



The Law Society



Legal Aid Agency

Civil Contracts Consultative Group (CCCG) Minutes

24 January 2018

Date:	Wednesday, 24 January 2018	
Where	102 Petty France	
Chair	Hannah Payne Service Development/Commissioning [LAA]	
Minutes	Grazia Trivedi - [LAA]	
Present	Avrom Sherr - IALS Carita Thomas – ILPA Carol Storer – LAPG Charlotte Hooker-Assurance [LAA] Cindy Barnes-Assurance [LAA] Eleanor Druker - Service Development [LAA] Emily Timcke – Bar Council John Sirodcar-Contract Management [LAA] Jon Cable-Assurance [LAA] Laura Wensley-Commissioning and Ser. Dev. [LAA] Luke Crosby – Digital [LAA] Malcolm Bryant – Exceptional and Complex Cases [LAA]	Mike Ray – Commissioning [LAA] Nick Lewis-MHLA Nicola Jones-King ALC Nimrod Ben-Cnaan Law Centres Network Richard Knight – External Communications [LAA] Richard Miller – Head of Justice, The Law Society Robert Barker – ACL Rob Linham – Legal Aid Policy [MoJ] Sally Cheshire - HLP Steve Starkey – Civil Operations [LAA] Stuart Hearne – Shelter Vicky Ling – Resolution Zara Topping - Digital [LAA]
Apologies	Paul Seddon ACL	

1. Minutes of the November meeting were approved.

1.1 Actions from the previous meeting

- *Action 1 [May]* The ministers had not responded to the consultation on Universal Credit. To be carried forward **Action 1**
- *Action 2 [Sep] Cost Assessment Guidance amendments.* The Association of Cost Lawyers committee had reviewed the data provided by S Starkey on 23 October and had subsequently put out a survey to their members to look at times being claimed in respect of CCMS completion; P Seddon would feedback the results but in the meantime he sent S Starkey his comments on the Cost Assessment Guidance for the purpose of making improvements/amendments. Update at the next CCCG **Action 2**
- *Action 6 [Nov] The Behavioural Insights interviews* did not take place in January as planned. Z Topping to inform CCCG when they were going to happen. **Action 3**
- *Action 8 [Nov]* Z Topping apologised for not circulating the note from the meeting held on 3 October 17 to discuss merits interviews. Due to an incident involving a number of providers during October and November, the notes, updated with a reference to the issue, would be shared when it had been resolved. **Action 4**
- *Action 9 [Nov]* The Law Society had started to collate feedback on workarounds and had shared this with Z Topping. This document remained a work-in-progress and would be updated with further feedback. Z Topping to provide a response to the feedback already received. **Action 5**
- *Action 12 [Nov] Membership of PET.* The Process Efficiency Team [PET] was going to meet the following day to discuss Case Plans in Family, the biggest volume area; other areas, specifically Immigration and Public Law generally, would be considered and as such membership of the PET group to deal with specific category projects. A very helpful document from The Law Society on Case Plans had shown inconsistencies in practice by some of the sub-teams within ECC and by providers; these practices often arose as applications to amend Case Plans came very late. N King-Jones said that several key players in the arena of family law were not on the PET membership, and they had been on earlier groups which was not ideal. M Bryant would raise this at the PET meeting the following day. **Action 6**
- *Action 13 [Nov] Delays in Exceptional funding cases.* Due to the very high volume of applications the team had adopted a harder reject policy in the inquest category to speed up the process; if vital, critical documentation was not included with the application it would be rejected.

Inquest had been targeted and this had already had a favourable impact on turnaround times. N Jones-King pointed out that providers didn't send court documents because they did not yet have them. M Bryant said without key documents the LAA could not make a merits determination. M Bryant was asked to share the list of vital documents that were most often left out and FI was requested. **Action 7.**

The team were also considering the introduction of a template to be used for all levels of service whereby a provider had flagged up a case as urgent on CCMS; the case would then be emailed to the team. The template would help the caseworker to classify the urgency of a case and ensure consistency. Once the case had been screened the provider would be informed of the outcome with regard to urgency.

- *Action 14 [Nov] Communication on the position on non-fundable trafficking cases.* Due to ongoing litigation the LAA had not been able to publish their position. C Thomas could not accept as reasonable the LAA's explanations for declining to share their interpretation of the statute. C Thomas expressed the view that providers were being told different things by the LAA.

C Thomas suggested providing a list of possible types of work to ask if the LAA could confirm if they would be funded, if the LAA would not publish a statement about what was fundable and what was not. M Bryant agreed to look at this list. **Action 8**

- *Action 16 [Nov] The LAA were actively looking at ways to make providers aware that they were getting into a debt position and about recoument plans.* H Payne would ask a colleague in finance to come to CCCG to answer providers questions **Action 9**

- 2 Peer Review** C Barnes talked about the report¹ that had been shared with the group beforehand. To date in the current financial year 3 peer reviews had been generated following a contract management referral, the rest had been generated at random. In response to a question A Sherr explained that it was not possible to explain from existing information the differing success rates between the categories of law, especially in relation to immigration and asylum. Recurring themes were identified and shared in the [Peer Review Guides](#).

In response to a question A Sherr said that the two main themes in mental health peer reviews were: a) providers did not sufficiently scrutinize the section under which the client had been detained and accepted rather than examined the legal papers b) the provider did not spend enough time or enough occasions on which to communicate with the client.

In immigration and asylum, the main issues were not spending time with the client going through the information that was essential for the tribunal so that the Home Office information was not looked at very well, clients were not treated with the greatest respect and the information about the country relating to the case was not sufficiently scrutinized.

The guides were a good source of information because they raised matters known to cause problems at peer review, but they were not a text book guide to how to carry out the work in a particular area. A Sherr asked for feedback from the profession about specific facts that would help peer reviewers to find ways of articulating better what they thought was necessary.

It was noted that in Family the results were better than they had been before LASPO. C Storer said that providers didn't know whether their peer review had been prompted by random selection or by referral and this caused anxiety. C Barnes said that she'd remove the word 'targeted' from the letter sent to providers informing them that they'd be peer reviewed so that there might not be any doubt about it being the result of a referral. It was agreed that a peer review update should be provided twice a year at CCCG.

- 3. Introduction of Rob Linham, Head of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 [LASPO] Post Implementation Review [PIR].** R Linham explained that a PIR was an analytical review of legislation against its original objectives and a cost benefit analysis of that. He described it as an impact assessment with 2020 hindsight to measure what happened and whether the assumptions had been correct. The work was divided into 2 strands:



Adobe Acrobat
Document

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- Look at 34 specific changes that were made by, or under, or in the context of, LASPO to find out the outcome in cost
- Look at the cumulative effect of all those changes and their impact on the market and the Access to Justice

The purpose of PIR was not to support policy recommendation but was a retrospective exercise to be used for future policy development. More information, like the type of evidence that was to be considered for analysis, would become available after ministerial approval of the plan.

In response to a question he said that the PIR wasn't likely to commission a search for fresh data but, if information that wasn't already available was deemed necessary to inform future policy making, then resource would be used to try and find it; the results would be in the final report. The research carried out by the Legal Aid Research Centre prior to its closure in 2013 was suggested as a good source of information that the PIR analysts should use. Their published research is archived online [here](#)

- 4. Change of Audit Approach** J Sirodcar said the LAA had decided that the time was right to amend the zero-tolerance approach to providers' errors and adopt a more flexible approach whereby contract notices {CN} would not be issued in instances where the issue was contained and minor. Contract Managers would look at the evidence and decide whether to issue a CN. J Sirodcar would ensure that consistency check of decisions would continue. N Lewis asked whether a provider would be allowed to make representations to the Contract Manager before any CN was issued. J Sirodcar said that, unless there was evidence that this was really necessary, there was no plan to introduce a complex system of paperwork and bureaucracy. If a provider considered a CN was unreasonable they could contact their CM but the contract did not provide a route of review or appeal for CNs. If the provider remained unhappy, they could e mail their CM with a compliant which would be seen by J Sirodcar.

Rep bodies welcomed the change in audit approach. There was no plan to formally issue communications around this but rep bodies could do so if they wished. J Sirodcar would update CCG in 6 months' time.

5. LAA Updates

5.1 Commissioning. M Ray gave an update on face to face capacity:

- North Hertfordshire – following an Expression of Interest a new Housing and Debt provider was selected for this area.
- Responses to the other 3 recent EOIs were currently being assessed:
 - Buckinghamshire – Housing and Debt
 - Milton Keynes HPCDS
 - Blackpool & Preston HPCDS
- The LAA were aware of 2 other HPCDS where current providers intended to cease delivering services prior to the new contracts commencing and would be seeking replacement services to maintain coverage for these schemes.
- In Immigration and Asylum, the LAA had previously reported 2 access gaps which continued in East & West Lancashire and North-East Wales; they would be seeking replacement services in these areas shortly.

- The LAA would be analysing the outcome of the 2018 face to face contract procurement process and in any areas where they failed to receive successful bids they would take action to place services. The assessment process continued for most categories.

On contract extensions:

- The main extension exercise concluded successfully with most providers accepting the extension.
- A small number of firms did not indicate their intentions either way and these had been contacted again to clarify their intentions.
- The new schedules would be issued by the end of March; an article would be published at the beginning of March setting out what was going to happen and by when.
- The extension to those who held one or more HPCDS schedules was issued the previous week. Providers had until 31 January to accept the extension. Those who had not responded to date, would be contacted by their contract manager.
- The extended schedules to 30 September 2018 would be issued in March

5.2 Client and Cost Management System [CCMS]. The merits section of the amendments interview had been released and had worked well however in late Nov-early Dec some users experienced problems which stopped them from proceeding with an application so the contingency process was used to support these applications. The issues, including the automated dispatch of a letter bearing misleading information, were dealt with quickly, and others would be resolved shortly. Z Topping apologised for the difficulties incurred by the providers affected.

The Behavioural Insight team were reviewing internal processes and were supporting the review of 250 pieces of correspondence used by Case Management before speaking to providers. The team aimed to deal with the worst offending letters first then invitations would be sent to providers asking them to volunteer for the interview. Rep bodies would be informed when the letters were ready to go out so that they could brief their members.

Domestic Violence changes in response to legislative change were released to the system on the 8th of January.

Two further releases on the billing side under the FAS scheme had also been implemented. This eliminated some of the routes that advocates followed incorrectly resulting in rejects, requests for further information or causing subsequent delays to billing. Communications on this would be included in the LAA bulletin.

System issues, January 2018: There was a production issue on the 8th of January that impacted some CCMS users and their ability to successfully submit a bill; a fix was applied that same afternoon. On the same day there was a system issue that impacted some users across the network; this was resolved on the same day. There was a further incident in the same week that caused a system issue; the time from the issue to resolution was approximately 45 minutes.

In all instances message alerts were put on the portal dashboard for users and the Customer Service teams carried related messages on the call lines to advise users.

Z Topping would organise a meeting **Action 10** with rep bodies about CCMS, what had been achieved so far and what was planned for the coming year; how the feedback on merits had been dealt with; to talk about the discovery work around the top things users wanted changed; to identify

what changes would be most beneficial to most users; about managing expectations and about user research in light of HMCTS reforms.

C Storer said that it was not clear what progress had been made to improve the system based on the rep bodies members' surveys and everything else that they had done to help. Z Topping said that it was important to find the objective data. A new monitoring tool, the 8x8 had been introduced to monitor users' calls and emails; this had identified the key reasons that caused providers to contact the call centre.

The team were keen to involve rep bodies in an interactive session with the IT experts to show them what was being done to enhance the system and keep it stable. Rep bodies wanted the LAA to change the declarations but the team resisted this idea because the root of the problem wasn't the declaration; it was the questions that needed to be changed instead to prevent users from going down the wrong route.

N Ben-Cnaan raised a concern about user researchers [UR] contacting providers and not giving sufficient notice to arrange effective research. Z Topping confirmed this had already been flagged by the UR community who were discussing how best to combine and plan research to gain the maximum information and limit any disruption to providers.

5.3 Civil Taxed Bills update. There had been plans to move civil tax bills from the courts to the LAA. A final decision had not been made as to whether this was going to happen. Wensley-Payne would update CCCG when/if a decision was reached. C Storer asked whether representation could be made before a decision was reached because both providers and the LAA had expressed concerns about this. C Storer agreed to feed these concerns to Jane Harbottle who led on this work.

5.4 Operations update. The operations report showed a very strong performance. ACL members had been experiencing long delays in Claim 2s. R Baker to send details to S Starkey who would look into it
Action 11

5.5 Exceptional and Complex Cases [ECC] M Bryant said that between June and December '17, 638 ECC applications had been received, with Immigration accounting for 50%; this was a 33% increase on the corresponding period in 2016; the trend continued to move upward. In order to speed things up the team had adopted a robust approach towards inquests applications whereby if key essential documentation had not been sent the application was rejected.

On 1st February a new operational arrangement would be applied with regards the Immigration out of hours service. The service would be moved to CCMS and would operate as before; the only difference was that the decision letter with a unique reference number would be attached to the merits report on CCMS. The certificate would be backdated to the date that the emergency was granted. A quick guide would be available on the CCMS website

6. Meetings to discuss improving processes for family and non-family high cost cases M Bryant was going to ask J Bainbridge at the PET meeting the following day what was planned for family and to discuss proposals for immigration and public law. See action 12 on page 2 above.

7. VAT El Druker to provide guidance on how VAT was applied to services. **Action 12**

8. N Jones-King asked whether the rumour was true that there had been a change on intermediaries and that the LAA would fund assessment. The LAA said there had not been a change and asked N Jones-King to forward the source of information to E Druker **Action 13**

9. Types of audit currently in operation and the numbers for each type of audit undertaken

J Sirodcar to circulate **Action 14**

4. AOB

Home Office Expression of Interest [EOI] on immigration advice El Druker said that she had met with the Home Office to clarify and they said it was not an EOI for providers to bid for a new paid service but instead to be on a list and Home Office could signpost and refer clients to providers on the list. E Druker asked the Home Office to ensure that legal aid providers were also on the list.

Actions from this meeting		Owner	deadline
AP1 [May]	Update on Universal Credit	Wensley-Payne	21 March
AP2 [Sep]	Update on Cost Assessment Guidance amendments and on the results of the ACL members survey on times being claimed in respect of CCMS completion	S Starkey/P Seddon	No deadline on this one
AP3 [Jan]	Inform CCCG of when Behavioural Insight interview were going to take place	Z Topping	
AP4 [Nov]	Circulate the notes on the meeting held on 3 October	Z Topping	21 March
AP5 [Jan]	Provide a response to the feedback form providers about workarounds	Z Topping	21 March
AP6 [Jan]	Raise the matter of membership at the PET meeting on 25 th January	M Bryant	Closed
AP7 [Jan]	Share the list of vital documents that are most often not included with ECC applications	M Bryant	21 March
AP8 [Jan]	Look into the LAA position on non-fundable trafficking cases with a view to communicating it to immigration providers	M Bryant	15 Feb
AP9 [Jan]	Invite a colleague from finance to answer question on the recoupment of money from providers and the position on notifying providers that they were getting into a debt position.	H Payne	21 March
AP10 [Jan]	Organise a meeting about CCMS	Z Topping	15 Feb
AP11 [Jan]	Send details of Claim 2 delays in processing to S Starkey to be investigated	R Baker/S Starkey	Closed
AP12 [Jan]	Provide guidance on what VAT was deductible and what wasn't	E Druker	21 March
AP13 [Jan]	Send E Druker the information about a change on intermediaries so she could look into it	N Jones-King/E Druker	30 Jan
AP 14 [Jan]	Circulate stats on each type of audit	J Sirodcar	Closed
AP15 [Nov]	Taken forward from the last meeting. Circulate the amended Provider Information Pack [inquests] when complete	M Bryant	28 Feb

AP16 [Nov]	Taken forward from the last meeting. Send R Field a breakdown of claims/bills types that would be useful to see published	P Seddon	28 Feb
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