would.

VHCC Family Developments with barristers. DK confirmed that the LAA and the Bar were expanding the Pilot of Direct Contracting from around 10 to 20 chambers. A training session was being set up. LAA were due to discuss progress with the Bar in November. **Post meeting note:** This meeting will now be in January.

CFA Suitability. DK said that there had been a survey and a meeting with providers to set out the present state of play of the CFA/ATE market.



Following this, DK had agreed guidance with MoJ legal aid policy. The proposal was shared with consultees and the LAA had amended procedures to reflect the comments received. The new procedures would be launched in January 2015 and would be supported by training for caseworkers, an e-alert and a dedicated webpage.

There was a request for LAA to brief caseworkers to avoid inappropriate requests being sent in the interim. DK would advise the team leaders **Action 9 [Nov].Closed**

Rep bodies asked what should be written on applications to stop LAA caseworkers sending the questionnaire, particularly in judicial review and housing cases. D Keegan said that providers were welcome to write in the relevant section of the form. Caseworkers would follow the guidance and training they received to identify cases where there was a real potential for the case to be suitable for a CFA. If there were issues they ought to be raised with team leaders.

In practice the proof of the scheme would be in its operation: that the questionnaire was only sent out in relevant cases. It was not in anyone's interest to send them out unnecessarily.

2.3 Client and Cost Management System (CCMS) J Risk updated the group.

- i. The rollout to all 1609 civil legal aid firms had been completed at the end of September with all firms now able to submit new applications on CCMS on a voluntary basis.
- ii. Over 15,000 applications had been received on the CCMS from over 700 providers using the system to manage cases.
- iii. 1/3 of new applications were being submitted to the LAA on CCMS and this figure was increasing week on week.
- iv. Following the end of rollout, providers would continue to be given time to get used to system, to train their staff and build up their experience. Contract managers continued to encourage providers to take time to complete training and refer to support materials.
- v. Use of CCMS would not be mandated for new applications until 2015 and a minimum 3 months notice would be given of when LAA planned to do so.
- vi. Feedback from firms was collected via pulse surveys, contract managers and direct feedback from providers.
- vii. Feedback would be used to identify where enhancements were required and LAA remained committed to continually reviewing the system.
- viii. The programme of WebEx master class sessions had been ongoing and had proved very popular with over 1,000 individuals having logged into the sessions. The range of topics would be gradually increased; they had recently been extended to chambers users.

A number of CCMS related issues were raised by rep bodies

- i. LAA ought to review some specifications of CCMS to ease the ancillary impact on users, such as the need for a wet signature and the nature of some mandatory questions and whether they are fit for purpose.
- ii. Not passported means testing forms had to be completed by providers because clients had no access to CCMS and this was very time consuming.

- iii. The Bar asked whether the system could be tailored to allow POA to be made **Action10 [Nov]² Closed**
- iv. When users loaded up the details of the designated counsel into CCMS the system ought to recognise the name and retrieve their legal aid account number. **Action 11 [Nov]³Closed**
- v. Providers ought to be allowed to retrieve information about rejects on individual claims
- vi. CCMS ought to offer more functionality on long and more detailed claims
- vii. Rep bodies asked for a list of tips that providers ought to be aware of, i.e. not to use apostrophies. **Action 12 [Nov]⁴Closed**

Kathy Hartup explained that LAA had set up a group comprising of reps from technical support, customer service and contract management. The group met weekly to discuss CCMS issues, providers' feedback, communications, activities etc.

2.4 Commissioning Update

M Ward said that the tender for additional contracts to deliver Family Mediation Services had closed on 31 October 2014. 65 bids had been received from applicant organisations to deliver Services from February 2015 and over the following few weeks the Central Commissioning team would be evaluating the bids received.

Tenders in Public Law [PB], Actions Against the Police [AAP] and Clinical Negligence [CN] would go live in early December.

A Harvey said that those charities working with asylum seekers had, as contract holders, an interest in feeding into discussions relating to future tenders. Melena explained that this work

² **Post meeting note:** POAs can be submitted electronically for cases processed on CCMS. A POA can be submitted on non-family cases, VHCC family events cases and cases that escape FAS/FGF. The advocate would create and submit the POA on CCMS – as long as the advocate has been allocated to the case and sufficient costs on CCMS by the provider. The advocates input their actual costs on the system – CCMS will calculate 75% of the fees due and this will be considered by the caseworker. CCMS will only allow the advocate to claim during the appropriate payment window. Costs will then be paid direct to the advocate. The user who submitted the claim will receive an 'action' through CCMS to request evidence. This can be scanned and sent electronically through CCMS or sent by post to the Document.

³ **Post meeting note:** A provider needs to allocate a cost limit before the advocate can bill. Providers can search for an advocate on CCMS using either name or account number. The name entered must reflect the name used by the individual counsel for their LAA account. This may not be the same as the name used on a day to day basis (i.e. their LAA account may include a middle name or initial). We have advised providers to search using the account number if possible to avoid any confusion caused by different names. Providers can however still search using the advocate's name, and may use the % symbol as "wildcard" to ensure the correct result is returned, for example, John%Smith would return an advocate named John M Smith.

CCMS allows advocates to prompt a provider to allocate the case to them. If any issues arise in the process, it is important that the relevant Bar contract manager is made aware. We have produced a quick guide, Assign Counsel, published under the Training and Quick Guides tab on the CCMS website.

⁴ **Post meeting note:** We have extensive information available to users on our [website](#). This includes Hints and Tips, Frequently asked questions and common mistakes.

We have specific guidance available to support the copying of text from different versions of word and this can be found under the 'smart quotes' [quick guide](#).

We have also recently published a [guide](#) to some of the known error messages that users could experience. This includes a *proforma* that users can use to notify online support if they experience any issues

would not begin until late next year but agreed that she would be in touch with Alison to ensure their involvement when work started on the 2013 civil contract re-tender.

A Harvey asked the LAA to review the situation in some prisons' Immigration Removal Centres where a high concentration of foreign nationals was held under Immigration Act powers but where surgeries [that were in place in detention centres] did not exist. The LAA confirmed that this was an issue that had been raised as part of the wider questions from CCCG and a response had been provided in the document shared as part of that agenda item.

Rep bodies spoke about the issue of different civil contracts being renewed at different times. The profession was currently being consulted on the AAP, CN and PL contract but no mention had been made in this consultation of the changes reported earlier in the year in the Mental Health [MH] and Community Care [CC] consultation.

Consistency had to be maintained whereby providers were being made aware of the changes proposed to the contract they were being consulted on. The LAA were aware of this and the legal team was working to address it.

Rep bodies asked the LAA about the redistribution of MH and CC matter starts following the contract start date and the reasons behind this. M Ward said that this had been the result of matter starts coming back following providers either failing to verify their tenders or withdrawing ahead of contracts starting.

A query was raised as to whether this pointed to speculative bidding which put other providers at a disadvantage. M Ward stated that there might be an element of this but that the approach of dividing matter starts into lots had largely addressed the practice of applicants bidding for more matter starts than they needed. She added that every tender round run in recent years had shown much more demand for work than work available. The fact that the LAA were able to weed out those bidders that didn't meet their requirements ahead of contracts starting was also testament to the effectiveness of the verification process.

Rep bodies asked about the redistribution of anti social behaviour work. E Druker said that a consultation with proposals was due to go out in the next few days. After that, changes would be made to the contract and to the remuneration regulations to reflect those changes. **Action 13 [Nov]** E Druker to notify CCCG of implementation date. **Post meeting note:** the date is not known. **Closed**

3. Issues raised by the representative bodies

Hilda Massey introduced herself to the group. Hilda had come to MoJ from DWP together with Caroline Crowther with whom she job shares the role of Deputy Director of Legal Aid policy.

E Druker distributed the list of 25^[1] questions that the representative bodies had sent in advance of the meeting for the attention of H Massey. Going forward, it was agreed that: a) members would send their questions to E Druker at least 2 weeks before the meeting so that the answers could be made available before the meeting; b) a differentiation would be made between operational issues for the LAA and policy issues for MoJ.

22 of the questions submitted for this meeting had been answered in the document itself and 3 were left for discussion. These were:

Q4 – The submission of documents in support of Means Assessment became an issue on CCMS when providers could not get hold of the client. E Druker to look into this **Action 14 [Nov]**

Q12-There was discussion about the impact that the distribution of matter starts was having on the provision of legal aid, and on the clients.

A question was raised as to whether the new EU procurement directive, expected to come into force in early 2015, meant that the LAA would be able to apply a 'light touch' regime. It was explained that legal services were already covered by part B of the Regulations which prescribed a 'light touch' regime. It was likely that when the new Directives were transposed there would still be a requirement to comply with the intrinsic part of public contract regulations that was Equal Treatment. Matter starts helped in a number of ways to comply with the Equal Treatment regulation in a tender that involved hundreds of bidders.

Matter starts enabled LAA to benchmark providers' ability to deliver the service and to describe the work providers were bidding for by breaking it up into lots. Rep bodies argued that quality of service and footfall ought to determine the volume of work. Furthermore, rep bodies felt that the impact of intense auditing activity on providers that had already proved their worth by winning a contract pushed the best of them to the brink of leaving legal aid altogether.

There was general agreement about the commercial implications attributable to matter starts, namely that providers that had run out of matter starts, were compelled to refer a willing client to a competitor who still had some. K Wood agreed to take this away and discuss with Contract management colleagues **Action 15 [Nov]**

There was agreement that the profession and policy makers ought to focus on the longer term future of commissioning legal aid services, especially in view of the declining volumes. It was agreed that the LAA would discuss this further with rep bodies well before they started to plan the next tender.

Q23 There was discussion about the excessive complexity of the system regulating the administration of legal aid and how this impacted on things like NAO audits, and providers trying to plan around it.

Rep bodies felt that it didn't seem to be best practice to have a commissioning process based on each individual act of assistance. They perceived a disconnection within the system, which hindered: a) the real purpose of legal aid, b) how it was procured and c) how services were commissioned.

Policy makers had to consider not only the impact that their policies had on providers but also how difficult the system was for the client. Clients were having difficulties at every stage of the process: providing evidence to obtain the initial legal help; complying with the requirements of a certificate; sending all the information required by the certificate.

Furthermore a client could be turned away by a trusted firm because it had run out of matter starts. Rep bodies asked whether the intention of policy makers was to fund the paperwork needed to comply with the contract rules or whether it was to fund means of assistance.

LAA said that a group had been set up to work on streamlining the system. K Hartup to share the notes from the meeting with CCCG. **Action 16 [Nov] Closed.** Members of the group also agreed to consider any suggestions for reducing bureaucracy and forward them to E Druker.

Action 17 [Nov] circulate the list of questions electronically⁵ **Closed**



A Harvey offered to share the evidence submitted to the Justice Select Committee with H Massey

Q24- the group clarified that the question was in relation to means assessment and the operation of the waiver when making an application for a domestic violence injunction. E Druker asked that the answer to Q25 be ignored as it was in response to a different interpretation of the question. E Druker to raise the issue with MoJ **Action 18 [Nov] Closed**

4. AOB

A list of meeting dates for 2015 had been circulated. The venue allocation had to be adjusted **Action 19 [Nov] Closed.**

Actions from this meeting		Owner	By when
AP1[Nov]	Circulate the link to the consumer regulations guidance	G Trivedi	Closed
AP2[Nov]	Include a reminder of protocol for bundle costs in the January e-alert to providers	K Hartup	15 Jan
AP3[Nov]	Circulate the document with the breakdown of claims by category over the 3 month period April to June 2014.	S Starkey	Closed
AP4[Nov]	Provide a breakdown of claims by category over the 3 month period July to September 2014	S Starkey	Closed
AP5[Nov]	Find out the main issues that caused claims to nil assessed and rejected, and the mean reduction by which the claims were reduced.	S Starkey	Closed
AP6 [Nov]	Circulate the new EC1 claim form	S Starkey	Closed
AP7 [Nov]	Send the most common reasons for immigration claims rejects [excluding using the old escaped claims form] to A Harvey	S Starkey	Closed
AP8 [Nov]	Share new version of Experts Guidance with the Bar before publication	D Keegan	Before March '15
AP9 [Nov]	Advise caseworkers of the change in CFA suitability procedures.	D Keegan	Closed
AP10 [Nov]	Find out whether CCMS could be tailored to allow POAs	J Risk	Closed
AP11 [Nov]	Find out whether the system could be made to recognise counsel 's legal aid account number	J Risk	Closed
AP12 [Nov]	Circulate a list of tips that providers ought to be aware of, i.e. not to use apostrophes.	J Risk	Closed
AP13[Nov]	EI Druker to notify CCCG of the date when the changes regarding the anti social behaviour work would be implemented. Post meeting note: the date is not known yet.	E Druker	Closed
AP14[Nov]	Look into the issue of applications submitted on CCMS in relation to Means Assessment documentation that could not be provided	E Druker	30 Nov
AP15[Nov]	Speak to contract management colleagues about the commercial impact of matter starts on providers and update CCCG at the next meeting	K Wood	10 Jan
AP16 [Nov]	Share the notes from the Dec meeting of the group working on streamlining the commissioning system	K Hartup	Closed
AP17[Nov]	Circulate the list of 25 questions electronically	G Trivedi	Closed
AP18[Nov]	Raise the issue of means assessment and the operation of the waiver when making an application for a domestic violence injunction with MoJ.	E Druker	Closed
AP19[Nov]	Adjust the allocation of venue to the 2015 meetings ⁶	G Trivedi	Closed

