

## Civil Contracts Consultative Group (CCCG) Minutes

15<sup>th</sup> January 2020

Date:	Wednesday, 15 <sup>th</sup> January 2020	
Where	MoJ, 102 Petty France, London SW1	
Chair	Jo Fiddian - Service Development and Commissioning [LAA]	
Minutes	Grazia Trivedi – Service Development [LAA]	
Present	Alistair Adan – Contract Management [LAA] Avrom Sherr – Peer Review Bob Baker – ACL Carol Storer – A2J Chris Walton – Shelter [TC] Claire Blades – CAB [TC] David Thomas – Contract Mgmt. and Assurance Eleanor Druker – Service Development [LAA] Eleanor Solomon – {HLPAs} Fadil Bukhari – Commissioning [LAA] Helen Keith – ECC [LAA] James Wrigley – Civil and Family legal aid [MoJ] Kate Pasfield – LAPG Kathryn Grainger – Process Efficiency Team [LAA]	Kathy Wong - BC Kerry Wood – Commissioning [LAA] Liz Giles – Communications [MoJ] Matt Walker- Analytical Services[LAA] Nimrod Ben Cnaan - Law Centres Network Paddy Enright- Contract Manager [LAA] Richard Miller – Head of Justice [TLS] Russell Barnes – Communications [LAA] [TC] Simon Cliff – policy adviser [TLS] Sonia Lenegan – [ILPA] Steve Starkey – Civil Ops [LAA] [TC] Tim Collieu – Commissioning [LAA] Vicky Ling – Resolution
Apol	Somia Siddick – ALC	Nick Lewis - MHLA

## 1. Immigration Tribunal Reform

J Wrigley said that there would be no mandatory roll out of the HMCTS digital pilot for immigration appeals until the issues around funding had been resolved; this was going to be raised with ministers in the following weeks. Once ministerial approval had been secured the LAA would discuss the proposals with the profession and then follow up with a short contract consultation. Any changes to the fee scheme would be longer term as they would require negative secondary legislation to be laid in Parliament. HMCTS would do an impact assessment.

## 2. Legal Support Programme

L Giles introduced herself to the group. She recently joined the International Strategic Communications Team within the Communications & Information Directorate at MoJ. She said she was keen to make contact with the profession in order to understand the issues affecting civil legal aid from a campaign perspective. It was agreed that rep bodies and L Giles would set up a meeting to discuss but in the meantime members were invited to email L Giles directly at [liz.giles@justice.gov.uk](mailto:liz.giles@justice.gov.uk) to share their views and names of individuals that could take this forward.

## 3. [Minutes](#) and actions.

The minutes of November's meeting were approved and would be published.

Action 2 [Sep] P Enright said that more work was needed in order to identify the data that was available and how it was captured in terms of what providers reported both from the service side and specialist side. Rep bodies were interested to know the total number of calls into the CLA service, the number of calls transferred to a specialist provider, the number of cases opened by specialist providers, how many clients asked for face to face advice but didn't get it and information about callers that didn't go through the system. It was agreed that time would be allocated at the next meeting to discuss CLA statistics with M Walker. **Action 1 [Jan]**

The timeframe for when the mandatory element of the gateway would be removed wasn't clear; it required an amendment to the procedural legislation.

Action 3 [Jul] The only feasible option was for a placement in the ECC team headed by M Bryant. A job description had been prepared and there would be a discussion about the criteria in terms of what type of individual they wanted to attract and how it could be done.

Action 15 and 16 [Nov] the information on how many new discrimination cases had been started by a telephone specialist provider was not yet available and would be shared as soon as possible.

## 4. LAA Updates

### 4.1 Process Efficiency Team [PET]

K Grainger said that the team's objective was to improve the LAA's processes and services. The workload was generated from providers' ideas, focus groups or LAA members of staff; an ideas library, shared with CCG before hand, was collated at the November meeting. The group decided what work to prioritise and how to take it forward. A lot of work had been completed in

2019 and a summary of successes<sup>1</sup> would be shared with CCCG. **Action 2 [Jan]**. More recently PET oversaw the launch of the Provider Case Status report; if a provider had not received the report it meant that there were no outstanding actions.

PET's plans for the coming year included the development of their new Twitter page, development of the training website to include all areas of legal aid by the end of 2020 and to work closely with LAPG to build on the results of their recent survey. The group's work focused on four areas:

a) building trust. This was about a culture change within the LAA; about caseworkers understanding, through their processing work, the difficulties faced by providers on a day-to-day basis; about openness with regards to the LAA's rules and regulations by publishing material and by referring to it when having open communication with providers about cases. Providers might be invited to visit LAA offices, or to a workshop with LAA staff.

b) technical and digital improvements. This was about making changes to CCMS to ensure that the Apply process worked well alongside with it.

c) processing timescales. To improve these across all areas of work; to reduce the number of document requests and the end-to-end time to process each case; to increase quality control to ensure accurate decision making.

d) communications. A formal action plan would follow feedback from the LAPG survey and would be shared with CCCG.

Resolution had been contacted by members who had not received the Provider Case Status report; V Ling asked K Grainger to inform providers that if they didn't receive the report then they had no outstanding actions. R Barnes to **action 3 [Jan]**

V Ling welcomed PET's plan to extend online training to all areas of legal aid. She asked K Grainger to give providers as much detail about this as possible. Rep bodies were invited to email [Kathryn.grainger@justice.gov.uk](mailto:Kathryn.grainger@justice.gov.uk) with their views on what training would be most beneficial. **Action 4 [Jan]**

C Storer thanked K Grainger for promptly taking steps to help prevent confidential information from being fed into Twitter.

#### 4.2 Operations.

A number of requests for data had been made at the previous meeting. S Starkey circulated three new reports on 6<sup>th</sup> January<sup>2</sup>, and a list of links to guidance. [AP4-AP12-AP13-AP14].



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Document

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In November S Starkey had invited rep bodies to visit one of the LAA processing sites; K Pasfield and one of LAPG's members, Lisa Phillips, visited the Liverpool office on 19<sup>th</sup> December. They spent time with staff including caseworkers working on Civil Claim Fix, appeal administrators and the escape cases team. They were able to see how processes worked from the LAA perspective and ask questions. K Pasfield thanked S Starkey for a well organised visit and for the very useful experience; the LAPG Board would meet shortly and the visit's output would be discussed.

S Starkey said that his team would endeavour to provide additional information that rep bodies deemed valuable on a regular basis, however he felt that face to face interaction was the best way to discuss issues experienced by both sides. One of the actions from the previous meeting [AP5-Nov] was to find out the number of caseworker errors made on escape cases in respect of the Q1 Appeals data previously provided; only one was found to have a note indicating caseworker error. Although this was a smaller area of work and the dedicated caseworkers were very experienced, S Starkey asked the team to ensure that they were recording things meticulously. By contrast a report on civil certificated Appeal work covering the second quarter, classified caseworker error as discretionary, calculation error, admin error and other. Out of 586 errors, 28 [4.8%] were classified as caseworker error. Quality control made sure that feedback to caseworkers on anything they did wrong was thorough and detailed.

Rep bodies also asked what the LAA's approach was to caseworkers training. S Starkey was working with K Grainger to collate a list of training material to share with CCCG.

Resolution planned to send out all the guidance links [AP14] to their members and asked the LAA to do the same to all providers. R Barnes to take this forward **Action 5 [Jan]**. It was agreed that a reminder of where to find the guidance should be sent out periodically.

S Starkey acknowledged that the operations report circulated at each meeting had been the same for some time and that rep bodies may wish to get information on other things which they deemed more valuable. Performance levels as shown in the graphs remained very strong.

S Starkey explained how the Claim Processing Timeline was worked out. The day a straightforward claim with no issues dropped in the work queue was classified as day 0. Delays would occur if there were complications; for instance, if a firm sent in a claim together with the relevant outcome, the outcome would need to be processed first before the claim could appear in the work queue. The outcome, which could at times be complex, should always be sent as soon as it was known and ideally before claim submission. If the claim was rejected the clock stopped; if a document request was sent out the clock would also stop till the requested information was received, at which point the clock would start once again. If that happened more than once the clock would start and stop each time. Another issue was a counsel's claim that was not submitted with the claim; the clock would only start when a valid claim had been



received with all relevant counsel claims. These were some of the variables that affected a claim processing time. It was also pointed out that it took much longer for a caseworker to reject a claim than to pay a straightforward claim so it was in everyone's interest to ensure that protocol was followed.

Chair reiterated that rep bodies should indicate either through G Trivedi or directly to S Starkey what type of information they would like to see in the operations report. Rep bodies asked ECCT to provide statistics in relation to non-family VHCC cases. **Action 6 [Jan]**

#### **4.3 Exceptional and Complex Cases Team [ECCT]**

90.3% of ECC work was currently processed within 25 days and there was now greater consistency of performance across the different categories of work in the team. Currently the two outliers were Clinical Negligence at 81% and Exceptional Case Funding [ECF] at 86%. Clinical negligence was improving with more resource. ECF was impacted by a small volume of cases taking longer to resolve, for example direct applicants or cases where additional time had been allowed for information to be supplied.

Performance in relation to ECC applications (including ECF) would be published on Gov.uk from April onwards. Alongside case management the team were currently reviewing their KPIs and internal measures. They also planned to be included in the CCMS Live Case Status reports from April onwards.

M Bryant had provided data on Immigration ECF cases for the month of December [AP6-Nov]. The report tracked caseworker time so excluded time when the case was awaiting further information. Of note was the 82% grant rate for immigration in December.

In respect of Non-family VHCC case planning, the team were still awaiting the review of the Family changes. Meanwhile they had started a project to review live high cost cases on CIS, particularly with a focus on immigration. There were still a significant number in different categories. ECCT were currently working with four firms and their contract managers and anticipated that information from this project could be useful for improvement work. If any immigration firms were not currently involved and wished to be, they could contact ECCT via their contract manager.

The screening process for immigration non-CCMS cases was being reviewed following identification that in the "Hendon" pilot providers were not flagging the cases to ECCT to enable them to prioritise them. Feedback and suggestions had already been requested from immigration Rep Bodies on how ECCT could screen more effectively.

Communication to Immigration providers would be issued shortly, setting out a change in the approach to funding family reunion cases, which affected ECF cases. Previously ECCT had funded the sponsor for both Legal Help and for Legal Representation where there was an appeal. Sponsors could continue to receive Legal Help and this would not affect separated migrant children where funding was now in-scope. However, in order to bring the LAA into regulatory alignment, for other family reunion appellants before a tribunal, ECCT were changing to fund the appellant, not the sponsor. ECCT recognised that funding family members abroad brought greater practical challenges, hence providers would be notified of the change in approach. ECCT planned to produce a Q&A and to:

- Update guidance on GOV.UK

- Notify immigration providers directly via email
- Notify Rep Bodies (via CCCG and a follow up note)

In respect of the ECF Review, stakeholder meetings took place in September. Since then progress had been affected by the election. ECCT were waiting to hear further from MOJ.

There was no update regarding the ECF application process review but rep bodies would be kept in the loop.

#### **4.4 Commissioning**

K Wood said that there was a reasonable level of cover in all areas with the exception of six Procurement Areas [PA] in relation to Housing and 4 PAs that were covered by outreach services. She had concerns about areas where providers had not started much work; out of a total of 134 PAs, 50 had only 1 provider. If one of these 50 dropped out of the contract the area would be left without any service so the team were looking at the financial viability of the contract and types of work that was being done.

A tender in Housing Possession was launched on 8 January in Boston & Lincolnshire. Since Sep 2018, 14 Housing Possession schemes had been re-tendered; the majority of them were low value, i.e. less than £20k. It was becoming more and more difficult to secure Housing Possession scheme services in low value, low volume areas and measures needed to be put in place to sustain cover.

Rep bodies and the LAA were worried about this situation and wanted to understand the underlying cause of this problem so that it could be remedied. K Wood's personal view was that a full-time supervisor may not be necessary in a low volume area; the question was how such an arrangement might affect the interrelation with the other categories. Although this option would be considered for the next iteration of contracts, a speedy solution was needed soon.

K Pasfield said that if the fees weren't going to go up the problem would not go away. K Wood was considering whether ministerial support could be sought to implement interim measures and whether these could be taken forward into future arrangements. R Miller said that the contract specified that a firm with a family and housing contract had to have a supervisor for each so it would be difficult to introduce an interim regulation that allowed one supervisor to do both. K Wood wondered whether it might be possible to do that in a couple of areas with very low housing volumes to see whether it made a difference without compromising quality standards.

A number of issues were raised; for instance, existing supervisors were retiring or leaving and there weren't new people to replace them. Also, Housing was a combination of other categories, such as family, public law and community care. Existing supervisors might feel that they were not earning enough from a low volume category and leave. Remote supervision was mentioned as a solution. Contract managers and the commissioning team worked together to identify the problems providers faced; this information could be the trigger to come up with options and ideas of how the situation could be improved.

K Wood and rep bodies agreed to think about options, exchange views by email and debate at the next meeting.

#### **4.5 Assurance and Contract Management [CM]**

A briefing and report had been circulated in advance giving background information and showing the number of interactions with providers and their outcomes. P Enright talked through the main points in the paper. The charts showed that the number of interactions had fallen significantly in 2019 following instructions from John Sirodcar [Head of CM at the time] in April 2018.

V Ling said that prior to the two teams' merging, if a provider had reason to disagree with a CM's judgement, he could refer the matter to an operational assurance auditor who was an expert in that area and the judgement might be overturned. She asked what was done to ensure CMs had the necessary skills to carry out audits. P Enright said that training was provided. In addition, the Onsite Auditors had been retained within Contact Management and a number of skilled analysts with the necessary expertise, skills and knowledge were still part of the team and could provide information or deal with a challenge from a provider. For informal escalations or queries providers could contact their Area CM, a list of which could be shared with providers.

R Miller pointed out that the large number of mistakes was partly a result of an overcomplicated system, in particular in relation to means testing and excessive bureaucracy as picked up in the LASPO review. E Druker said that the LAA was making good progress on the means testing review and on the simplification of processes. N Ben Cnaan asked whether CMs had changed their mindset following J Sirodcar's directive for a lighter approach in audits. D Thomas said that the assurance process remained the same; it wasn't in the LAA's interest to take disproportionate action or risk an inconsistent approach. The NAO were satisfied with the LAA's assurance regime.

The LAA asked what could be done to help firms to prepare for an audit and to retain compliance. V Ling suggested that guidance on audit issues be kept up to date. This was confirmed as already in progress.

#### **4.6 Digital-Apply service**

Chair said that a quarterly digital meeting had taken place on 17<sup>th</sup> December. The digital team had given a demonstration of the Apply service and an update of their work. G Trivedi had since given them the list of CCCG members to ensure that they would be invited at these meetings in future. A written update on Apply had been circulated beforehand. Currently the service was not replacing CCMS but was integrated into that system.

#### **5. Detention Contracts**

E Druker said that work was going on to improve the quality of the current IRC work. The Good Practice Guide was going to be circulated to providers at the end of January which contained a reminder of their professional obligations, contract provisions and the legislation they needed to be aware of.

In early March a number of sessions for staff were going to take place at Harmondsworth and Colnbrook detention centres which may be rolled out to the other IRCs. Robust action was being taken by contract managers following poor scores in peer reviews and/or concerns and complaints that had been raised. A Sherr suggested that the Good Practice Guide be attached to the new Process Paper for peer review. He added that there was 1 immigration peer reviewer that specialised in IRC work and this might be sufficient given the small number of reviews undertaken in this area; not many providers had enough files in this specialism to allow a peer review to be undertaken.

Extensive discussion with analysts had taken place about getting management information on IRC providers' work; the information was not yet available but analysts were working on it. Work was also progressing on what to do to improve future contracts e.g. ILPA was talking to the Law Society about introducing an accreditation process specifically for IRC works.

K Wood said that an accreditation programme was going to help but it was difficult to have distinguishing factors to identify good advisers. CCCG should agree what the real distinguishing factors on quality might be. Lessons learned from the previous tenders were going to be shared before a separate working group was set up to take this forward in Feb-March.

**Recoupments** Resolution had received feedback from a member stating that firms were subject to a recoupment from the LAA but didn't know anything about it. Due to lack of time it was agreed to deal with this at the next meeting. D Thomas asked for more details about the case raised by the resolution member so that it could be looked into properly. **Action 7 [Jan]**

## 6. AOB

Comments had been received on the draft The Terms of Reference and the final version had been agreed on.

LAPG was continuing work on the results of their survey and would inform CCCG of the results as soon as the task was complete.

Rep bodies did not have any requests for substantive agenda items for the next meeting in March at this time.

Actions from this meeting		Owner	Deadline
AP 1 [Jan]	Allocate time for discussion of available stats including CLA, at the next meeting	G Trivedi	Closed
AP 2 [Jan]	Share a summary of PET's successes in 2019	K Grainger	Closed
AP 3 [Jan]	Inform providers how the Provider Case Status report worked	R Barnes	Closed
AP 4 [Jan]	Email K Grainger with views on what online training would be most beneficial to providers	Rep Bodies	Closed
AP 5 [Jan]	Publish all the guidance links on the LAA fortnightly bulletin	R Barnes	30 Jan
AP 6 [Jan]	Provide statistics in relation to non-family VHCC cases	H Keith	28 Feb
AP 7 [Jan]	Find out more about the case of a firm that had been recouped without warning.	V Ling	Closed





# PET Update - 2019 Successes

## Review & Feedback



We've worked together a lot on our training & guidance this year including developing our rejects guidance, publishing CCMS billing quick guides as requested by PET, and working together to improve our guidance on GDPR, claiming costs for police and medical records.

## Cost Limit Increase



In April the initial cost limitation for certain Family proceedings were increased to £25,000, removing the need for providers to submit amendments to costs.

The impact of this work is currently being reviewed to investigate where this could be rolled out further.

## HCC Case Planning



We increased cost limitations to £32,500 for high cost cases and £60,000 for cases involving QC or multiple counsel has been completed. These changes have made the process quicker for providers and reduced the amount of contact points needed with the LAA.

## Billing



By streamlining our use of CCMS document requests we have been able to reduce the return rate of bills from 47% in April to 25% in October. This has allowed us to increase the volume of claims processed each month and work continues to improve this.

## Recent Improvements



Since the last update we have implemented several changes which will benefit providers :

- The launch of the Provider Case Status Report
- More up to date oldest processing dates available
- Launch of Case Ownership within processing teams to streamline decision making

## What's next for 2020?

- Working together on the LAPG survey results as to how we can improve client, provider and LAA experience
- Further work to the Apply service to bring more providers and proceeding types on board
- ♦ The Billing team are investigating whether the submission of nil bills can be removed from CCMS cases and the points of payment for solicitors claiming under the FAS



There is a wide variety of guidance publicly available in respect of Escape Cases that help providers understand assessment issues and if utilised would reduce assessments and therefore appeals. The most useful documents are listed below & I would say the most useful ones from an assessment perspective are the guidance on **financial eligibility, the checklists, Costs Assessment Guidance and the Escape Cases Handbook**.

<b>CW1&amp;2 Checklist – to be completed at outset of case when opening matter start</b>	<a href="https://www.gov.uk/government/publications/cw1-financial-eligibility-for-legal-aid-clients">https://www.gov.uk/government/publications/cw1-financial-eligibility-for-legal-aid-clients</a>
<b>Third party financial support pro forma</b>	<a href="https://www.gov.uk/government/publications/cw1-financial-eligibility-for-legal-aid-clients">https://www.gov.uk/government/publications/cw1-financial-eligibility-for-legal-aid-clients</a>
<b>DWP written confirmation of means evidence DWP telephone confirmation of means evidence</b>	<a href="https://www.gov.uk/government/publications/cw1-financial-eligibility-for-legal-aid-clients">https://www.gov.uk/government/publications/cw1-financial-eligibility-for-legal-aid-clients</a>
<b>Reject checklists for billing Escape Case claims (Civil, Mental Health and Asylum/Immigration, CLA)</b>	<a href="https://www.gov.uk/government/publications/escape-fee-case-claim-forms">https://www.gov.uk/government/publications/escape-fee-case-claim-forms</a>
<b>Escape Case Electronic Handbook</b>	<a href="https://www.gov.uk/government/publications/submit-an-escape-fee-case-claim">https://www.gov.uk/government/publications/submit-an-escape-fee-case-claim</a>
<b>Standard Civil Contract 2018</b>	<a href="https://www.gov.uk/government/publications/standard-civil-contract-2018">https://www.gov.uk/government/publications/standard-civil-contract-2018</a>
<b>Civil Legal Advice Contract 2018</b>	<a href="https://www.gov.uk/government/publications/civil-legal-advice-contract-2018-and-the-2018-civil-legal-advice-discrimination-contract">https://www.gov.uk/government/publications/civil-legal-advice-contract-2018-and-the-2018-civil-legal-advice-discrimination-contract</a>
<b>Costs Assessment Guidance 2018</b>	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737499/Costs_Assessment_Guidance_2018_-_Version_1.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737499/Costs Assessment Guidance 2018 - Version 1.pdf</a>
<b>Guidance for Reporting Controlled Work Matters on CWA</b>	<a href="https://www.gov.uk/government/publications/cwa-codes-guidance">https://www.gov.uk/government/publications/cwa-codes-guidance</a>
<b>Guidance for Determining Financial Eligibility in Controlled Work Matters</b>	<a href="https://www.gov.uk/guidance/civil-legal-aid-means-testing">https://www.gov.uk/guidance/civil-legal-aid-means-testing</a>
<b>Guidance for the Remuneration of Expert Witnesses</b>	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791497/Guidance_on_the_Remuneration_of_Expert_Witnesses_April2019.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791497/Guidance on the Remuneration of Expert Witnesses April2019.pdf</a>
<b>Guidance on Inquests</b>	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/610324/provider-inquest-pack.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/610324/provider-inquest-pack.pdf</a>
<b>Legislation and Regulations</b>	<a href="https://www.gov.uk/guidance/civil-legal-aid-civil-regulations-civil-contracts-and-guidance">https://www.gov.uk/guidance/civil-legal-aid-civil-regulations-civil-contracts-and-guidance</a>