



**Civil Contracts Consultative Group (CCCG)  
Minutes**

**9 November 2015**

**V5**

Date:	Monday, 9 November 2015		
Where	102 Petty France, London SW1A		
Chair:	James Hood – LAA		
Attendees:	Avrom Sherr –IALS Carita Thomas-ILPA David Holmes- MoJ David Evans-LAA Grazia Trivedi-LAA Jackie White – Shelter Jan Luba – BC	Joe Risk-LAA John Sirodcar-LAA Jon Cable-LAA Julie Demeritt-BC Malcolm Bryant-LAA Nick Lewis-MHLA Paul Seddon – ACL	Paul Harvey-LAA Rachel Rogers-Resolution Ronan Kelly - LAA Sara Stephens – HLPA Simon Cliff- TLS Steve Starkey – LAA Stephen Aynsley-Smith- LAA Tim Colliou – LAA
Apologies:	Carol Storer – LAPG Kerry Wood –LAA Jenny Beck-LAPG	Richard Miller - TLS Nicola Jones-King – ALC	Kathy Hartup – LAA Jenny Beck - LAPG

**1. Minutes** from September were approved with P Seddon’s corrections to items 2.2, 3.2 and 4.

1.1 Review of actions

Action 2 Covered under item 2.2

Action 6 Covered under AOB

Actions 8 and 9 J Beck had asked the LAA if it was possible to make arrangements for funding for Emergency Legal Aid to be granted in less than 48 hours in special cases; the LAA stated that they would not be able to resource this service but agreed to keep this under review. S Starkey to ask Joanne Bainbridge (LAA Head of Operations (Civil)) to contact J Beck about this **#Action 1**

Action 12 there had been a very low uptake of the early VHCC training sessions, which led to a surge of providers wanting to participate in the later sessions; however not everyone could be accommodated due to demand at that point; thus, the LAA ran 2 well attended face-to-face sessions at Petty France on 9<sup>th</sup> October with no plans for more.

M Bryant said that since the start of the Family CCFS (Care Case Fee Scheme) the LAA had received 200 applications, which was within the normal monthly intake. Only 8 applications had been made for cases to be treated as exceptional of which 3 had been granted, 3 needed more information and 2 had been refused.

Action 13 this was a policy issue for MoJ. MoJ had been in contact with The Law Society and Resolution. E Druker would take this up out of committee with R Rogers **#Action 2[Sep]**

Action 17 This action was taken forward to the next meeting. J Hood asked members to let him know their views on how the meetings could be more productive and constructive; he would send an email with his own thoughts to start the action off. **#Action 3 [Sep]**

Action 18 S Cliff confirmed that this action had been closed by The Law Society.

Action 20 E Druker said that the guidance on means assessment was going to be amended. This was work in progress and was being taken forward by Grace Nichols [MoJ].

E Druker would contact N Jones-King to ask for specific examples of file reviews where level 2 advice had been claimed and contract managers had concerns about the form of the pre-proceedings letter from the Local Authority. **#Action 4[Nov]**

## 2. LAA updates

### 2.1 Operations update

S Starkey said that performance over the previous 2 months had been very stable. The only significant change had been an increase in processing time of Immigration CW3 applications which had gone up to 9 days. The LAA were trying to bring this down again.

He also drew members' attention to the Appeal report relating to finance appeals that had been circulated prior to the meeting and talked about the data within the report.

Not all members had had sight of this report so the Chair suggested that all the reports be recirculated. **#Action 5 [Nov]**.

### 2.2 CCMS update

Joe Risk said that his update would cover 3 key areas uptake, enhancements, and prioritisation of CCMS work.

#### Uptake

The current position was:

- Over 63,000 applications now submitted on CCMS + 100,000 bills (inc. POA)
- 71.4% of 1634 providers had now used the system in some way with 25% of these firms using it for 100% of their work
- The LAA had now had 2 consecutive weeks of 60% of new apps coming in on CCMS.

#### Data re those not using CCMS

The LAA had completed some analysis of providers not using CCMS and a sample period of the first 2 weeks of mid-October had been reviewed:

During the period, 1179 provider offices submitted applications by either CCMS or Paper. Of the 1179 provider offices:

- 719 used CCMS (61%)
- 460 used paper only (39%)

Provider size by app volume (measured in last full month)	Number of provider offices of this size (lead & linked offices)	%	Number of Contracted providers.	%
Irregular users (no apps submitted in September)	65	14	41	14
1-5	258	56	167	56
6-9	78	17	49	16
10-14	33	7	17	6
15-19	8	2	8	3
20+ apps	18	4	15	5
Totals	460	100%	297	100%

Irregular users (providers not submitting every month):

507 provider offices did not submit any applications in October

121 of these providers had not submitted an application in August, September or October.

#### Enhancements

- The new interface was released on 02/11 and feedback had been good although not universal. Roughly 50% of users who fed back said the enhancements had improved their experience of using the system. Minor adjustments had been made following feedback from users.
- Work was ongoing to upgrade merits, means and document upload – beta rollout had begun for 2 firms and further testing had been completed before further rollout in November.
- Testing had now concluded on a new remittance advice which would allow chambers users to download a single document with all remittance advice now contained in one document rather than a number of individual ones – release date had not yet been confirmed.

#### Prioritisation of CCMS work over that of paper

In the past month the LAA had begun to prioritise the completion of work submitted on CCMS over that of paper as an incentive for providers to use the system. Although all work would be completed within KPIs, providers submitting on CCMS should see a noticeably faster turnaround on CCMS.

#### General points

Rep bodies reiterated the profession's concerns about the viability of the February deadline for mandation and felt that it put too much pressure on both LAA and providers.

Resolution would contact their members after the forthcoming meeting with the LAA to discuss CCMS, to get a sense of their position in relation to CCMS and would feedback to LAA. It was

requested that a summary of the discussions between LAA and Rep bodies on 12/11 be shared with CCCG. J Risk to update CCCG **#Action 6 [Nov]**.

J Luba stated that the Bar Council were grateful for the move to the new remittance advice by chambers rather than individual ones. He enquired how many certificates had been issued by the system with a prefix 3 which gave users an idea of the volumes that had gone through CCMS. J Risk confirmed that 63k civil applications had been submitted through CCMS. **#Action 7[Nov]**

J Luba also asked how many barristers used CCMS versus those that did so on paper. **#Action 8 [Nov]**

P Seddon asked to see the proportion, out of the 100k+ figure given, of POAs, Providers' end bills and counsels' bills **#Action9[Nov]**

### 2.3 Commissioning update

**Headline Intentions<sup>1</sup> for alignment of civil face to face contracts in 2018.** T Collieau talked about this paper, published on 6<sup>th</sup> Nov. J Hood clarified that Immigration Removal Centres [IRCs] and Housing Possession Court Duty Scheme [HPCDS] were not included: IRC contracts would be extended until April 2016 and HPDS until October 2016. It had not been decided yet whether contracts in these two areas would be retendered or the existing ones extended.

J Luba asked whether it was known how many providers had chosen to not continue with the contract for the extended period. T Collieau said that there was no issue with regards this.

**2015 Standard Civil contracts.** The majority of Action Against the Police [AAP], Clinical Negligence [CN] and Public Law [PL] contracts had been uploaded; not all providers that had been awarded a contract had engaged with the verification process and had to be chased, some had not returned the AC1 form and in some cases there had been issues that needed to be resolved. Not all firms appeared to be accepting the contracts and it was not clear whether this was due to a known yet technical issue, which was being addressed.

The first tranche of Public Law schedules had gone out mistakenly stating that providers did not have the authority to self-grant. Rep bodies requested that providers be informed directly that they did have the authority to self-grant. **#Action10 [Nov]**

J Luba asked for a breakdown of the figures relating to the civil tender once it was over. J Hood confirmed that the outcome of each tender would be published. The LAA would consider undertaking a "lessons learned" exercise for the tender. T Collieau would look into this **#Action 11 [Nov]**

### 2.4 VHCC update

**Exceptional Case Funding [ECF]** The LAA had amended the ECF provider pack and forms for clients and providers to take into account the judgement of Mr Justice Collins in IS v The Director of Legal Aid Casework and the Lord Chancellor.



Notification of the changes would be sent to all providers via the Legal Aid e-Bulletin on 12 November. The following changes had been made:

- the [gov.uk](http://gov.uk) website content on the ECF scheme and how to apply had been updated
- the CIV ECF1 form and the provider pack had been revised
- the Lord Chancellor's Guidance under section 4 of LASPO had been amended.

This judgement was going to be appealed and the LAA would review these changes following the outcome of the appeal. The appeal date had been set for 24-25 April 2016.

The LAA planned to arrange a meeting with rep bodies to discuss the interim arrangements put in place prior to the outcome of the appeal in April.

Statistics for the period June-Sep 2015 showed an increase in the grant rate. Since April 2015, 1,045 ECF applications had been received, 81 of them on CCMS.

M Bryant thanked The Law Society [TLS] for their collaboration on the revision to the CIV ECF1 Form. S Cliff said that had if TLS had been allowed to share the task more widely with specialist stakeholders they would have been able to give more useful/constructive feedback.

As VHCC stats were included in the operational report it was agreed that the heading of the standing item on the agenda in future would be changed from VHCC Update to High Cost Cases Group which would cover ECF, HCC and immigration. **#Action 12[Nov]**

**VHCC** J Luba enquired whether any progress had been made on any other standard fee events models. M Bryant confirmed that the LAA was going to consider this.

### 3. Issues raised by representative bodies

- 3.1 Improving Quality Guides. S Aynsley-Smith said that the civil peer review guides would be updated like the crime one. The updated crime guide would be shared with CCCG as soon as it was feasible. LAA would be meeting with peer reviewers and A Sherr the next day to work out who would be reviewing the civil guides. The LAA was also recruiting new peer reviewers.
- 3.2 Audits. On 14<sup>th</sup> Oct rep bodies had met with LAA to discuss this and a note had been circulated to the group<sup>[1]</sup>. At the meeting it had been agreed that audits would be a standing agenda item for both Crime CCG and Civil CCG to allow a discussion by (a) LAA on any emerging issues/trends (b) by rep bodies on any particular issues or concerns they wished to raise. If, as a result, any CCCG member wished to discuss something in more detail a bilateral meeting could be arranged outside committee. It was agreed that this arrangement would be tried at the next CCCG to see whether the agenda allowed for this topic to be covered to rep bodies' satisfaction.

N Lewis raised a point about MHLA members sharing their concerns about other providers' fraudulent activities to the LAA and the perception that no action had been taken. J Sirodcar welcomed any such issues to be flagged to him and he committed to providing as much feedback as possible. If the LAA were in liaison with a prosecuting authority, it was common that the LAA were advised not to discuss the details of intentions any further. John confirmed that providers



or rep bodies should continue to come forward with their concerns and to contact him in the first instance.

J Luba asked why the projection of the number of contract sanctions for 2015-16 [187] was significantly higher than the numbers for 2014-15 and for the current financial year to date [84 in 2014-15 and 78 in 2015-16 to date]. J Sirodcar said that the LAA's approach to contract compliance had, quite rightly, become much more vigorous over the last few years and linked this to an increase in the number of concerns raised by providers about other firms. Also, if a firm had received a number of contract notices about the same issue and the remedial action taken by the firm had not been effective, the LAA had a case to issue a sanction. The difference between a contract notice and sanction was that the latter gave the firm a right of appeal to the contract review body. To his recollection no LAA sanction had ever been overturned on appeal, thus showing that sanctions were not being applied inappropriately. A sanction would for example prevent new work to be started and current work to be billed until the issue was fixed.

3.3 Civil Tax Bills R Kelly had circulated a paper prior to the meeting and talked about the salient points in it.

6-8 weeks previously the LAA had started to audit 10% of taxed bills that had come through from the courts for LAA to make payment. This measure had been introduced to attempt to reduce the error rate; the most common reasons for errors had been listed in the paper's Annex<sup>[1]</sup>. The LAA had sent a note to rep bodies in September informing them of this.

J Cable said that introducing pre-payment audits of 10% of all bills had been a necessary measure to reduce error rates in the current year. The 90% of bills that were not audited underwent a series of checks from the case management team before payment was authorised. If an error was found in the audited case files the LAA would inform the provider of the revised amount they were going to pay and would do so without going back to the courts for a revised bill. Payment would not be withheld until the issue was resolved.

J Luba pointed out that providers affected by the pre-payment audit were effectively required to produce the case file twice [to the court and to the LAA] with a significant impact on their resources and payment timing.

J Luba suggested that an analysis of the process outcome may show that the judiciary and courts cost officers could no longer be trusted to assess bills and asked whether they were aware that the practice had been introduced. J Cable confirmed that they were.

P Seddon said that the pre-payment audit could be a good thing because providers may take more care when submitting a file for assessment. A report would be produced on how this approach was working for the next meeting. **#Action13 [Nov]**

3.4 LAA's response to Association of Cost Lawyers response on consultation of the Claim 1B. P Seddon to send a follow up paper stating ACL's issues with the LAA's response which included feedback on the form. P Seddon said that the VAT question on the form was wrong and J Sirodcar said that if this was the case, then this had to be rectified. **#Action 14[Nov]**



J Sirodcar said that there were no plans to release the new form prior to the set time when the Master Pack was scheduled to be published [around May time]. The form could be made available to providers that asked for it, however if an issue arose that threatened the outcome of the accounts qualification, the LAA would have to introduce it before the Master pack was published.

#### 4. AOB

4.1 A schedule of 2016 dates had been circulated

4.2 Matter starts. Nick Lewis asked whether more matter starts in mental health would be allocated to providers that wanted them. J Sirodcar said that some mental health providers had the ability to self-grant additional matter starts up to 50%. If any firm was exhausting its matter start allocation and did not have authority to self-grant additional NMS, they should approach their Contract Manager who had been briefed to view the request sympathetically. With regards to a firm that had closed down, any unused matter starts would not be reallocated.

4.3 Claims data. There was a discussion about the report that had been tabled at the start of the meeting in relation to Action 6 [Sep] on number of hours claimed for controlled work against each category, showing pre and post LASPO figures.

It was confirmed that this data included escape cases data and all levels of Controlled Work. The data only showed the average hours and there was nothing in relation to value. The average value would likely have increased as well as there would have been a greater proportion of escape cases. Data on average values was included in the legal aid statistics.

Rep bodies requested that the data be split between escape cases that were paid by the hour, and fixed fee cases.

J Hood suggested that the report, that had first been shared at the previous meeting be circulated with commentary and with a link to the LAA stats pack. **#Action 15 [Nov]**

E Druker would enquire whether it was possible to get data on the number of cases that had been paid at the fixed fee rate plus the number of hours spent on them, versus the number of cases paid by the hour under the escape case provision and how much work would be involved in doing this. **#Action 16[Nov]**

J Luba accepted that this would be a big piece of work but pointed out that such analysis would provide the only logical basis for understanding the fixed fee.

J Sirodcar said that providers' reporting was highly inaccurate and could not be relied upon. Many providers logged the same number of hours when claiming for the fixed fee. There was agreement that rep bodies should ask their members to accurately report how many hours they spent on a controlled work case as this would inform understanding of the basis for the fixed fee.

4.4 Civil contracts. Rep bodies suggested that discussions and engagement ought to start in earnest to prepare for alignment of civil contracts in 2018.

Actions from this meeting		Owner	By when
AP1[Nov]	Ask Joanne Bainbridge [LAA Head of Operations (Civil)] to contact J Beck about applications for emergency legal aid in special cases	S Starkey	Taken forward
AP2[Sep]	Contact R Rogers about domestic violence evidence requirements	E Druker	Closed
AP3[Nov]	Circulate initial thoughts and invite views from members on how to make meetings more productive and constructive	J Hood	Taken forward
AP4[Nov]	Contact Nicola Jones-King to ask for examples of file reviews where level 2 advice had been claimed and contract managers had concerns about the form of the pre-proceedings letter from the Local Authority	E Druker	Closed
AP5 [Nov]	Recirculate all the reports and papers discussed at the meeting	G Trivedi	Closed
AP6 [Nov]	Keep CCCG informed about the outputs from the meeting about CCMS with LAPG, TLS, Resolution that took place in November	J Risk	Closed
AP7 [Nov]	Provide a breakdown of the 63k civil applications submitted through the system	J Risk	Closed
AP8 [Nov]	Provide the number of barristers using CCMS for POA and those that do so on paper		
AP9[Nov]	Provide the proportion, out of the 100k figure given, of POAs, Providers' end bills and counsels' bills		
AP10[Nov]	<p>Inform providers directly that they had the authority to self-grant in relation to Public Law matter starts</p> <p><b>Post meeting note</b> The LAA will publish the outcome of the Civil 2015 tender at the end of January 2015. We will remind all providers that bid for Lot 1 allocations that they have the authority to self-grant an additional 50% of their initial allocation of matter starts at this point. The next set of contract schedules that commence on 1 April 2016 will show the authority</p>	T Collieu	Closed
AP11[Nov]	Publish the outcome of the civil tender – see above AP10 [Nov]		Closed
AP12[Nov]	Change the standing agenda item VHCC update to CCFC update	G Trivedi	Closed
AP13[Nov]	Produce a report on the new pre-payment audits	R Kelly/J Cable	Closed
AP14[Nov]	Circulate a paper stating ACL's issues with the LAA's response to its submission about the revised Claim 1B form.	P Seddon	18 Jan
AP15[Nov]	Circulate the report with claims data with commentary and the link to the LAA stats pack	E Druker	Closed
AP16[Nov]	Ask the LAA stats team for data on claims split between fixed fee and payment by the hour	E Druker	Taken forward