



The Law Society



Legal Aid
Agency

Crime Contract Consultative Group (CCCG) meeting

Minutes

6 March 2018

V1.0

When:	Tuesday 6 March 2018 15:00 – 17:00		
Where:	102 Petty France		
Chair Minutes	John Sirodcar - LAA Grazia Trivedi - LAA		
Attendees	Alice Mutasa – TLS Adrian Vincent – BC Avrom Sherr – IALS Carol Storer – LAPG Daniel Bonich – CLSA	Elaine Annable – LAA Elliot Miller – LAA Glyn Hardy – LAA Graham Hughes - LAA Jane Edwards – LAA	James MacMillan – MoJ Matt Doddridge – LAA Nick Ford - LAA Richard Atkinson – TLS CLC Roger Ralph – CILEx
Apologies	Greg Powell – LCCSA Rodney Warren - TLS Rakesh Bhasin-LCCSA Andrew Cosma – Martin Murray Sols	Henry Hills – SAHCA Paul Keleher – CBA N Poulter – LAA Carla Walley-LAA	Richard Knight – LAA Tom Payne – BC Neil Lewis – LAA

Actions from the last meeting			
AP1 [Jan]	J Edwards to circulate redrafted Interest of Justice [IoJ] guidance including caseworker guidance.	J Edwards	6 Mar
AP2[Jan]	J Edwards to circulate data re instances in which a rep order is refused in an 'all options open' case.	J Edwards	6 Mar
AP3 [Jan]	J Parkin to update the group on design principles for HMCTS reform when they are ready.	J Parkin	15 May
AP4 [Jan]	All invited to contact J Parkin if they wish to be involved in the planned defence workshops, or if they wish to have a standalone workshop.	All	6 Mar
AP5 [Jan]	A Cosma to send details of duplicates with same DSCC number to J Sirodcar who will make enquiries as to whether this has been added to desired changes to the system	A Cosma J Sirodcar	6 Mar
AP6 [Jan]	M Doddridge to investigate issue regarding RUIs and requested whether it was possible to use a code for these.	M Doddridge	6 Mar
AP7 [Jan]	N Lewis to seek policy team attendance at a future meeting to discuss the wasted costs issue	N Lewis	6 Mar
AP8 [Jan]	N Lewis to seek Ministerial agreement to run a consultation on the inclusion of advocacy within the 14-hour rule.	N Lewis	6 Mar
AP9 [Jan]	All invited to arrange discussion between J Sirodcar / rep body / any provider who believes LAA have been unreasonable in imposing a sanction regarding the 14-hour rule.	All	6 Mar
AP10 [Jan]	E Miller to consider the issues re peer reviewers' access to digital information, and respond.	E Miller	6 Mar

Welcome and introductions.

1. Minutes from January were approved and would be published. Actions were discussed as follows:

AP1 [Jan] A revised Interest of Justice [IoJ] guidance had been circulated the previous week; rep bodies were invited to share the guidance with their committees and feedback their comments to J Edwards by 31 March following which the LAA would publish.
#AP1 [Mar]

AP2 [Jan] The data showed a very small number of cases were refused where "all options are open". This action was closed.

AP5 [Jan] It was possible to submit more than one claim under the same DSCC ref number in error. A request had been made for the system to produce a prompt asking users whether they were aware they were using the same ref number for a further case but this was not currently a high priority item to fix.

AP6 [Jan] The code that could have been used for RUIs had been removed from the new contract therefore this was no longer an option. If A Cosma, who was not at the March meeting, felt that the options should be restored then the LAA would consider it.

AP7 [Jan] See AP8 below

- AP8 [Jan] The LAA were close to getting ministerial view re a possible consultation approach to the 14-hour rule to include Crown Court advocacy. The LAA would meet with R Atkinson in March to discuss this and the wasted costs issue [AP7 above].
- AP9 [Jan] If a firm felt that they had been unfairly treated with regards the 14 hours rule they should contact their contract manager in the first instant and use the reviewed and appeal route in the contract. If the firm wished, they could in parallel also ask their rep body to hold a 3 ways conversation (rep body, firm and J Sirodcar).
- AP10 [Jan] At the peer reviewers' conference in February two options for accessing digital files had been discussed:
- using the crown court digital code system
 - use the secure file exchange mechanism
- Both option would incur a cost for the LAA and the chosen option would have to be piloted first. A Sherr stressed that peer review could not be done without access to the defence files. E Miller was going to a meet with the project managers for the secure file exchange the next day with the aim of bolstering the current business case with the peer review requirements. E Miller to keep CCCG informed #AP2 [Mar]

3 Electronic Defendants' Costs Order [DCO] Claims

J Sirodcar summarised what had been proposed in the DCO briefing ¹. The mandating date for compulsory electronic submissions was likely to be mid-July after notice was provided to firms in mid-April. Representative bodies agreed with the plans.

4 Audits

Two Contract Review Body decisions had resulted since the last meeting. One upheld the decision to terminate the contract. The second CRB decided to 'pause' a decision on 2 firms' contracts where 50% of duty solicitors had been, in Contract Management's view, found to not comply with the 14-hour rule. The firms had been asked to reflect on the CRB feedback and then get back to the LAA with their comments. The LAA would decide whether to terminate the contract or not; if termination was reimposed the firms could appeal a second time.

R Atkinson asked that the LAA share the outcome of these decisions with providers and inform providers about what counted/didn't count towards the 14-hour requirement. J Sirodcar agreed. He said that there were currently 10 other cases with the LAA contract lawyers; when these cases had come back to him with a decision and the Minister had decided on the 14-hour consultation, the LAA would publish further information. R Atkinson said that this plan would mean a very long time of uncertainty for providers. J Sirodcar explained that he didn't want to share the result from the 2 CRBs yet, in case the decisions on the pending 10 cases resulted in something different. He would update CCCG when a decision had been made on the 10 cases and expressed his disappointment that they had not yet been resolved despite having been with the lawyers for 3 months.

J Sirodcar was aware that providers wanted more certainty on the 14-hour rule and asked rep bodies to reassure their members that duty solicitors had not and would not lose their contract on the strength of



a minor point. He explained that he continued to be responsible for reviewing all the appeals against a decision to remove a duty solicitor so as to ensure consistency. Volumes had dropped dramatically with only one case in the previous month. R Atkinson said that many in the profession felt that the LAA was not doing enough to deal with firms that abused the system, seemingly without incurring sanctions. Some providers felt they had no choice but to join the rule-breakers in order to survive. To make matters worse there had been a downturn in work and a large share of it was taken up by firms that had broken the rules. Providers wanted the LAA do deal with this and soon. J Sirodcar understood the frustration when the LAA could not communicate decisions as reviews had not been determined. J Sirodcar and R Atkinson agreed to speak when the decision on the 10 cases was made. **#AP3 [Mar]**

In the case of a crown court judge asking the LAA and SRA whether an individual and his association with a number of firms whereby case fees were split amounted to a referral, the LAA had decided that in this instance a referral fee was not determined but there remained some issues regarding whether supervision was effective which would be followed up with the firms.

3. Operational update

The report showed a very strong performance on both billing and applications.

New/updated application e-Forms would be released on 20 March; CCCG and providers would be informed about the details in advance of the release.

4. Issues raised by the rep bodies

Response to the AGFS consultation

A Mutasa said that the impact assessment stated that the scheme was no longer cost neutral and it made reference to the increased fees of the junior bar; the Law Society was unhappy about this in view of the fact that LGFS had been cut; they asked where the extra money had come from. A Vincent expressed dissatisfaction from the Bar Council; he said that the actual spend in 2016-17 had been £226m so for the new scheme to be neutral the cost ought to be the same; the MoJ had secured the £224m from the Treasury however when they recalculated the cost based on more recent data, they came to a higher figure of £226m to be cost neutral, but the extra £2m was not put in. J MacMillan said that this was not what actually happened and gave a detailed explanation. The group asked J MacMillan to put in writing his explanation of why the scheme was not cost neutral because of a £2m shortfall; rep bodies said that there were contradictions within the impact assessment itself and wanted clarification on what was the 'intended' position and what was the 'actual' position. **#AP4 [Mar]**

5. AOB

- A provider had raised the issue of CRM7 non-standard files having to be scanned rather than sent electronically. J Sirodcar said that this fell under the secure file exchange mechanism issue discussed earlier under peer review; there wasn't yet an approved/agreed way of sending large files electronically. A bolt on system for larger files transfer was needed and a solution was going to be introduced soon.
- R Ralph spoke about the issue of advisers that were locked up in cells with potentially violent people while in police custody. The group suggested that local custody suites were, in such circumstances, reminded of the circular that had been issued by the Home Office in 2007 to be reissued. The guide advised that a panic button be made available inside the cell so that if activated the cell door would open.

Actions from this meeting			
AP1 [Mar]	Send comments on the revised IOJ guidance to Jane Edwards	Rep bodies	31 March
AP2 [Mar]	Update CCCG on secure file exchange mechanism	E Miller	May CCCG
AP3 [Mar]	Update CCCG on the outcome of the 10 cases currently with contract lawyers	J Sirodcar	May CCCG
AP4 [Mar]	Email CCCG to explain why the AGFS scheme was no longer cost neutral	J MacMillan	14 March