



The Law Society



Legal Aid Agency

## Civil Contracts Consultative Group (CCCG) Minutes

**19 September 2018**

**v2**

Date:	Wednesday, 19 September 2018	
Where	102 Petty France	
Chair	Lynn Evans- Commissioning and Service Development [LAA]	
Minutes	Grazia Trivedi - [LAA]	
Present	Bob Baker-ACL Chris Minnoch - LAPG Eleanor Druker – Service Development [LAA] Kerry Wood-Commissioning [LAA] Malcolm Bryant – Exceptional, Complex Cases [LAA] Nicola Jones-King ALC Nimrod Ben-Cnaan Law Centres Network	Richard Miller – Head of Justice, The Law Society Rowena Foxwell – Contract Management [LAA] Sally Cheshire-HLPA Steve Starkey-Civil Operations [LAA] Vicky Ling– Resolution Vishal Misra-ILPA Zara Topping - Digital [LAA]
Apologies	Jane Robey – Family Mediation Council Claire Blades - CAB	Nick Lewis - MHLA

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

### 1.1 **Actions from the previous meeting.**

Action 1 The list of 34 changes the LASPO Programme Implementation Review [PIR] team had been focusing on was circulated.<sup>1</sup>

Action 7 E Druker had made enquiries and said that there had been no change of approach to the way experts' bills were assessed and asked for specific examples to show that this was not the case. B Baker to send some examples to E Druker **Action 1 [Sep]**.

Action 9 E Druker had updated members a few days earlier<sup>2</sup>; the guidance had not yet been updated but she had informed caseworkers of the new approach. She didn't know whether the approach would apply retrospectively. Negotiations were still going on with regards VHCCs. **Action 2[Sep]**

## 2. **LAA Updates**

### 2.1 **CCMS**

Z Topping said that a new functionality had been introduced called Rich Text Format [RTF] whereby a document was uploaded onto the system as a pdf, it would upload as a RTF which could be opened and used as a word document. A couple of providers would be asked to test this functionality and feedback.

An added functionality now allowed prior authorities to be submitted with the evidence uploaded at point of submission.

A lot of work had been done on the system's infrastructure and hosting arrangements with 60% of the estate moved to a new platform; once the work was completed in the next 2-4 weeks savings would be made, change would be better managed, security would be improved and general stability enhanced.

### 2.2 **Operations**

S Starkey said that until recently the Cost Assessment Guidance (CAG) had made no reference to CCMS times allowed. However, following further discussion and the submission of a survey undertaken by the Association of Cost Lawyers [ACL] with suggested times, amendments had now been made to CAG on 3 Sept. S Starkey to circulate a tracked version of the new guide **Action 3 [Sep]**

It was worth noting that the times were simply 'a guide' only and if providers wished to claim more than that they should provide reasons. Whilst it was clearly permissible to claim for CCMS claim input line-by-line, it was worth noting that the CCMS system did have a bulk upload facility which was useful. It was confirmed that ACL and LAA had been in agreement with the published changes. B Baker thanked S Starkey for taking this work forward to a satisfactory conclusion.

The monthly report showed that performance was stable and improving following a slight dip during the holiday period. Bills were currently being paid much faster than target. B Baker had some Claim 2



Adobe Acrobat  
Document

1

<sup>2</sup> It was agreed that where the interpreter is at court the LAA will pay a half day fee of £100, this will equate to 4 hours work. However, this would only be applicable where the interpreter has done 4 hours work.

cases that were taking a long time to get through so he agreed to send them to S Starkey. **Action 4 [Sep]**

### 2.3 Commissioning

K Wood gave an update on the main civil contract 2018 tender. 1,450 contracts had been uploaded and all but 18 had been signed by the provider; a number of organisations had not sent the necessary verification information with a key trend for failure being non-compliant or incomplete supervisors' declarations and failure to provide SQM or Lexel accreditation. In relation to supervisory compliance the areas with the most issues were claims against public authority, public law and community law but equally administrative errors accounted for many failures plus the lack of an in-house litigator.

On the further tenders that would go live on 1 October, the contracts of organisations that had passed verification had already been uploaded; only those organisations that had not yet sent the AC1 form were still waiting for a contract. Approximately 170 organisations were waiting to be verified following the deadline of 7<sup>th</sup> Sep. There were a number of organisations that had failed to provide verification information and the LAA would consider all those circumstances.

There was discussion about figures and comparisons with previous tenders; stats would not be known until the tender was concluded. C Minnoch asked whether it was true that organisations had not been able to accept the contract because their browsers didn't let them use the CWA system. K Wood said that the contingency extension was brought in because providers were reporting issues in accessing CWA and were unable to accept their contracts. A decision was made to give further time and CWA was monitored. No issues were found. However, it was agreed that the system was now dated in technology terms and this would be considered in a lessons-learned exercise.

Rep bodies had also had feedback from members about callers leaving their phone number with the customer service team automated answering system so that they would get a call back and not receiving the call. They also asked that callers be told what their position in the queue was. Z Topping to feed back to Katherine Granger **Action 5 [Sep]**

K Wood would provide an initial capacity report at the next meeting in November. A lessons-learned workshop would be arranged in October **Action 6 [Sep]** with The Law Society, LAPG and the Not for Profit sector. The other rep bodies were asked to feed their views in to them.

N Jones-King pointed out that CCMS had been a major problem in the process because contract numbers were taking a very long time to go live on the system; clients that had been taken on in good faith during the week prior to the deadline could not be processed through the system. When providers called for help the advisers could not do anything and the application could not be processed. N Jones-King to send an example of this to Z Topping **Action 7 [Sep]**

### 2.4 Exceptional and Complex Cases [ECC] Resolution had asked for an update on HCC plans, M Bryant explained that this was about the perceived delays in dealing with VHCC family cases where they were not what are termed Events Model Cases. A revised VHCC guidance document was in the process of consultation and this work was due to be completed in December. The purpose of the revision was to aid everyone's understanding of the process and to prevent delays.

With regards to time taken, processing times were now routinely within 4 weeks however if providers believed that their application was outside 5 weeks they should contact Anthony Leal directly. Equally, if providers were receiving conflicting messages about the process from case workers they should contact Anthony Leal directly as the LAA wished to ensure consistency across the team.

Performance for ECC across all categories was 90% with 25 days and 100% of emergency cases were being dealt with within 48 hours.

Providers were urged where possible for CCMS applications, to liaise via CCMS enquiries and to avoid multiple communication channels. One exception to this was when providers wished to make an urgent ECF application; there was now a template for urgent applications (shared earlier).

M Bryant asked if rep bodies could urge their members to use the template so that applications could be processed in the target 10 days rather than the current average of 16 days.

The LAA Brighton office had recently moved but all post and DX correspondence would be redirected for 6 months so there should be no issues if communication was sent to the wrong address.

### 3. AOB

#### 3.1 Changes to the rules for exercising delegated functions.

E Druker said that provisions around delegated functions had been removed from the contract and added to the [table of authorisations](#). The table now included amended provisions on delegated functions for emergency representation for judicial review in urgent homelessness cases. The updated authorisations set out more clearly where delegated functions could be used in these circumstances and had an extended list of legislation that could be relied on when exercising delegated functions to include section 17 of the Children Act 1989. She acknowledged that the new provisions were a little less user-friendly and queries had been received from providers about this.

S Cheshire explained that with homelessness JR cases the issue was to do with a change that delegated functions could now only be used where an applicant was already street homeless or would become so within 48 hours. The concern was two-fold. Firstly, the term “street homeless” had no legal definition and could be interpreted differently by different people. She suggested it could be amended to refer to the legal definition of “homeless” which was set out in section 175 of the Housing Act 1996. Secondly, the timescale of 48 hours was very short and could cause particular problems because, for example, most local authorities had a practice of ending temporary accommodation on a Monday. This would mean that if an applicant approached a housing provider for assistance on a Friday because accommodation was due to end on the Monday, the provider could not exercise delegated functions until the Saturday. Also, there was a great deal of work involved with issuing a JR claim and 48 hours was not long enough to complete it. **Action 8 [Sep]** E Druker to look into this and clarify the position in an email to S Cheshire.

S Cheshire raised a second issue which was that one of the tables of authorisations - entitled: “Civil Legal Aid (Financial Resources & Payment for Services) Regulations 2013” - had been interpreted by some providers as meaning that it was now no longer possible to exercise delegated functions in any case except where someone was in receipt of an income passporting benefit (i.e. where section 6(2) and 6(4) of the Regulations applies). Even then it looked like it was only possible to do so if the applicant did not have cash savings of over £2,000 and none of the categories in the Annex to the table applied. E Druker said that she wasn’t aware of any intention to bring in this kind of change. **Action 9 [Sep]** E Druker to look into it and clarify the position as soon as possible.

- 3.2** V Misra asked whether the LAA were aware of how adversely the new Civil Legal Aid Statutory Instrument affected Office of the Immigration Services Commissioner [OISC] regulated providers. **Action 10 [Sep]** V Misra to send details of this to E Druker Closed

Actions from this meeting		Owner	deadline
AP1 [Sep 18]	Send examples of cases when the assessment of interpreters' bills does not follow the general rules.	B Baker	Closed
AP2 [Sep 18]	Update the interpreters' invoices guidance  <b>Post meeting note:</b> this point was wider than just interpreters' invoices; it was around payment for interpreters at court etc. The issue is that guidance on this topic is set out in several different documents owned by different teams. E Druker has identified 3 so far and is drafting the standard provisions which she will circulate before the next CCCG for comment and then each team will need to update their own documents.	E Druker	30 Oct
AP3 [Sep 18]	Circulate the tracked version of the new Cost Assessment Guide  <b>Post meeting note.</b> Cost Assessment Guidance is published here including a tracked changes version: <a href="https://www.gov.uk/guidance/funding-and-costs-assessment-for-civil-and-crime-matters">https://www.gov.uk/guidance/funding-and-costs-assessment-for-civil-and-crime-matters</a>  see sections 2.61 & 2.63	S Starkey	Closed
AP4 [Sep 18]	Send the Claim 2 cases that were not going through to S Starkey.  <b>Post meeting note</b> These have now been provided and investigated by a member of my team. This issue has highlighted a guidance gap on our part that we are currently working to address. It essentially involved a fairly complex matter where there was 4 clients and the court made a costs award. Legal help costs had been reported to us, but inconsistently across the four certificates. This led to 1 of the 4 outcomes submitted being 'processed', 1 being 'document requested' and 2 being 'placed on hold' whilst the document request was resolved. This meant we were unable to progress these cases by completing the 'nil bills' and therefore close the matter.  The correct way to report this would have been to <b>only include legal help costs on only one certificate</b> , but then <b>report the costs award across all certificates</b> . Our Advanced Guide is being updated to make this explicit (see below). This is being worked on as we speak and should be on-line shortly.  <hr/> The relevant changes will read as follows (please see highlighted text):  You should also indicate interest recovered and if legal help costs are recovered as part of any costs award clearly; either in the Awards section or as part of the Documents Required Action response. <i>Where you are representing multiple clients, legal help costs and interest only need to be entered on one certificate and accompanied with a line in response to the Documents Required</i>	B Baker	Closed

	<p><i>Action response that they have been claimed on the single certificate. They do not need to be recorded on each certificate.</i></p> <p><b>Cost Award', 'Costs Settlement' or 'Enforcement Cost Award'</b> – This relates to any costs order made in favour of the client. This award replaces the paper Claim 2 process. You should submit the relevant award of costs (recovered or not) and claim any outstanding costs via a final bill (nil bill if no claim on fund). Please use the 'Costs Settlement' award if all costs recovered from the other side.</p> <p><i>Where you represent multiple clients, the full amount of the costs awards should be reported on each case applicable.</i></p> <hr/> <p>The relevant cases have now been actioned and this Action Point can therefore be closed.</p> <p>Raising issues like this is really helpful as it has enabled us to identify a gap in our CCMS Advanced Guide but rather than leaving it until our bi-monthly meeting please feel free to raise any issues direct with me if you do have any claim that is taking an inordinate amount of time to progress and I will do my best to get it resolved for you and make sure that we pick up on any corrective action.</p>		
AP5 [Sep 18]	<p>Zara to feedback to K Grainger what the rep bodies said about the telephone customer service protocol; K Grainger to consider it.</p> <p><b>Post meeting note:</b> <i>The Customer Service Management Team regularly look at how they can reduce wait times during busy periods. Putting a call back function in place is one example. Unfortunately, we've found that some providers outgoing calls come from a central number. This means our call back can be routed to a switchboard rather than to the person wanting to speak to us. In most instances our call back option works for callers; however, the Customer Service Team will be reviewing its effectiveness shortly and looking at possible workarounds.</i></p> <p><i>In relation to queue positioning, the Customer Service phone line already has a notification in place. The notification kicks in after 2 minutes of waiting and then replays every minute after that, each time offering the opportunity for a call back. Please let the head of the team, Kathryn Grainger (<a href="mailto:kathryn.grainger@justice.gov.uk">kathryn.grainger@justice.gov.uk</a>) know if there is anything further the team could do to help.</i></p>	K Grainger	Closed
AP6 [Sep 18]	Organise a civil contract 2018 lessons learned workshop in October	K Wood	Closed
AP 7 [Sep 18]	Send an example of a contract that had been signed but was not live on CCMS	N Jones-King	Closed
AP 8 [Sep 18]	<p>Clarify the position on delegated functions in relation to homelessness JR cases in an email to S Cheshire.</p> <p><b>Post meeting note</b> E Druker discussed the issues S Cheshire raised about the definition of street homelessness and the LAA will look at</p>	E Druker	Closed

	it when the authorisations tables are next updated, which should be fairly soon.		
AP 9 [Sep 18]	<p>Clarify the position on delegated functions for clients with more than £2k in savings.</p> <p><b>Post meeting note.</b> Para 5.7 of the General Spec was not a new provision, it was also in the 2013 Standard Civil contract (at para 5.8) and was never raised as an issue.</p> <p>The means team have advised that in practice suppliers have always used delegated functions where clients have negative disposable income so maybe it was something no-one had ever really considered in detail before.</p> <p>We agree that the intention is that providers should be able to delegate in these cases, even if the clients have a negative disposable income so will look to amend the contract as soon as we are able.</p>	E Druker	Closed
AP10 [Sep 18]	Send details of the adverse impact of the new Civil Legal Aid Statutory Instrument on the Office of the Immigration Services Commissioner [OISC] regulated providers	V Misra	Closed