



The Law Society



Legal Aid
Agency

Crime Contract Consultative Group (CCCG) meeting

Minutes

3 July 2018

V1.0

When:	Tuesday 3 July 2018 15:00 – 17:00		
Where:	MoJ		
Chair Minutes	Neil Lewis - LAA Gillian Hothersall - LAA		
Attendees	Avrom Sherr – IALS Carol Storer - LAPG Daniel Bonich – CLSA David Thomas – LAA Elaine Annable - LAA Glyn Hardy – LAA	Greg Powell – LCCSA James MacMillan – MoJ Jane Edwards – LAA Kate Atkinson – Govt Legal Dept Matt Doddridge – LAA	Nick Ford – LAA Nick Poulter – LAA Richard Atkinson TLS Roger Ralph – CILEx Rowena Foxwell - LAA Tom Payne - BC
Apologies	Alice Mutasa - TLS Andrew Cosma – MMS Adrian Vincent – BC Elliot Miller – LAA	Paul Keleher – CBA Rakesh Bhasin-LCCSA Rodney Warren – TLS	Paul Keleher – CBA Rakesh Bhasin-LCCSA Rodney Warren – TLS

Actions from the last meeting

AP1 [May]	E Miller / A Sherr to discuss secure file mechanism and possible interim solutions for peer review.	E Miller / A Sherr	3 July
AP2 [May]	N Lewis to discuss with HMCTS options re secure file mechanism and report back to meeting	N Lewis	3 July
AP3 [May]	R Atkinson to send J Sirodcar details of complaints about apparent non-compliance	R Atkinson	3 July
AP4 [May]	J Sirodcar to investigate redacting formal review letters and circulating to members	J Sirodcar	3 July
AP5 [May]	A Cosma to send N Poulter details of emails needing more detail on claims being assessed down, for caseworker training	A Cosma	3 July
AP6 [May]	J MacMillan to investigate what data MoJ analysts can provide on numbers out of scope of criminal legal aid over the last 10 years	J MacMillan	3 July

Welcome and introductions.

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

AP1 and AP2 [May] N Lewis confirmed that there is no requirement for providers to retain all the information which is on DCS on their own systems. However, they could download it onto an encrypted memory stick and send if peer reviewers could not access the system directly.

D Thomas said that Peer Review colleagues were involved in a pilot looking at secure file exchange for large items. In response to a query, N Lewis said that CJSM was not suitable if peer reviewers wished to retain their anonymity. A Sherr confirmed that, to date, it has not been an issue. It was agreed that D Thomas would update the meeting in November. **#AP1 [Jul]**

AP3 [May] Issue resolved – action can be closed.

AP4 [May] On agenda – action can be closed.

AP5 [May] Keep open. **#AP2 [Jul]**

AP6 [May] J MacMillan said that this information was addressed by MoJ in 2015 when it was estimated that 25% of the population were eligible for criminal legal aid. Prior to this, some work was done by LSCR in 2007. Action can be closed.

2. Audits

R Ralph commented that his firm’s Contract Manager had been extremely helpful during a recent visit, in sharing information on how to avoid applications being rejected.

3. Operational update

3.1 Billing

N Poulter reported that LF1s are currently being processed at 3 days, and until recently 2 days. The team are focussing on challenges regarding discs. Changes are continuing to the online billing system, particularly online fee calculators. In response to a query, he confirmed that there is no change to the way the page count is entered. As regards the issue of eligibility of pages, this only applies to discs. The rulings in Napper and subsequent decisions take into account downloads from mobile phones, which include irrelevant information such as phone specifications, photos and coding.

R Ralph raised a question about legal aid rates; there are four police stations near Heathrow and rates vary. M Doddridge responded that he would send a link to the guidance.

Post-meeting note: codes guidance can be found at:

<https://www.gov.uk/government/publications/cwa-codes-guidance>

Heathrow has several police stations some on the Heathrow scheme (page 53) and some on the Uxbridge scheme (page 80). You use the scheme for the Police Station you actually attend (not the station that the police officer happens to be from) unless you are not at a Police Station, in those circumstances you then use the code for a Police Station that the officer is normally based.

This final point is confirmed in schedule 4 of the Remuneration Regulations –

(6) Where attendance is at a place where an interviewing Constable is present, and that place is not a police station listed as being within a Scheme, the relevant Scheme in column 2 is—

(a) the Scheme within which the police station at which the interviewing Constable is normally based is listed; or

(b) where the interviewing Constable is not normally based at a police station listed as being within a Scheme, the Scheme within which the police station nearest to the place of attendance is listed.

3.2 Applications

J Edwards reported that performance was steady across general and complex applications. A slide pack has been provided to Contract Managers so that they can share information with their providers on how to reduce rejects.

In response to a query, D Thomas confirmed that the CRM1 and 2 forms have been changed to fulfil GDPR requirements. It is not necessary for providers to keep the additional 3 pages, but they do need to be able to demonstrate that the client has been shown the GDPR information. It was also confirmed that if a provider still has paper copies of the only CRM1 and 2 forms, they can continue to use these, provided they can demonstrate that the client has seen a printout of the GDPR information.

D Thomas agreed to investigate whether the declaration could be amended to include confirmation that the client had seen the GDPR information. **#AP3 [Jul]**

4. Issues raised by the representative bodies

Reports on CRB decisions

E Annable outlined the paper circulated before the meeting.

In brief, 1199 organisations had entered into 2017 SCC contracts. 18 Contractual decisions relating to the application of Sanctions had progressed to the Formal Review stage, 5 of which saw the original decision quashed (including 3 terminations), 7 original decisions were upheld and 6 decisions were upheld in part. The paper detailed some of the issues arising from Formal Reviews and gave some context to decisions made. Issues highlighted included a failure to provide a record of compliance, a failure to notify the LAA when a Duty Solicitor ceased to be engaged, the application of discretion in exceptional circumstances by the LAA reviewer, requests for 'grace periods' to demonstrate compliance and disputes relating to the application of a Sanction, for example the number of slots removed and the effective period.

The paper also explained why it has not been possible to provide redacted examples of formal review outcomes – mainly because of concerns around disclosing sensitive information regarding the circumstances of individual Duty Solicitors. Also, new guidance has now been issued which takes the principles surrounding these decisions into account; this means that the guidance supersedes the need for redacted letters.

It was confirmed that in J Sirodcar's absence, R Foxwell would continue to review the outcome of formal reviews and produce consistency notes. It was also confirmed that individuals could submit a fresh CRM12 if circumstances changed (unless they were excluded or suspended for a set period).

In response to a query from R Atkinson, E Annable confirmed that the decisions on paper are those of the General Legal Department rather than of the CRB. R Atkinson queried how the transparency of this approach could be ensured. E Annable confirmed that there is a rigorous procedure to ensure independence from the original team and CRB. R Foxwell confirmed that this process is the same for all reviews, not just those involving the 14 hours rule, and is set out in the contract.

Consultation re 14 hours

G Hardy confirmed that an update had been circulated on Monday 2 July regarding the consultation. Information is available at:

<https://www.gov.uk/government/news/crime-news-contract-amendments-and-new-duty-solicitor-guidance>

List of police station fees

R Ralph reported that the list was out of date due to changes in the court system.

G Hardy responded that despite significant liaison with HMCTS, occasional changes were outside LAA control. However, LAA will look for ways to improve the dissemination of this information.

N Lewis to investigate.

Actions from this meeting			
AP1 [Jul]	D Thomas to update the meeting in November re secure file exchange.	D Thomas	6 Nov
AP2 [Jul]	A Cosma to send N Poulter details of emails needing more detail on claims being assessed down, for caseworker training	A Cosma	4 Sep
AP3 [Jul]	D Thomas agreed to investigate amending the declaration to include confirmation that the client had seen the GDPR information	D Thomas	4 Sep
AP4 [Jul]	N Lewis to investigate ways to improve information sharing regarding changes in the court system	N Lewis	4 Sep

The next meeting is on Tuesday 4 September at TLS