



Civil Contracts Consultative Group (CCCG) Minutes

**12 January 2015
V3**

Date:	Monday, 12 January 2015 at 15:00		
Where	The Law Society, Chancery Lane, London		
Chair:	Carol Storer – LAPG and The Law Society’s A2J committee		
Attendees:	Alison Harvey-ILPA Avrom Sherr – IALS Cordelia Hamed – LAA Catriona MyersWilson-LAA Grazia Trivedi – LAA James Hood-LAA Ian Bugg - BC	Jan Luba – BC Jayne Nevitt-LAA Jenny Beck – LAPG Joe Risk-LAA Jon Cable-LAA Kathy Hartup – LAA	Jayne Nevitt-LAA Paul Seddon – ACL Rachel Rogers-Resolution Sara Stephens – HLP Steve Starkey – LAA Tim Colliou-LAA
Apologies:	Hilda Massey - MoJ Matthew Cunningham – ASA	Richard Miller – TLS Jackie White – ASA/Shelter	Kerry Wood – LAA Nicola Jones-King – ALC Joy Merriam – TLS

1. Minutes from November were approved.

1.1 Review of actions

- Action 2 [Nov]
A reminder of the protocol for bundle costs would be included in the LAA [e-update](#) at the end of January. **#Action 1[Nov]**
- Action 8 [Nov]
LAA to share the new version of the Experts Guidance with the Bar before publication.
#Action 2[Nov]
- Action 9 [Nov]
D Keegan had taken action to ensure that caseworkers were assessing a case’s suitability for a Conditional Fee Agreement [CFA] according to the new [Jan 2015] guidance. C Storer said that concerns remained about the gap between what the profession thought had been agreed, and what was actually happening.
- Action 14 [Nov]
LAA had informed the Client and Cost Management System [CCMS] Working Group that the submission of documents in support of Means Assessment became an issue when providers could not get hold of the client. CCMS were looking into this as part of a set of other issues.
- Action 15 [Nov] Covered under the Commissioning update.

2. LAA update

2.1. Operations update

S Starkey talked through the main points in the report. In November civil applications and amendments had been processed well within target.

Rejects. Following a query about the low turnaround time for processing CW3 extensions applications, S Starkey said that this was due to the high level of rejects; he offered to find out

the main reasons for these and percentage against intake. **#Action 3[Jan]** An improved, more informative CW3 form was going to be issued in April; this would facilitate correct completion.

Rejects levels of Claim1s had come down to below 9%, from over 30% 12 months before. P Seddon asked for a breakdown between fixed fee and non-fixed fee claims. **#Action 4 [Jan]**

Equally, reject levels for advocates had come down significantly. LAA continued in their efforts to bring the levels down even more.

Escaped cases. At the Nov meeting CCCG had requested to see data on escaped cases; S Starkey had produced a report¹ of cases processed between 1/07/14 and 30/09/14. He explained that he did not have figures for 2011-12 because the CWA system used to monitor legal help cases did not recognise escaped cases; it simply showed adjustments which could be due to a variety of reasons such as audit activity, an escaped case assessment or an error. The data in the report had been manually produced by the 2 teams responsible for processing these cases.

There was discussion about the report and the perception that both the number of claims being nil assessed and the number of assessments had increased.

S Starkey explained that when an escaped claim was received a caseworker would decide whether to a) pay it in full or b) assess it. If the claim was assessed the options were:

- 1) Assess it down but it remained escaped
- 2) Assess it down to a fixed fee
- 3) Assess it down to nil or
- 4) Reject it

In response to a query S Starkey said that in Immigration the volume of claims paid in full was particularly low, below 30%, because of the high level of rejects [56%]. The top five reasons for rejects had been highlighted in the report.

LAA planned to break down the escaped cases reject data by firm and share the information with the Contracting teams so that they could have a dialogue with those firms with the highest reject levels. At this stage LAA didn't know whether rejects were evenly spread or if a small number of providers accounted for the majority. LAA to share this information with CCCG **#Action 5 [Jan]**

Post meeting note: LAA are producing the reports which will be available to Contract Managers to discuss with their individual firms

Rep bodies asked for information on the outcome of cases that had gone to appeal; they were aware that a high proportion of decisions were overturned at this stage. S Starkey would provide stats on appeal outcomes **#Action 6 [Jan]**.

Rep bodies said that many providers were disinclined to submit escaped claims because: a) it was time consuming and b) they were often assessed down or rejected; they opted to reduce them to the fixed fee instead. S Starkey said that across the board approx 50% of claims were paid in full



and about 7% were nil assessed on means assessment grounds. With regards to the latter, providers could submit the evidence retrospectively and the claim could be reinstated.

A request was made for the report to separate Family cases from the rest of civil cases. **#Action 7 [Jan]**

LAA planned to focus on replicating the success achieved with Claim1s processing with FAS and FGF claims. Checklists were highly effective in helping providers to complete claims without errors and rep bodies should continue to encourage providers to use them.

Providers had reported that LAA reject letters to providers no longer had the e-mail address laacivilclaimfix@legalaid.gsi.gov.uk. LAA to investigate and make any amendments necessary **#Action 8 [Jan]**

Post meeting note: All rejected claims will be accompanied by a reject checklist and this makes reference to the reject fix email address. In addition to this all finance caseworkers have been reminded to include the email address in letters they are sending in connection with rejected claims. If members have any instances where the email address hasn't been included in the correspondence please forward them to Stephen Starkey or Jayne Nevitt who will be happy to take this forward with the individuals concerned.

2.2 VHCC update

The VHCC Family working group had begun work on a simplified scheme that gave proper controls over the legal aid fund. This work was expected to be completed in March.

The group was also revising the '*Guidance on the Remuneration of Experts*'. The guidance would be completed in March.

S Starkey to check whether the end of March was when the guidance was going to be published or the policy implemented **#Action 9 [Jan]**.

Post meeting note: E Druker in the process of amending the draft. LAA to meet with the rep bodies on 23rd March to discuss revised draft.

2.3 Client and Cost Management System (CCMS)

J Risk said that since the conclusion of the system rollout, firms had continued to submit new applications on CCMS on a voluntary basis.

- 1) LAA had received over 21,000 applications on CCMS from over 825 providers that used the system to manage cases.
- 2) Just over 1/3 of new applications were being submitted on CCMS and this figure was increasing week on week.
- 3) LAA were gathering feedback from firms via pulse surveys, contract managers and direct feedback from providers.
- 4) LAA used feedback to identify where enhancements were required and remained committed to continually reviewing the system. LAA planned to publish an overview of enhancements by the end of January which would include:

- The next planned batch of enhancements
- Enhancements requested by users which LAA would consider making in the future
- Enhancements that could not be made for technical, legal or policy reasons

Providers would continue to be given time to a) get used to the system, b) train their staff, c) build up experience and support would continue to be provided via:

- WebEx master class sessions which continued to be popular
- Contract managers

LAA had discussed options for mandating CCMS with Rep Bodies prior to Christmas and were currently working on possible timelines. A minimum of 3 months notice would be given prior to making the system mandatory.

Rep bodies remained in favour of electronic working but had concerns about the time and financial drain that these changes were imposing on providers. LAA had to be aware that this was a 'big deal' for the profession. CCMS could be a bigger viability issue than the Crime tender and providers would be run into the ground if they could not process their work. CCMS had to be made to work not just for LAA but for providers and clients too.

Rep bodies stressed that, before mandating use of CCMS, all glitches with the system had to be resolved and enhancements implemented. Specific billing enhancements were considered crucial.

LAA ought to encourage providers to engage with the system before it was mandated. One way of doing this could be to make additional payments to cover the costs of inputting the means information.

2.4 Commissioning Update

T Colliou said that guidance² for providers that wished to apply for additional matter starts would be ready shortly and it would be circulated to the group. **#Action 10[Jan]** Applications would be considered individually on their own merit.

LAA had taken action to fill access gaps following provider withdrawals from the Housing Possession Court Duty Scheme [HPCDS] and Housing services. LAA continued to monitor access and capacity on a quarterly basis and Contract Managers provided information on withdrawals as well.

- 1) Suffolk Housing – Following 2 Expressions of Interest (EOI) processes, Shelter would be undertaking Housing work in Suffolk through Outreach arrangements. In response to a query T Colliou said that LAA had relaxed the requirement for a permanent presence within a procurement area because they had run the 2 EOIs.



- 2) Dudley Housing and HPCDS – Following an EOI exercise Wolverhampton CAB would be undertaking Housing and HPCDS work in Dudley through Outreach arrangements. This EOI was limited to current HPCDS providers in neighbouring Procurement Areas.
- 3) Telford HPCDS – LAA were currently running an EOI exercise for HPCDS in Telford which was due to close at 5pm the following Monday, 19th Jan. This EOI was limited to current HPCDS providers in neighbouring Procurement Areas.

T Colliou said that the mediation contract verification process would need to be completed by 1st Feb and the civil contract tender process would close on 23 Jan.

A Harvey asked LAA to urgently look into the issue of immigration removal centres being devoid of legal advice surgeries. **#Action 11 [Jan]**

2.5 Community Legal Advice (CLA) Tool update

C MyersWilson talked CCCG through a demonstration of the soon to be launched Beta version of *Check if Civil Legal Advice Can Help You*. The service enabled citizens to check whether they qualified for legal aid advice from Civil Legal Advice, the national advice line for England and Wales.

The tool was going to be further developed before the live launch; for example the scope diagnosis functionality would be expanded so that the pre-existing check [whether an individual could get legal aid] would become obsolete.

Post meeting note: Since the meeting the service has gone live at <https://www.gov.uk/check-if-civil-legal-advice-can-help-you>.

Some issues were raised which C MyersWilson would take away for consideration:

- 1) The question about the individual's salary should be amended; instead of asking for earnings 'before tax' it should ask for either 'gross' or 'net' earnings.
- 2) Users ought to be able to save the form so that they could log off and continue later.
- 3) A list of documents that users were likely to need in order to complete the form should appear on the front page, with specific items flagged on each relevant page, e.g. a wage slip on the income page.
- 4) A panic button should be added to enable users to instantly exit the tool.
- 5) A link to the demo site would be circulated to CCCG so that members could review it and feedback their views to Cat Myers Wilson.
- 6) LAA/MoJ to consider all of the above and update CCCG. **#Action 12[Jan]**.

Post meeting note: All comments given at and after the meeting have been fed back to the project team. These will be taken into consideration with ongoing research with users in order to determine what additional changes will be introduced over the coming months.

3. Issues raised by the representative bodies

3.1 Peer Review

A *Note for CCCG on Peer Review* had been circulated by J Cable prior to the meeting; discussion took place around the way the NAO had presented the data in their report on peer review results for 2012/13 and 2013/14. A Harvey felt that LAA ought to ask NAO to issue a clarification. LAA said that there was no realistic expectation that a clarification would be issued but would speak to NAO about it. **#Action 13[Jan]**

Post meeting note. Discussions have taken place with the NAO about the issues with the original data they published in their report on civil legal aid. The NAO are considering how to respond.

J Luba pointed out that in 2012/13 approximately $\frac{3}{4}$ [or 91 out of 124] of the total number of reviews had been targeted and that in 2013/14 that had decreased to $\frac{1}{2}$ [or 30 out of 125] indicating that a much lower number of firms had been a concern for their contract manager. This was encouraging. J Cable to share the stats for 2014/15. **#Action 14 [Jan]**

A Sherr said that peer review scores of 1, 2 and 3 were a Pass; a score of 4 was a Not-Pass but could be turned into a Pass in a very short period of time; a 5 was a Not-Pass that was very unlikely to turn into a Pass. 4 and 5 became a Failure if the score did not become a Pass after a second review.

LAA agreed to disclose the figures on peer review final outcomes every 6 months. **#Action 15 [Jan]**

J Cable would check whether the figures in the table relating to a rating of 4 and 5 referred to the outcome achieved after the first review or the second. **#Action 16 [Jan]**

Post meeting note. The data in the table referred to the outcome of the first review.

After the second review 32 re-reviews have taken following initial peer reviews undertaken in 12/13 and 13/14 that resulted in an outcome of 4 or 5.

- 28 of these resulted in an improved score.
- 3 band 4 results received the same score in the re-review.
- The 3 Band 5 re-reviews that have taken place all resulted in a subsequent 3 rating.

3.2 Audits

Providers had been complaining about the level of audit intervention they had to endure. J Cable said that there were different types of intervention:

- 1) Contract manager interventions
- 2) On site audits
- 3) Peer reviews
- 4) Recovery based activities, e.g. about using the correct codes or contract compliance audits

If providers passed an onsite audit they should not be subjected to another for at least a year but there was no guarantee that they would not experience a different type of intervention from either an assurance official or contract manager.

Going forward it was anticipated that assurance based audits would diminish as the team had been reduced. Also, a new database would be used to record all the interventions undertaken by each provider, thus reducing the risk of duplication.

J Cable stressed that the LAA's main goals were to process applications and bills on time and to avoid their accounts being qualified so if a provider appeared not to be complying with the terms of their contract the LAA would intervene.

A Harvey shared some of the actions that had come out of a meeting with John Sirodcar, LAA Head of Contract Management. One of these was to consider giving a provider the option to ask for an audit to be cancelled because of a clash with another, or for any other reason that would cause the firm considerable difficulties.

3.3 Escaped cases figures

LAA would provide headline figures for escaped cases in 2011/12. **#Action 17 [Jan]**

3.4 Domestic Violence and Child Abuse

Rep bodies asked LAA for greater detail about refusal reasons in relation to the private family law evidential requirements and volumes where decision to grant funding had not been reversed. C Hamed said that multiple refusal reasons could be recorded against a decision but that the majority of refusals for applications related to means. Additionally, where evidential requirements were not met, detail about why the evidence had not met these requirements was not recorded. R Rogers to let C Hamed know what level of detail she'd like to have **#Action 18 [Jan]**³ and LAA to take it forward **#Action 19 [Jan]**.

Post meeting note: Many cases have multiple reasons for refusals but the most common reason for refusal is on the basis of means. LAA will ask for a report showing the number of cases that have been rejected where at least one of the refusal reasons was that they did not meet the evidence requirements (this would include a failure to produce any evidence).

LAA cannot provide information on how many initial refusals go on to be granted on provision of further information or redrafted evidence, or on appeal.

It is the LAA view that the answer to the PQ from Sadiq Khan does not contradict their position; they agree that it would be helpful to have a meeting to discuss the operation of the 24 month rule. This will take place between LAA, Resolution and the Law Society on 11/02.

3.5 Interpreters

LAA agreed that there was an existing agreement to pay the Language Line's rate in respect of Telephone Interpreter services (this rate was 89p per minute back in 2012 when the agreement was reached and is currently 70p per minute). Non-telephone interpreter services would continue to be paid at the applicable codified rate.

Details of any cases that had been incorrectly assessed down since 1/12/14 should be forwarded



to S Starkey and he would ensure that the monies were re-instated (so long as the reduction was based on the application of an incorrect rate rather than any other assessment reason).

3.6 Immigration, Refugee Family Reunion

LAA had been asked for an update on the ongoing casework following the Court of Appeal decision in Guadanaviciene on 15th December. C Hamed said that the LAA had published a [news update](#) on 19th December and the information had been shared with CCCG on 10th January. A Harvey said that the published guidelines were not clear because when the original agreement had been made after the high court judgement, the position had been that a matter could be completed if the relevant stage of the case had commenced. Following the judgment, if further funding was required, for example for DNA testing, would the provider close the case, apply for exceptional funding and get paid a fixed fee for the work done so far, or could the provider continue while an exceptional funding application was made?

LAA agreed to look at the guidance and get back to A Harvey **#Action 20 [Jan]**.

Post meeting note: In July 2014, following the High Court judgement LAA published the following position, which remains unchanged:

“Please note that in the event of a successful appeal by the Lord Chancellor, the Legal Aid Agency will not reopen your decision to provide Civil Legal Services in relation to any work carried out up until the date of the new judgment on the basis of scope alone. [...] However, any subsequent work required or any new applications under the above Immigration Rules would need to proceed through the Exceptional Case Funding route as originally anticipated and set out in s10 Legal Aid Sentencing and Punishment of Offenders Act 2012.”

4. AOB None

Actions from this meeting		Owner	By when
AP1[Nov]	Include a reminder of the protocol for bundle costs would be included in the LAA e-update at the end of January.	K Hartup	Closed
AP2[Nov]	Share the new version of the Experts Guidance with the Bar before publication	D Keegan	30 Mar
AP3[Nov]	Find out the main reasons why CW3 extension applications are rejected and the percentage against intake.	S Starkey	 Microsoft Word 97 - 2003 Document
AP4[Jan]	Provide a fixed fee v non-fixed fee breakdown of Claim1s reject levels and reasons for these rejects	S Starkey	 Microsoft Word 97 - 2003 Document
AP5[Jan]	Share data about Escaped cases rejects by firm. Post meeting note: LAA are producing the reports which will be available to Contract Managers to discuss with their individual firms	S Starkey	Closed

AP6 [Jan]	Provide data on the outcome of escaped cases that had gone to appeal.	S Starkey	 Microsoft Word 97 - 2003 Document
AP7 [Jan]	Escaped Cases Report to separate Family cases from the rest of civil cases commencing Feb.	S Starkey	 Microsoft Excel 97-2003 Worksheet
AP8 [Jan]	<p>Check that reject letters have the email address [laacivilclaimfix@legalaid.gsi.gov.uk]</p> <p>Post meeting note: All rejected claims will be accompanied by a reject checklist and this makes reference to the reject fix email address. In addition to this all finance caseworkers have been reminded to include the email address in letters they are sending in connection with rejected claims. If members have any instances where the email address hasn't been included in the correspondence please forward them to Stephen Starkey or Jayne Nevitt who will be happy to take this forward with the individuals concerned.</p>	S Starkey	Closed
AP9 [Jan]	<p>Check whether the end of March was when the 'Guidance on the Remuneration of Experts' would be published or the policy implemented.</p> <p>Post meeting note: E Druker is in the process of amending the draft. LAA to meet with the rep bodies on 23rd March to discuss revised draft.</p>	S Starkey/E Druker	Closed
AP10 [Jan]	Circulate the new guidance on applications for additional matter starts.	T Colliou	 Adobe Acrobat Document
AP11 [Jan]	Look into the issue of immigration removal centres being devoid of legal advice surgeries.	K Wood 2 update CCCG	17 Mar
AP12 [Jan]	<ol style="list-style-type: none"> 1) Amend the definition of salary to 'gross' or 'net' earnings 2) Enable users to save and log off 3) Add list of documents necessary to fill the form to the front page 4) Add a panic button to instantly exit the site 5) Do a dummy run on the system and feedback to LAA 6) Update CCCG on the above <p>Post meeting note: All comments given at and after the meeting have been fed back to the project team. These will be taken into consideration with ongoing research with users in order to determine what additional changes will be introduced over the coming months.</p>	C MyersWilson	Closed

AP13[Jan]	<p>Raise the issue of misrepresentation of data in the peer review report with NAO</p> <p>Post meeting note. Discussions have taken place with the NAO about the issues with the original data they published in their report on civil legal aid. The NAO are considering how to respond.</p>	J Cable	Closed
AP14[Jan]	Share the available stats for peer reviews, targeted v random, for the current financial year.	J Cable	 Microsoft Word 97 - 2003 Document
AP15[Jan]	Share peer review final outcome figures every 6 months.	J Cable	
AP16 [Jan]	<p>Check whether the figures in the table relating to a rating of 4 and 5 referred to the outcome achieved after the first review or the second.</p> <p>Post meeting note. The data in the table referred to the outcome of the first review. After the second review 32 re-reviews have taken following initial peer reviews undertaken in 12/13 and 13/14 that resulted in an outcome of 4 or 5.</p> <ul style="list-style-type: none"> o 28 of these resulted in an improved score. o 3 band 4 results received the same score in the re-review. o The 3 Band 5 re-reviews that have taken place all resulted in a subsequent 3 rating. 	J Cable	Closed
AP17[Jan]	Provide headline figures for escaped cases in 2011/12.	S Starkey	15 Feb
AP18[Jan]	Request a breakdown of the reasons for DV and Child abuse refusals.	R Rogers	Closed
AP19[Jan]	<p>Respond to R Rogers request.</p> <p>Post meeting note: Many cases have multiple reasons for refusals but the most common reason for refusal is on the basis of means. LAA will ask for a report showing the number of cases that have been rejected where at least one of the refusal reasons was that they did not meet the evidence requirements (this would include a failure to produce any evidence).</p> <p>LAA cannot provide information on how many initial refusals go on to be granted on provision of further information or redrafted evidence, or on appeal.</p> <p>It is the LAA view that the answer to the PQ from Sadiq Khan does not contradict their position; they agree that it would be helpful to have a meeting to discuss the operation of the 24 month rule. This will take place between LAA, Resolution and the Law Society on 11/02</p>	El Druker	Closed
AP20 [Jan]	Look into the guidance for family reunion cases.	C	Closed

	<p>Post meeting note: In July 2014, following the High Court judgement LAA published the following position, which remains unchanged:</p> <p>“Please note that in the event of a successful appeal by the Lord Chancellor, the Legal Aid Agency will not reopen your decision to provide Civil Legal Services in relation to any work carried out up until the date of the new judgment on the basis of scope alone. [...] However, any subsequent work required or any new applications under the above Immigration Rules would need to proceed through the Exceptional Case Funding route as originally anticipated and set out in s10 Legal Aid Sentencing and Punishment of Offenders Act 2012.”</p>	<p>Hamed/EI Druker</p>	
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