

Civil Contracts Consultative Group (CCCG) Minutes v1

20th January 2021

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| Date: | Wednesday, 20 th January 2021, 3pm |
| Where | Video conference |
| Chair | Lynn Evans -Service Development and Central Commissioning [LAA] |
| Minutes | Grazia Trivedi – Service Development [LAA] |
| Present | <p>Ann-Marie Jordan – Analytical Services [LAA] Avrom Sherr – Peer Review Bob Baker – Association of Cost Lawyers Carol Storer – Access To Justice Committee [The Law Society] Carly Gray – Access to Justice Data and Statistics [MoJ] Chris Walton – Shelter Deborah McLaughlin - Civil Operations [LAA] Eleanor Druker – Service Development [LAA] Ellie Cronin – The Law Society Fraser Clubbe - Performance/Planning and Risk [LAA] Helen Keith - Exceptional Complex Cases Team [LAA] Jamie Niven-Phillips – Association of Lawyers for Children Janet Land - Contract Management and Assurance [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] Kathy Wong – Bar Council Kerry Wood – Central Commissioning [LAA] Louise Withington – Business Support [LAA] Lucy Swinnerton – Legal Aid Statistics [MoJ] Melissa Bennett - Planning and Performance [LAA] Nimrod Ben Cnaan - Law Centres Network Paddy Enright – Contract Management and Assurance [LAA] Richard Miller – Head of Justice [The Law Society] Sally Cheshire – Housing Legal Practitioners Association Simon Cliff – The Law Society Steve Starkey – Civil Operations [LAA] Tim Collieu – Central Commissioning [LAA] Tom Fitzgerald – Customer Service [LAA] Vicky Ling – Resolution</p> |
| Apologies | <p>Sonia Lenegan – Immigration Law Practitioners’ Association Chilli Reid – Advice UK</p> |

1. Minutes of the November meeting were approved and would be published. L Evans then went through the actions that had not been closed yet.

Action 2 *Payments to Ltd companies [in relation to the Bar]*. J Waring had made progress and was in contact with the Bar Council [BC] colleagues. It was agreed that this action would be closed, and discussions would continue separately with the BC.

Action 6 *HMCTS data collection*. Following the last CCG, several meetings relating to HMCTS had taken place where data collection had been discussed at length. It was agreed that data collection and other courts related issues should be discussed through the HPCDS Working Group. This action was closed.

N Ben Cnaan was concerned about the lack of information about the Mediation pilot which was due to launch in less than 2 weeks' time. Providers had been told to expect a recruitment round for mediators, but this had not taken place yet. E Druker said she'd feed back his comments back to the MoJ policy team who led this project. **Action 1 [Jan]**. The LAA would continue to monitor the situation and would keep rep bodies informed as and when they had more information.

Action 10 *Feedback on the contract management and assurance report to P Enright*. It was agreed to close this action; rep bodies would send their comments to Paddy before the next report was due in July.

Action 12 *Feedback on how to make the providers' report slightly clearer to T Collieu*. Same as Action 10 above.

2. **LAA Strategy**

Two documents had been shared prior to the meeting: one described the background underpinning the strategy and the approach to its development. The second was the draft strategy itself and the plan was to publish it in April, though the strategy would remain a living document. F Clubbe asked rep bodies to send him their views by 29 January **Action 2 [Jan]** and he agreed to send out an email with the documents and a recap. **Action 3 [Jan] Closed**

F Clubbe confirmed later in the meeting that the 2 documents could only be shared with rep bodies' committees and not more widely.

A Sherr asked who the users mentioned in Strategic Objective 1 were; he pointed out that the LAA were no longer responsible for delivering access to justice to the public and therefore this might need to be made clearer. F Clubbe said that providers were indeed the main users of services but the LAA were also interested in the clients who needed legal help and support. A customer service strategy was being developed which defined the different users' groups and that would be integrated into the document. During the forthcoming year a business plan would be developed which would identify measures put in place to gauge what the LAA had set out to achieve.

C Storer presumed that the Public Defender Service mentioned in Objective 1 was the organisation and not the criminal justice system. She also said that a commitment to the sustainability of the provider base, both in civil and crime, ought to be a priority for the LAA and asked why it wasn't included in the Strategy at a high level. F Clubbe would take these comments away.

3. **Communications update.** Taken forward to the next meeting.

4. **Management Information [MI] update including Exceptional Case Funding [ECF]**

Management Information: A-M Jordan said that monthly MI stats were published in Mediation, Civil Applications and Legal Help Starts; a significant discrepancy had been noted in Mediation between figures in the MI report and the quarterly report. This was due to the way the data was extracted. If this continued, Mediation data would no longer be included in the MI report.

The LAA had succeeded in updating the provider starts [csv](#) file based on offices starting work so it now covered up to the end of September 2020. Because of concerns about the readability of the csv file, tables of the starts data had been created and shared. More tables could be created if rep bodies wished to see more data extracted from the csv file.

Exceptional Case Funding [ECF] S Cliff asked about direct applicants with a funding grant who then did not find a provider to take on their case. A-M Jordan said that the ECF tracker relied on manual data input and analysts could not get reliable information about a case after funding had been granted. H Keith would check whether equivalent data could be obtained. **Action 4 [Jan]**

5. **Process Efficiency Team [PET]**

K Grainger said that the main area of PET's work had always been Family but in 2020 it was decided to extend the focus to other areas of law, so a workshop in Housing and one in Very High Cost Cases were hosted in the autumn 2020. The workshops were attended by rep bodies and practitioners who were able to talk about the issues that affected their day-to-day work.

PET would continue to meet bi-monthly and would discuss wider-ranging topics. A workshop would be hosted between PET meetings to focus on specific issues; a workshop on Court Protection was planned for February, followed by another Housing workshop to go over the actions taken at the previous event and then a workshop on Legal Help. Rep bodies were asked for their views on topics to be covered at future workshops, on topics that were important to their members. The outcomes of the workshops in terms of actions would be shared with CCCG.

Apply Fix. The Apply Fixer pilot had concluded and would be opened to everyone. The Communications team would send out a brief to rep bodies specifying the purpose of the Fixer. This would also include clarification of the issues incurred due to the contingency arrangements. K Grainger agreed to send out a brief to CCCG before the official wider communications. **Action 5 [Jan]**

6. **Commissioning Update**

K Wood talked through the highlights of the report circulated to the group. She pointed out that there could be small variances between these figures and other data as these were working stats that the Commissioning team pulled together to monitor service supply. She said that a number of Housing offices had been lost and this was cause for concern. Contract managers continued to work with providers with inactive offices to find out why no work was being done there. A tender for Housing services had been launched in areas where there was little or no supply. In this tender the LAA invited bidders to suggest ways in which they could deliver the service adopting digital solutions and other working methods. Practitioners wanting to give outreach services were asked to describe how they could make it work for the client; measures underpinning quality of service such as supervision would not be sacrificed. The tender closed at

5pm on 18 February. T Colliou talked in more detail about the figures in the tables and gave an update on the current tenders.

K Wood agreed to find out whether it was possible to present the same information by procurement area **Action 6 [Jan]**.

LAPG members had flagged up that the Supervisor forms needed to be reviewed to reflect the type of work being done. K Wood said that the forms were always reviewed prior to launching the main civil contract but would consider updating them if rep bodies sent in specifics on what needed changing.

7. LAA update on future contract intentions.

E Druker said that ministers had agreed to extend the main civil contract to 31 August 2022.

8. Civil Operations

The **Civil Billing** Shadow Pack, Civil Applications Shadow Pack and ECCT Performance Shadow Pack had been shared in advance and in March would be consolidated into one single pack that rep bodies could circulate to their members.

S Starkey said that performance continued to be strong; appeals volumes had remained stable despite the addition of what used to be called Court Assessed Claims, but appeal rejects levels were high. Approximately 20% of appeals were rejected and 75% of those were rejected because the whole appeal was challenged rather than just the disputed elements. Rep bodies were encouraged to communicate this to their members. Bills rejects were now at their lowest level, approximately 20% against 45%-50% the year before.

There were now two distinct reasons for returning disbursement vouchers: lack of information on the vouchers or missing/not uploaded vouchers.

The Claim Fix email system continued to be very successful; 6%-7% of rejects were challenged, half of them successfully. Half of those were due to provider error and a third to case worker error [3% or approx. 12 per week]; feedback was given whenever this occurred. Tips on how to avoid a reject were in the slide.

From Friday, 15th January providers could either submit their claim for assessment to the court or to the LAA. If a provider had an issue with a claim assessed by the LAA since 17th August 2020, they could re-submit it to the court. Details and guidance on this were in the [LAA Bulletin](#) dated 21st January.

Post meeting note: We have changed our internal reporting of rejects to streamline the process further, enabling bills to be paid quicker and incomplete documents to be returned more swiftly.

In November 2020 we introduced more descriptive reject identifiers into CCMS, which allow the agency to track trends and also ensures providers have greater clarity on why bills are being returned.

All Claim 1 rejects are now to be KPI rejects and will be visible as a one-line entry on the Provider Activity Report [PAR], this will take effect from April 2021 and so will be visible in providers' May 2021 report. Potentially this may mean that providers will see an increase to their reject rate, but we would like to reassure providers that we will approach this area of work with the same strategy, trying to assist and support. We believe this change will enable clarity over the level of rejects being received and will assist providers in getting things right at the outset and ultimately

being paid quicker. It is also intended that the PAR report will be split into separate Crime and Civil reports for ease. If there are any questions, please contact janet.land@justice.gov.uk.

Deborah McLaughlin thanked rep bodies and especially K Pasfield for their feedback on the developing **Civil Applications** Shadow Pack and then talked about the key points in the document. Performance remained strong for means/merits, and the teams were currently processing 95% of applications within 5 days. The High Cost Family team were hoping to bring the work back to the 20-day target by the end of January following a rise in intakes during December/early January. More details would be provided in future packs on the small number of applications (5%) that are not processed within 20 days, special reason refusals, and data on appeals that are older than 40 days.

9. **Exceptional and Complex Cases Team [ECCT]**

H Keith said that Malcolm Bryant had moved role to become Head of the Public Defender Service. Currently ECCT was led by Alistair Adan, Head of Case Management.

The ECCT Performance Shadow Pack was in the development stage and would be expanded over the course of the next few meetings, with some narrative and additional information. Currently the focus was on the KPIs of the end-to-end process; the aim was to publish weekly information on Gov.uk from April 2021.

The nature of the applications and their complexity tended to result in requests for further information, hence some toing and froing within the end-to-end process. ECCT would be expanding their focus onto amendments in the coming weeks.

Rep bodies had previously expressed an interest in case planning improvement work and had asked which category of cases were going to be looked at following the family review. A working group had been set up as a sub-group reporting into PET, comprising both provider and counsel members, to review court of protection case planning. Its first meeting would be in February.

The intention was to look again at Immigration case planning; El Druker had written to providers inviting participation based on information about the main volume case planning users in the category. This work was therefore just about to start. Finally, when the Very High Cost Cases [VHCC] Provider Pack and VHCC Counsel Pack were last updated in 2017, there had been concerns about the lack of consultation with CCCG. Therefore when the team reviewed and amended the packs following the case planning improvement work, they would ask CCCG for comments on the changes.

10. **LAA Quality Guides**

J Waring said that each guide used to be published as a separate document but early in January they had been republished as one document. Some amendments had been made due to EU exit. J Waring would restore the user-friendly format and publish them again as separate guides **Action 7 [Jan]** A Sherr said that the guides served a specific purpose in relation to peer review and would be linked in the new Peer Review Process document; the pictures that used to be in the booklets were two iterations old therefore they would need to be reviewed.

11. AOB

- 11.1** EU exit E Druker said that all the published products had been updated to reflect the changes and asked rep bodies to let her know about anything that might have been missed. **Action 8 [Jan]**
- 11.2** Interim payments for inquest cases E Druker said that this area of service had been significantly impacted by the Covid19 pandemic. The LAA had been looking at the possibility of making Payments on Account [POA] for inquest cases because they were typically very long, and a provider had to wait until the case concluded to submit a bill. The changes required to enable the CWA system to make these payments would require a significant amount of resource and wasn't deemed feasible. The best solution was to allow providers to submit a bill before the case had concluded and then a bill amendment at conclusion. As soon as the new temporary measure was ready the LAA would share comms with the rep bodies before going out to providers. E Druker made clear these arrangements were likely to be temporary and would likely last for no longer than 3-6 months. K Pasfield said that LAPG members were worried because, although there was a lot of inquest work, final hearings were not taking place and the backlog was such that it would take a long time for the system to catch up and work to go back to normal so the LAA ought to consider keeping the temporary arrangement for longer or make them permanent. E Druker said she didn't know at this point whether this would become a permanent feature – it depended on business priorities. K Pasfield thanked E Druker for pushing the new arrangement through to implementation.

E Druker said that a new, permanent functionality was about to be added to CWA, which allowed providers to claim disbursements every 3 months.

Post meeting note: [comms](#) in relation to claiming for inquests have been published.

- 11.3** Operation of Covid19 arrangements V Ling said that practitioners were encountering the same difficulties during the current lockdown that they had faced during the first one and asked the LAA to reintroduce the same contingency arrangements as in the first lockdown. Practitioners reported that they struggled to get evidence of means; contract management activity was causing problems; some contract managers [CMs] were expecting them to work in their offices again; the LAA were chasing clients and issuing sanctions on certificates even though the clients couldn't get the evidence.

Resolution had received queries about the possible implications of some assurance activities which did not appear to be listed on the LAA's list of audit activity and asked for these to be added onto the [list](#).

J Waring would review the activities and update the list if necessary, **Action 9 [Jan]**; she also said that the Covid19 contingency measures put in place for the first lockdown had not been applied during the current lockdown, however the intention was to be as flexible as possible to help practitioners. She asked rep bodies to flag any specific examples of providers' problems so that they could be looked at; equally, providers ought to speak to their CM if they were having difficulties complying with a request.

K Pasfield said that there were inconsistencies in the CMs' approach, for instance a practitioner was told to get a wet signature from the clients even though it wasn't currently feasible; she agreed to forward the case to J Waring **Action 10 [Jan]** who confirmed that alternatives to a wet signature, such as a digital one, were part of the contingency guidance.

K Pasfield also said that there was confusion about Delegated Functions cost limit and time limit because this particular part of the published guidance had not been updated. D McLaughlin asked

to be sent any specific cases. J Waring and D McLaughlin would review their respective webpages to ensure all the contingency information was correct **Action 11 [Jan]**.

R Miller said that evidence from the courts suggested that it would take 1-2 years to clear the backlog caused by the pandemic. He proposed to discuss the impact of that backlog on legal aid work, such as caseloads that firms would have to manage, additional client care, the need to increase cost limits because of the delays built into cases. Guidance would be useful to help providers deal with the circumstances and keep things moving as smoothly as possible during the recovery.

K Pasfield talked about the case of a client who was making financial contributions and had to continue to pay over a long period of time because the trial date had been delayed by many months. The LAA caseworker had advised the provider to close the certificate and apply again later but this ran the risk of legal aid not being granted a second time. L Evans to look into this particular issue **Action 12 [Jan]**

11.4 Provider Means calculator E Druker asked for feedback on providers' use of the means calculator. **Action 13 [Jan]**

| Actions from this meeting | | Owner | Deadline |
|---------------------------|--|-------------------|----------|
| AP1[Jan] | Feedback rep bodies' concerns about the timetable for the Mediation pilot to the MoJ policy team | E Druker | Closed |
| AP2 [Jan] | Send comments to F Clubbe on the draft LAA Strategy | SPGs | Closed |
| AP3 [Jan] | Send an email to SPGs outlining the purpose of the consultation on the LAA Strategy | Clubbe | Closed |
| AP4 [Jan] | Find out whether information could be obtained about ECF direct applicants that didn't have a provider at the point of the grant being given. | H Keith | Closed |
| AP5 [Jan] | Send a brief to CCCG on Apply Fix changes | K Grainger | Closed |
| AP6 [Jan] | Find out if it is possible to have the Historic Provider and Office figures by Procurement Area | K Wood | 24 March |
| AP7 [Jan] | Remove the currently published <i>Improving Quality Guide</i> and split into category specific quality guides. Update: Updated guides have been published | J Waring | Closed |
| AP8 [Jan] | Contact E Druker about anything that might have been missed in relation to the EU Exit Regulations | SPGs | Closed |
| AP9 [Jan] | Update the published LAA's list of audit activity | J Waring | 29 Jan |
| AP10 [Jan] | Send the details of the practitioner who was told to get a wet signature from clients to J Waring | K Pasfield | 21 Jan |
| AP11[Jan] | Review the published guidance on Covid19 contingency measures | McLaughlin-Waring | Closed |
| AP12 [Jan] | Provide guidance on client financial contributions when their trial date had been moved back. Post meeting note: Email exchanges with R Miler | E Druker | Ongoing |

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| AP13 [Jan] | Send feedback to E Druker on the provider means calculator | SPGs | Closed |
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