



The Law Society



Legal Aid
Agency

Civil Contracts Consultative Group (CCCG) Minutes v2

13 March 2019

Date:	Wednesday, 13 th March 2019	
Where	The Law Society, 113 Chancery Lane, London WC2A 1PL	
Chair	Richard Miller – Head of Justice [TLS]	
Minutes	Grazia Trivedi - [LAA]	
Present	Avrom Sherr – Peer Review [IALS] Carol Storer – A2J Chris Minnoch – LAPG Chris Walton – Shelter Claire Blades - CAB Eleanor Druker – Service Development [LAA] Emily Timcke [BC] Jo Fiddian – Service Development and Commissioning [LAA] Karl Ford – Contract manager [LAA] Kate Pasfield – LAPG Malcolm Bryant – Exceptional and Complex Cases [LAA] Maria Brown-External communications [LAA] Nick Lewis – MHLA	Nicola Jones King - ALC Nimrod Ben-Cnaan – LCN Noel Arnold – ALC Paul Seddon – ACL Paul Tyrer – Civil Operations [LAA] Sally Cheshire-HLPA Sarah Brewster – Commissioning [LAA] Steve Starkey – Civil Operations [LAA] Sue Antell – MHLA Tim Collieau – Commissioning [LAA] Vicky Ling– Resolution Zara Topping - Digital [LAA]
Apologies	Bob Baker – ACL	Kerry Wood – Commissioning [LAA]

1. **Minutes** of January's meeting were approved and would be [published](#).

1.1 Actions from the previous meeting.

Action 3 [Nov] Liz Whiting [Justice Statistics and Analytical Services] would attend CCG in May to show how tableau functionality could be used to view the desired statistics/data.

Action 8 [Jan] CCG were still concerned that solicitors would not have a choice in whether to take part in the pilot if their client chose to attend Court during the extended hours. It was agreed that A O'Connell would be invited to attend CCG in May when practical details of the pilots would be clearer including the cases affected and details on the participation fee. **Action 1 [Mar]**

Action 10 [Jan] E Druker confirmed that the LAA were in the process of amending the footnote in the contract schedule to make it clear when the higher requirement for new matter starts was triggered. The amendment would be subject to a consultation with the contract consultative bodies [TLS, LAPG, ASA and BC]. The amended contract schedule would then be published together with a news story on Gov.uk advising providers that the correct position was the one included in the Information for Applicants document. Contract managers were aware of the position. E Druker to share the note that Jake Kraft had sent to Simon Cliff on 8 March to confirm this position **Action 2 [Mar]** Closed

Action 11 [Jan] A Sherr explained why it was important to obtain data on the age of civil legal aid providers in each area of law. It was to gain a better understanding of whether enough younger practitioners were coming into legal aid and, if not, the impact on the sustainability of the civil legal aid market. There was discussion on how the information could be collated on an annual basis. The Law Society held the information for crime legal aid because it was included in the duty solicitors' files. The data showed that a disproportionately high number of providers was aged over 50 and a disproportionately low number was under the age of 35. Rep bodies wanted to find out whether the same applied to the civil side. E Druker to contact the MoJ analytical services and policy teams to see if they would undertake any work on this. There was a suggestion that contract managers collect this information on their audits, **Action 3 [Mar]** The Law Society analysts would also be on hand to help should that be required.

2. LAA Updates

2.1 Data breaches a paper had been circulated before the meeting on how to deal with data breaches; K Ford explained that the LAA planned to communicate this to all external providers and contract managers and asked CCG for comments. It was suggested that links to The Law Society's pages on General Data Protection Regulation and to the LAA data protection guidance be included, as well as data breaches by third parties. CCG to send any further comments to K Ford by the end of the week **Action 4 [Mar]**

2.2 Operations S Starkey said that 'slowness issues' relating to CCMS (which first occurred in November and had re-occurred in January) had had an impact especially on the Legal/means teams application processing times; but the teams had been working hard to ensure that their work positions were maintained as far as possible. So, whilst there had been some slippage, Application processing times were expected to return to normal in March. Good performance had been maintained in all other areas.

2.3 Commissioning

Rep bodies had requested to see the minutes taken at the *2018 Civil Contracts Tender Lessons Learned* [October] meeting and the Table of Issues discussed there. T Collieu explained that the LAA's contract assurance team who owned the lessons-learned project were waiting for comments from The Law Society and LAPG to the documents from that meeting. C Minnoch said that the LAPG

had no comments. R Miller requested that the project team contact him to clarify the position.

Action 5 [Mar]

Rep bodies had asked for information on the telephone gateway tender. The key issue was that in previous years providers had not been able to undertake this work, therefore a different approach ought to be adopted this time that would allow new entrants to engage; for instance, a more pragmatic approach to supervision requirements. E Druker said that the MoJ legal aid strategy team led on the project and would need to seek Ministerial approval for any proposals, while the LAA collaborated on the actual contract and tender. CCCG would be kept informed of timelines.

Rep bodies had requested to see a list of firms that had been awarded telephone contracts and had asked for this to be published. The list had been shared before the meeting but T Collieu explained that there was no plan to publish the list.

S Brewster gave an update on the current [tender](#) for housing and debt services. If a permanent presence wasn't secured in any of the areas then alternative arrangements such as a part-time presence would be considered. In response to a question T Collieu said that if cover wasn't secured in some of the areas the team would need to consider options for providing a service.

T Collieu gave an update on the way family contract holders report under their family schedule. He said that family access point codes had been removed from CWA in 2011 however, when the team were preparing to upload the 2018 family schedules they discovered that the access codes for about 40 procurement areas had not been closed down. To resolve the issue a note had been attached to the access points to say that this was for administrative purposes only. All access points would be closed on 1st July; claims made in July for work done in June would be affected by the change. July was the month when the schedules for the second year of the contract would be uploaded but, with careful planning and communications the transition would be smooth. After 1st July anyone trying to report an access code against their family claim would need to use a dummy code. T Collieu said that all the communications plans were going to be firmed up in April and he'd share them at the next meeting in May.

2.4 Exceptional and Complex Cases [ECC] M Bryant said a comment had been made in the LASPO Post Implementation Review [PIR] about ECF being unnecessarily complex and that decisions were not as timely as could be, so he had started to look into the process and how it could be improved. It was pointed out that ministerial decisions effectively put limits on what the ECC team could do. In terms of ECC performance the team had been successful in their efforts to reduce average case-processing times:

- applications - 23 days
- amendments - 15 days
- reviews - 28 days
- Exceptional Case Urgent Funding applications - 9 days
- legal help wavers – 2 days
- in-scope emergency work – 1 day

Too many emails were still being sent to personal contacts instead of the dedicated inbox: contactECC@justice.gov.uk; rep bodies were asked to encourage their members to use the dedicated email address. Also, providers were sending correspondence by post instead of the preferred electronic mode; therefore the team were having to transfer the documents by scanning to an electronic mode which took time and resource. ECC team were asking these providers not to

send small items by post/DX. There had been a big fall in the number of cases that required further information and M Bryant thanked the rep bodies for their support in getting this result by reminding their members of the need to provide documentation with applications.

The new "backdated" SI was in place but very few applications had been received so far. The immigration out-of-hours service had been closed as a result, as those applications were within scope of what could be backdated. M Bryant would monitor this and feedback at the next meeting if he noticed any trends.

The Process Efficiency Team [PET] were working on the family case plans improvements; Anthony Leal continued to be the point of contact [copying contactECC@justice.gov.uk] for providers with concerns in family which needed escalation to be resolved, and Malcolm Bryant for all other categories.

Most of the personal emails were in the Claims Against Public Authority category and, because the person these emails had been sent to was no longer with the LAA, the team were tracking them so they could be dealt with. If this correspondence had been sent to the team email they would have been actioned by now. M Bryant reiterated that all correspondence had to be sent to the dedicated inbox, copying in the named contact if it was considered to be helpful by the provider, but would prefer if it was not routinely copied.

N Ben Cnaan asked M Bryant for his views on the ECF review following PIR and whether he needed a ministerial steer. M Bryant said he would work when asked to with MoJ but that review would be the remit of MoJ. Malcolm Bryant however confirmed that his team would always review operational processes to see what could be improved and would always welcome feedback.

Rep bodies were interested in data on High Profile cases that had been referred to the high-profile case SOP and the reason for this, plus what other departments were consulted. M Bryant said no other departments were involved; the SOP set out the process. He would write a note on the data the LAA currently had with a link to the latest version of the SOP. **Action 6 [Mar]**

- 2.5 CCMS** Z Topping spoke about the issues that had affected the system's performance in the previous quarter, the impact it had on users and the fixes put in place by the digital team; she also talked about the long-term solutions that were being developed, like the redevelopment of bill submission and application processes. The whole external user portal [PUI] would eventually be replaced, bit by bit and a new app would be developed to work on phones and tablets. Rep bodies asked Z Topping to send a note around describing how practitioners' collaboration in the design process was being organised **Action 7 [Mar]**. Rep bodies stressed how important it was for providers to be able to work on the system off-line. Z Topping to find out if this could be done **Action 8 [Mar]**

S Antell complained about the system not allowing a user to submit all the documents in one go; providers had to wait to be asked for the additional papers at subsequent stage of the process. C Storer asked for the digital team to share more information at CCCG meetings and produce monthly reports on how users had been affected by system malfunctions so that a true understanding of the situation could be ascertained. They felt that the LAA were not aware of the scale of the problems experienced by users. Z Topping felt that stats on service availability would not give an indication of users' experience; there were so many systems interacting with the process, like CWA, that problems were bound to occur from time to time so it was important to be clear about what information would be relevant and useful. The digital and external communications team were committed to inform rep bodies when an issue was known to affect a number of users plus alerts were posted on portals when the server was down; furthermore, there was a customer service phone line that users

could use to report specific problems. Z Topping agreed to update CCCG on management information that could be shared and rep bodies would let her know what information they would find useful and why, for discussion at the following CCCG. **Actions 9 and 10 [Mar]**

The LAA were developing a new communication strategy and all of the points raised at CCCG would feed into that.

Digital meetings with rep bodies would be scheduled in April, July and October. Large meeting rooms for these meetings could be booked at The Law Society if nothing was available at the MoJ.

- 3 Interpreters fees** The LAA were proposing to remove the waiting time variance for interpreters attending court and just pay normal single hourly rate. The handbook was being updated with plans to publish on 1st April.

P Seddon asked if it was correct that there intended to be a transitional provision imposed on the removal of waiting time variance on interpreters attending court to the codified hourly rate only for fees from 1st April 2019. E Druker could not confirm and P Seddon said that any such transitional provision would be inappropriate, because the variance was imposed purely at the LAA's discretion (rather than the legislation) and was now being removed because market forces could not accommodate it meaning providers had already had to agree to pay interpreters at the full hourly rate codified under the Remuneration Regulations, therefore such a transitional provision would impose an unavoidable loss upon providers.

PET was going to deal with the issue about Court funded v LAA funded interpreters in the long term but in the meantime HMCTS and the LAA had collaborated on producing a joint statement on the funding of interpreters. It was hoped that the statement would be circulated through judicial channels once approved and HMCTS would communicate the message to all the courts.

The third issue was about interpreters unwilling to do an hour's work for an hour's fee and expected to be paid for 3 hours. E Druker said that the LAA could only pay for work actually done. MoJ policy team had given the portfolio on experts to a dedicated officer to deal with a wide range of remuneration changes and inquests.

- 3.1 Process Efficiency Team [PET]** a list of projects on PET's agenda had been circulated. E Druker would update CCCG following the next PET's meeting on 14th March. **Post meeting note:** E Druker sent the update to C Storer for review and for circulation to CCCG.

- 3.2 Audits** In response to their members' ongoing dissatisfaction and concerns about audit activity, rep bodies had requested an update from the LAA clarifying their approach to this process so that they could better understand and thus better support providers. Rep bodies felt that if a firm passed an audit they should not be audited again for at least another year; further audit activity would be warranted only if issues were found. They asked what the LAA's decision-making process was behind the selection of firms for various audits. They strongly believed that firms were over burdened with auditing activity, unnecessarily. John Sirodcar had attended CCCG 15 months previously to discuss the LAA's change in their audit approach, however providers' feedback indicated that the guidance was not being followed.

Providers' feedback highlighted issues with some CMs approach, for instance pursuing a point without reasonable grounds for doing so or a single error on a file triggering a very in-depth investigation. Providers felt victimised by being subjected to a string of audits and wanted to be able to raise their concerns about a CM's objectivity, plus they felt that their concerns were not taken on board by CMs. Rep bodies were reluctant to share specific examples unless anonymised because providers feared further auditing activity if they raised issues or complained. J Fiddian said that

anonymous, recent examples would be helpful. They asked for MI on auditing activity to see what type and how many audits each firm was having. J Fiddian would find out if this was available **Action 11 [Mar]**

4. AOB

Fitness for Human Habitation Act. Rep bodies said that legal aid practitioners were considering cases that could be brought within the scope of the act and wanted guidance. E Druker said that there were no plans to amend the guidance as the general requirements were quite broad and it was not the role of the LAA to issue guidance on scope of legal aid. It was up to solicitors to decide whether the legislation applied to each individual case and whether the requirements were met. E Druker would share a note drafted for caseworkers on the act. **Action 12 [Mar]** Closed

Legal Aid at 70. The Legal Aid Group were having a conference on 5th April to celebrate legal aid at 70. One of the items on the conference was a vote on the most important legal aid case ever with 6 cases shortlisted to present at the conference and then voted on. She asked whether the LAA’s CEO, Shaun McNally, would be willing/able to sit on a panel to shortlist the nominations and requested CCCG to have a think about legal aid cases that could be put forward as the greatest ever. Nominations to be sent to lag@lag.org.uk

LAA communications strategy M Brown asked rep bodies for any comments on the note¹ sent out on 22 Feb outlining the LAA’s revised communication strategy. **Action 13 [Mar]** to be sent to Maria.brown@justice.gov.uk

Actions from this meeting		Owner	deadline
AP 1 [Mar]	Ask A O’Connell to attend CCCG in May to update CCCG on the courts extended hours pilot	C Trivedi	Closed
AP 2 [Mar]	Share the note that Jake Kraft sent to Simon Cliff on 8 March to confirm the position on NMS allocation	E Druker	Closed 18/03/19
AP3 [Mar]	Contact MoJ analytical services and contract managers to find out what could be done to get information on the age of civil legal aid practitioners and update CCCG. Post meeting note MoJ analytical services are currently busy with the crime review but once they have resources available will consider this further.	E Druker	Closed
AP4 [Mar]	Send any comments on the <i>Data Protection: dealing with Data Breaches</i> paper to K Ford by the following Friday.	Rep bodies	Closed
AP5[Mar]	Ask the contract assurance team to contact R Miller to clarify the position on the lessons learned project.	T Collieu	Closed

AP6 [Mar]	Circulate a note on data available on high profile cases	M Bryant	30 Mar
AP7 [Mar]	Send a note around describing how practitioners' collaboration in the design process was being organised	Z Topping	Closed at digital meeting on 24 th April
AP8[Mar]	Find out whether the new PUI system could be made available off-line	Z Topping	
AP9 [Mar]	Find out what MI on CCMS could be shared with CCCG	Z Topping	
AP10 [Mar]	Let Z Topping know what MI information on CCMS would be useful and why	Rep Bodies	Closed
AP 11 [Mar]	Find out if MI was available on how many and what type of audit each firm was having and how many contract manager visits	G Trivedi	Closed
AP12 [Mar]	Share a draft note for caseworkers on the <i>Fitness for Human Habitation Act</i>	E Druker	Closed
AP13 [Mar]	Send any comments on the LAA revised communications strategy to maria.brown@justice.gov.uk	Rep bodies	Closed