

Civil Contracts Consultative Group (CCCG) Minutes v3

11th November 2020 [v003]

Date:	Wednesday, 11 th November 2020, 3-5pm	
Where	Video conference	
Chair	Richard Millar – The Law Society	
Minutes	Grazia Trivedi – Service Development [LAA]	
Present	<p>Adrian Vincent – Bar Council Ann-Marie Jordan – Analytical Services [LAA] Anthony Evans – Business Delivery [LAA] Avrom Sherr – Peer Review Bob Baker – Association of Cost Lawyers Carol Storer – Access 2 Justice Chris Walton – Shelter Claire Anderson – Business Improvement [LAA] Deborah McLaughlin - Civil Operations [LAA] Eleanor Druker – Service Development [LAA] Eleanor Solomon – Housing Law Practitioners Association Ellie Cronin – The Law Society Eve McNally - Business Improvement [LAA] Jill Waring – National Contract Manager [LAA] Kate Tyrrell – Mental Health Lawyers Association Kate Pasfield – Legal Aid Practitioners Group Kathryn Grainger – Civil Business Improvement [LAA] Kathy Hartup – Communications [LAA] Lynn Evans-Service Development and Central Commissioning [LAA] Malcolm Bryant - Exceptional and Complex Cases [LAA] Nimrod Ben Cnaan - Law Centres Network Paddy Enright – Contract Management and Assurance [LAA] Simon Cliff – The Law Society Sonia Lenegan – Immigration Law Practitioners’ Association Steve Starkey – Civil Operations [LAA] Tim Collieu – Central Commissioning [LAA] Vicky Ling – Resolution</p>	
Apologies	Joe McHale – Finance [LAA]	Kerry Wood – Central Commissioning [LAA]

1. [Minutes](#) of the September meeting were approved and would be published. L Evans gave a quick update on the three-month trial involving the publication of Freedom of Information responses: 20 responses were available to see on the GOV.UK website and 66 viewers had visited the page.
 - Action 1 [Sep] - *Capacity review of current peer review panels*. J Waring explained that further to the action from the last CCCG, enquiries had been made of the existing panel of peer reviewers to establish whether they had any expertise in the categories of Education and Discrimination, which showed only two peer reviewers had recent experience in this area and this was limited. There were no plans to establish a panel for peer reviewers in these categories currently. R Miller suggested that if members of CCCG were interested in a further conversation in this area they should contact J Waring. If not, the matter would be closed. **Action 1 [Nov]**
 - Action 3 [July] *Update on the issue of payments to Ltd companies [in relation to the Bar]*. J Waring apologised for the length of time this action was taking to be dealt with. The LAA were waiting for a response from legal advisers and J Waring was confident that a substantive update would be available by or before the next meeting **Action 2 [July]**. She asked the Bar colleague in the group, A Vincent, to forward directly to her any outstanding examples of individuals that had been impacted by the issue. A Vincent said that Bar members simply wished to know why the LAA would not pay a barrister that had set up a limited company for tax purposes and couldn't understand why the LAA were taking so long to respond.
 - Action 4 [Sep] *Major issues with contingency payments*. V Ling said that Resolution had a useful discussion about the issues with Jane Harbottle [LAA's CEO]; Resolution may raise the matter again in the future. A Evans offered to be the point of contact for any more queries on contingency payments, feedback from Resolution members or thoughts for improvements.
 - Action 6 [Sep] *Volumes of work that could be published by category and by procurement area/scheme*. A-M Jordan said that the next publication of LAA stats was due on 17th December covering the period July to September; it would also include Management Information [MI] for October. In the MI for October, civil applications and legal help starts could be broken down by category of law.

Data by provider area was published annually in June; analysts would try to update that publication to include six more months to the end of September. This information was published in two different formats: 2 csv. files with a high level of detail [Matter Starts and Closed Cases] by provider and by area, and 4 tables. It was agreed that the MI would include csv files as well as tables.
 - Action 10 [Sep] *Accreditation points attached to webinars*. G Trivedi to check with C Minnoch whether he had emailed R Barnes to make a case for getting accreditation points and then close the action if so instructed. **Action 3 [Nov]**.

2. Contingency Arrangements

J Waring said that the LAA had recently conducted a review of all contingency measures that were put in place in March when lockdown was imposed and had shared the outcome with the

rep bodies. Provider facing contingency arrangements had been extended to the end of January 2021; the LAA would soon start looking at arrangements past January and would include rep bodies in the discussions. The LAA were currently looking at the signature contingency and were interested to hear from rep bodies about that and any other aspect of contingency arrangements.

With regards Case Management billing contingencies, A Evans said that there were no planned changes to the current contingency for legacy (CIS) claims. However, the LAA planned to supplement that and introduce some increased flexibility in relation to those claims, following feedback from some providers who had asked for the option to submit final bills for these cases electronically.

In relation to legal help escape cases, the current arrangements had been very popular with providers who wished to keep them. The LAA would propose that the digital solution become a permanent change with the caveat that additional evidence to certain items would be requested at the outset. Guidance on both proposals would be shared with rep bodies and implementation would follow quickly once everything was agreed.

R Miller said that remote working was going to stay and any arrangement that facilitated that was welcome.

Resolution members had expressed concern about digital signature arrangements on legal help and controlled work forms. They followed the Law Society guidance which was accepted by the LAA but were still worried about unsigned forms and needed to be reassured. J Waring said that as the LAA were restarting core testing and contract managers visits, providers would have the opportunity to talk about their concerns and to get reassurance that they were following the guidance. If there were cases of providers that needed reassurance before their next contract manager visit, they should contact J Waring or A Evans directly.

K Tyrell asked what the LAA were intending to do in relation to the electronic signature arrangements. J Waring reiterated that the current measures were going to continue until January but the LAA were looking at ways in which providers could be supported beyond that, including making the electronic signature contingency arrangement a permanent one. She confirmed that wet signatures would not become mandatory after January. R Miller asked that the LAA inform providers well in advance of any contingency arrangements terminating in January.

V Ling asked about the flexibility around the 25% of legal help forms that could be signed off remotely; contract managers were not providing clear guidance when asked about the flexibility measures. For example, clients used to sign forms at the face to face pre-proceeding meeting in care cases but now those meetings took place remotely and the forms were not signed. E Druker confirmed that flexibility did apply in cases where the provider could not physically meet with the client to get a signature and providers would not be limited to 25%, however this would be considered on a case by case basis with providers. The intention was to assist when a provider was unable to meet a client in person that they otherwise might have, but not to allow providers to market themselves nationally and conduct all the cases remotely. J Waring asked for any specific cases of concern to be sent to her for quick resolution and to be addressed with the relevant contract manager.

3. Housing Possession Court Duty Schemes [HPCDS] new proceedings

The LAA had arranged to meet with some providers on 17th November to discuss how the new arrangements for possession proceedings were working and whether any further changes

should be made to the guidance. E Druker would update CCG on the outcome of the meeting.

Action 4[Nov]

Rep bodies were keen to obtain more information on the new proceedings, however E Druker reiterated that any data included in published stats reports could not be shared in advance. At this early stage when cases were only just restarting, the LAA had limited anecdotal feedback indicating that the volume was low.

N Ben Cnaan said that the information rep bodies wished to see wasn't included in the published reports; for example, attendance data would help to understand why there was a discrepancy between started proceeding and the number of clients actually getting HPCDS.

E Druker said that data collation had been discussed at the judicial working group chaired by Justice Knowles and HMCTS were dealing with the matter; she offered to ask HMCTS whether a list of available data could be provided **Action 5 [Nov]**, however rep bodies should be aware that some information was manually inputted and wasn't reliable like the published stats. All stakeholders were keen to find out how the new proceedings were going and HMCTS were doing their best to collect as much data as they could.

E Solomon said that courts didn't communicate to the client the outcome of their hearing, which was a major problem; HMCTS should instruct the courts to do so. Furthermore, they should ensure communication to clients made it clear that they had to engage with the process. K Hartup offered to contact the HMCTS communications team to go over these points. E Druker said that HMCTS had taken on board the feedback about the quality of their communications and were addressing it.

LAPG were getting reports that very few clients in listed cases were calling the duty scheme provider on the review hearing date, and this affected sustainability. HPCDS guidance didn't make it clear to clients that they needed to make the call.

E Druker suggested that providers also try to get information from the local courts directly as each one of them did things differently. It was agreed that rep bodies would send a list of questions, queries and feedback from providers in relation to HMCTS to E Druker **Action 6 [Nov]** so that a meeting could be set up with LAA and HMCTS. **Action 7 [Nov]**.

4. Interim Payments

M Bryant said that at the moment there wasn't a mechanism in place to pay controlled work cases that hadn't concluded. As soon as the digital changes were in place to allow for these payments to be made, instructing solicitors could prepare and submit a bill which would allow the LAA to make an assessment. E Druker apologised for the slow progress made in this area, which had been slowed by the many different ways the work was reported on CWA, the digital changes required and by the several categories of law involved. This work was now considered urgent as more and more providers asked for payment of work on long running inquests.

A Vincent asked about the case of a barrister who had been working on the Shoreham plane crash for 3 ½ years, incurring huge costs, but had not received payment for any of it. M Bryant said he had been working on this case and was doing all he could to get it ready for payment as soon as a mechanism was in place.

E Druker appreciated that there were many providers affected by this and would keep rep bodies in the loop about progress; also, the strong views voiced at these meetings by rep

bodies would be fed back to the business so as to influence the way in which work was prioritised against other urgent digital changes.

5. Independent Funding Adjudicator [IFA]

Rep bodies were concerned that IFAs might be asked to cover areas of law in which they did not have experience and, if this was the case, how many times it had occurred. S Starkey said that this had never happened to his knowledge. K Pasfield would send S Starkey details of a housing case that had been dealt with by a clinical negligence specialist.

Only 55 applications had been received in the recent recruitment round; 43 applications were civil, 15 crime and 3 were both. 20 applications had been received from new candidates, including 5 cost lawyers, however 15 existing IFAs were due to stand down at the end of December. It was proving difficult to find specialists in some areas. The LAA planned to run another campaign early in the new year and they would be grateful if rep bodies could encourage their members to apply.

D McLaughlin said that a lessons-learned exercise would be carried out to find out why the role did not attract a larger number of candidates and would share findings with the group **Action 8 [Nov]**.

6. Operations updates

Bills - S Starkey said that the operations report was soon going to be replaced by the Billing Shadow Pack and Applications Shadow Pack. Performance on the billing side remained strong. He went on to talk about the information in the slides of the Billing Shadow Pack; he reiterated that these packs could be shared and encouraged rep bodies to feedback their members' comments on the information provided. V Ling said that the pack was shared with Resolution members who had found it useful.

Disbursement vouchers had been a problem for some time; the team were going to change the reject reasons because it wasn't currently possible to know whether a voucher was missing or whether it was provided but had insufficient detail. Following the code change the report would show a distinction between the two.

Applications - D McLaughlin presented the new Applications Shadow Pack. Overall performance was strong. She stressed that the pack was a work in progress; narrative and explanations would be added, and more information included as feedback from rep bodies' members came through. More work would be done on the reasons for applications' refusals and rejects and more information would be available by the next meeting on legal appeal requests' refusals and rejects. Following a long period of time when processing times of Very High Cost Cases applications missed target, performance had improved and had hit target at 20 days; the team were aiming to bring it down to 15 days by January 2021 to allow for any future spikes in intakes etc. R Miller suggested that D McLaughlin email the group to ask for suggestions on additional information in the pack. **Action 9 [Nov]**

7. Contract Management and Assurance

A briefing note had been circulated on contract management and assurance activity during the April-September period. This would be a regular 6-monthly update and P Enright invited rep bodies to provide feedback on its format, type of information and any additional data they

wished to see **Action 10 [Nov]**. Subsequent reports would include information on core testing error rates.

A Sherr was pleased to see that out of 578 peer reviews only 59 had received an initial score of 4 or 5 and that of those only one contract had been terminated, equivalent to 0.17%.

8. Exceptional and Complex Cases Team [ECCT]

Performance within ECCT remained strong overall. There were a couple of areas just outside target, notably emergency in scope and urgent Exceptional Case Funding applications which had increased in volume causing minor delays in processing. M Bryant said that ECCT recognised that within their work were some cases that held a large work in progress [WIP] and cash flow for providers and would do what they could to ensure no delays in processing. If rep bodies knew of cases where there was an issue with either the application or billing, they could refer them directly to him for non-family cases, and to Anthony Leal for family cases.

9. Commissioning update

Provider Report - T Collieu talked about the report that had been shared in advance. Figures were in the same format as the previous report. The new report now included the historic and current figures for the number of offices. The information was correct as of 31 October 2020.

Current provider numbers were above what they were in the April 2018 civil contracts except for family where there were more offices than in April 2018, and Clinical Negligence.

Since September a number of providers had given up their legal aid contract and contract managers had discussed the reasons for this with the provider. Generally, a provider decided to give up legal aid work for financial reasons or because of a merger; in some cases, the Covid-19 situation had hastened the decision to withdraw but this was not typically the underlying reason. The number of withdrawals were in line with what the LAA expected to see, however they were monitoring the situation closely, especially in housing.

K Tyrrell said that Court of Protection work could be done under a Mental Health contract or a Community Care contract so it would be helpful to see separate figures for them. T Collieu would check whether this was possible. **Action 11 [Nov]**.

N Ben Cnaan asked whether the LAA had looked at the impact of a projected drop in earnings as a factor for withdrawals. T Collieu said that Contract Management were doing this; HPCDS providers were particularly affected as they had not done any work since March and were only just restarting. So far all of them had indicated that they would continue. Efforts were being made to support providers where there were concerns and to get early warning of possible withdrawals. The LAA were monitoring the position very closely to see how quickly things recovered. The LAA and ministers were aware that volumes were low and appreciated the impact of the last few months.

There was a request to change the format of the report to make it slightly clearer and rep bodies would let T Collieu know their views. **Action 12 [Nov]**

The Housing tender had closed on 22nd October. The LAA had received bids for 3 out of the 15 procurement areas [PAs] they tendered for. Awards had been made subject to the bidder passing verification by 15th November. Contracts would start on 1st December. The commissioning team were considering how to deal with the PAs where no bids had been received and would publish more information as soon as possible. The LAA were also going to have a comprehensive look into inactive contracts to ascertain why some providers had not done any work. There were currently HPCDS providers in all schemes.

The Crime Defence Direct Tender [CDD] had opened on 10 November. Two contracts would be awarded, each delivering half of the service and tenders would be assessed on both quality and price. Successful bidders would begin delivering services on 1 June 2021 and the contracts would run until 31 May 2024, subject to the LAA's right of early termination and right to extend up to a further 2 years. The LAA were also planning ahead of the current contracts ending on 31 August 2021.

10. Process Efficiency Team [PET] update

K Grainger had shared a paper on PET's activities/successes since January and plans for the following year. She asked rep bodies to email her with their views on the team's strategy for the following year, about improving diversity of the group with new members and about extending the categories the team had been focusing on until now. **Action 13 [Nov]**

11. AOB

The LAA would be launching a consultation shortly on changes for Brexit.

Actions from this meeting		Owner	Deadline
AP1 [Nov]	Email J Waring if interested in a further conversation about setting up a peer review panel in Education and Discrimination	SPGs	10 Jan
AP2 [Nov]	Update on the issue of payments to Ltd companies [in relation to the Bar].	J Waring	10 Jan
AP3 [Nov]	Check with C Minnoch if the action relating to accreditation points attached to webinars could be closed	G Trivedi	Closed
AP4 [Nov]	Update CCCG on meeting with providers to review HPCDS new arrangements. Post meeting note: Rep bodies have been in communication with HMCT	E Druker	Closed
AP5 [Nov]	Find out from HMCTS what data on new possession hearings was available	E Druker	Closed
AP6 [Nov]	Send a list of questions and queries relating to HMCTS data collection to E Druker	K Pasfield / N Ben Cnaan	20/12
AP7 [Nov]	Set up a meeting with LAA, HMCTS and rep bodies to discuss data reports	E Druker	Closed

AP 8[Nov]	<p>Carry out a lessons-learned exercise to find out why the IFA role did not attract a larger number of candidates</p> <p>Post meeting note: Survey for feedback went out to the 30 candidates who had expressed an interest in applying for the roles but then did not go on to make an application. We have also sent the survey to a dip sample of members of the Association of Cost Lawyers who have been particularly vocal for the last two years in getting their members eligible to apply but we only received two applications from this group.</p> <p>Feedback report shared on 19 Jan 2021</p>	D McLaughlin	Closed
AP 9[Nov]	<p>Email CCCG requesting feedback on information to be included in the Applications Shadow Pack</p> <p>Post meeting note: We have amended the pack with the last round of feedback from PET/CCCG members so will now see how these land at the next PET meeting and then proceed at the next CCCG meeting with the new pack</p>	D McLaughlin	Closed
AP 10 [Nov]	Feedback on the contract management and assurance report to P Enright	SPG	30 June 21
AP 11 [Nov]	<p>Find out if mental health and court of protection data could be obtained separately</p> <p>Post meeting note: the data cannot be split in the way that is requested</p>	T Collieu	Closed
AP 12 [Nov]	Email T Collieu with suggestions on how to make the provider report slightly clearer	SPG	20/12
AP13 [Nov]	Email SPGs to invite views on PET's outlook for 2021	K Grainger	Closed