



The Law Society



Legal Aid Agency

Crime Contract Consultative Group (CCCG) meeting

Minutes

08 December 2020

V1.0

When:	Tuesday 08 December 2020 15:00 – 16:00		
Where:	By Microsoft Teams		
Chair Minutes	Richard Atkinson – TLS Lisa Obadan - LAA		
Attendees	Alice Mutasa – TLS Andrew Cosma – MMS Avrom Sherr – IALS Carol Storer - LAG Daniel Bonich – CLSA David Thomas - LAA Elaine Annable – LAA	Elliot Miller – LAA Glyn Hardy – LAA Ian Kelcey – CLC James MacMillan – MoJ Jennifer Johnson - LAA Kathryn Grainger - LAA	Matt Doddridge – LAA Mark Troman - LCCSA Neil Lewis - LAA Nick Ford – LAA Nick Poulter - LAA
Apologies	Adrian Vincent – BC Arron Dolan - CBA Caroline Goodwin – CBA Chris Henley – CBA Daniel Sternberg - BC Gerwyn Wise Helen Johnson – LAPG Henry Hills – SAHCA	Jelena Lentzos - LAA Jill Waring - LAA John Heavens - MoJ Jonathan Black – LCCSA Rakesh Bhasin-LCCSA Richard Miller Roger Ralph – CILEx Stuart Nolan Will Hayden - LAA	

Welcome and introductions.

1. **Minutes** from October meeting were approved. Actions were discussed as follows.

Actions from the last meeting and decisions from this meeting			
AP1 [Oct]	N Poulter to look into the clarification of payment at the point legal aid is withdrawn and how this is communicated	N Poulter	Closed
	N Poulter confirmed that all caseworkers had been instructed to make it clear that payment will be honoured up to the point that withdrawal is made. N Poulter asked for any problems to be raised with him if they have problems with this area. Closed		
AP2 [Oct]	N Lewis to determine if there is any data to substantiate the claim of increased volumes of withdrawals of legal aid in the Crown Courts	N Lewis	Closed
	N Lewis informed the group that no further data could be found than was already discovered and confirmed they could not dig down further than they had before. Identifying whether more people withdrawing from legal aid because of the level of contributions as a subset was not possible. D Bonich had raised whether they had seen lots of withdrawal applications for legal aid elsewhere other than the crown courts. N Lewis confirmed that nothing had come to him to substantiate it and it remains the case. Closed		

2. **Operational update**

N Poulter apologised that the paper setting out the key areas were not circulated in advance. Went through the key figures:

2.1 **Applications**

Target is 90% within 2 days. All through COVID, it has been either 99% or 100% and remains the case now. Volume of rep orders being granted is back to pre-COVID levels and has exceeded by a few percent, so things back to normal and processing them at 100% within 2 days.

Reject rates are a little above 10% which is a little higher and planning some training to drive down the numbers.

2.2 Billing

Magistrates court: – Team processing most things within 2 days except for CRM 7 and this is due to reintroducing normal process of getting files in and causes some logistical issues such as getting people into the office to process them. Claims are being turned around quicker and look to be less than 10 days by Christmas.

Crown court: –

Litigator fees – Good performance with bills processed around 2 days

AGFS – Processing within 4 days for AF1. High values in 2 days and disc claims within a day.

In relation to Hardship claims, which are revised hardship arrangements that came in as part of COVID, AGFS hardship claims are processed within a day and LGFS hardship claims within 2 days, although volumes remain low on both.

N Poulter mentioned disc claims and how it should be sent through secure file exchange but if not using secure file exchange, then it should be encrypted. Any discs sent unencrypted will be destroyed within 28 days.

At a stage where we need to destroy the unencrypted discs, but we will be writing to providers what will be done and if they want to retain it, then they need to send a courier for it to be handed back to them. This will be carried out in the New Year.

R Atkinson asked if any common themes regarding the reject rate of applications and if any difficulties attributed to COVID. N Poulter confirms that nothing is related to COVID. The rates had been a lot higher than 10 percent, but a few changes were made to bring it down to 10 percent.

N Poulter suggested next time, having more comprehensive data that looks at common themes or what things are being found in more detail. R Atkinson agreed as it would be help practitioners to see where the issues are. N Poulter was happy to do that.

N Poulter to bring more comprehensive data showing what things are being found in relation to reject rates of applications. **#AP1 [Dec]**

A Cosma also asked about destruction of discs and whether it is 28 days from receipt of the disc or from final determination of the bill. More sensible to be final determination as queries are raised on disc evidence and representation goes on longer than 28 days.

N Poulter confirmed that if they appeal, then should let them know and will not destroy the discs until the determination is finished. NP confirmed that this process relates to unencrypted discs, as encrypted discs can be sent back.

A Cosma mentioned firms were getting partial rejections for things like travelling from home in regard to mileage claims. Firms getting rejected despite using routes offered by Google maps.

A Cosma also raised that sending in attendance notes for Breach of bail for crown court matters is not accepted and they are informed that it needs to be sent in by the courts but sometimes the courts have not listed it. This is knocked back and then they end up doing a lot of work for little money.

N Poulter stated that regarding travel, they can get something round to the caseworkers to remind them that where things are not clear, then they need to be checking Google maps. If A

Cosma has any examples, then please send on to him, as it will help in feeding back to caseworkers.

In relation to bail application in magistrates court, N Poulter asked J Johnson for her thoughts on this. J Johnson confirmed they have been advised to verify that the hearing took place at the Magistrates court, that's why the attendance note is not sufficient on its own. Hoping with common platform, the information on bail hearings will be on the platform and there will be no need to send in attendance notes or confirmation from the Magistrates court about the hearing. But for the interim, they need an email or a copy of the listing from the magistrate court.

A Cosma stated that they don't get listings in the magistrate court and asked J Johnson to propose how to get this confirmation to them. J Johnson confirmed that most providers email the court or have emails from the court to confirm the hearings took place.

A Cosma asked if LAA do not have access to the court's systems, especially due to the difficulties at this time. J Johnson confirmed that they did not have access and cannot verify it themselves.

I Kelcey asked if they could not get a clerk to endorse that they had attended the hearings and also wanted to know if it was the LAA or NAO that needed this information to be provided.

N Poulter responds that this is in line with the way that the LAA assess all graduated fee claims as they use independent information to validate the claim.

N Poulter asked how often it happens. I Kelcey confirms that although it does not happen often, it does happen, and it is difficult trying to get proof from the court especially if they don't answer emails. For instance, it took 3 weeks for them to receive an email for one of their hearings. I Kelcey thinks there needs to be some flexibility.

M Troman put forward a suggestion about getting a breach report from the police and whether this breach report that is given to the magistrate court, could be sent in and used to make a decision as evidence that a hearing must have been created.

A Cosma responds that actual hearing attendance notes have been supplied and these have not been accepted.

N Poulter asked if M Troman could send in an example to look at as a starting point. A Cosma also states he will send one in as well.

M Troman and A Cosma to send in some examples for NP to review as a starting point. **#AP 2[Dec]**

3. Contract Management & Assurance Operational update

E Annable gave a brief summary of the paper. Data shared every 6 months of interaction with providers including Contract Notices, visits, sanctions, peer review. The briefing note gives information for the last 3 years but more importantly, the picture between April – Sep 2020.

It shows significant reduction in the current financial year due to the pandemic and pause in activity from March. Contract Notices reducing yearly and were reducing prior to COVID.

Contract notices post April relate to breaches that were identified prior to the pandemic. There are some fresh contract notices since the resumption of activity, but there are very low numbers. The report gives details of the reasons for contract notices in crime and civil. For crime, highest reasons tend to be

disbursements, claiming codes, minor breaches in terms of accuracy of reporting. Duty solicitor requirements are lower down on the list but there are still some still appearing in relation to this.

E Annable informed the group that there was not a lot of CM activity in the data for 2020 – 2021 due to low number of interaction but there are multiple minor breaches which come from Peer review reports.

In terms of consistency of approach, LAA have put more governance arrangements in place to ensure contingency measures are applied fairly and proportionately when it comes to a decision for any contract action. If there are any concerns, there is an escalation process in place to escalate any concerns. If you have concerns, providers can raise them informally with their Contract Manager or Area Contract Manager. If dissatisfied with an outcome, there is a complaints process in place as well.

A Sherr asked if E Annable could send the paper to him and asked if going forward, documents could not be embedded. E Annable to feedback to the governance team about this.

I Kelcey raised some issues with peer review failures and that discretion should be exercised in some cases. E Annable confirmed that they undertake a lesson learned after every CRB and they are looking at peer review and terminations processes.

A Cosma raised the complexity of the reporting codes and how they contribute to errors being made. Asked if any thoughts have gone into simplifying the reporting requirements, and if LAA has thoughts of how they can simplify the reporting requirements for the next contract round.

G Hardy responded they are looking into this in terms of simplification. Look for opportunities to simplify processes and systems.

G Hardy asked if there are specific things A Cosma wants them to look at, then he can send them over to him.

I Kelcey highlighted an incident some years ago regarding a contract notice on a matter and spending time trying to get it set aside. E Annable assured I Kelcey that the LAA has moved on from that in terms of applying discretion where it is appropriate.

D Thomas reiterated EA's point and stated that if a contract notice is raised for anything self-evidently inappropriate to that level, they should email it to him.

4. Crime Programme Progress (Common Platform)

E Miller mentioned that the platform will not likely be turned on in Bristol until at some point during the month of January. HMCTS focused on resolving some significant issues and although it does not prevent the platform from working does impose some inefficient workarounds on other agencies within the justice system. The Police had some reluctance to get on board with the roll-out in Bristol, until those key issues were resolved.

E Miller went on to give an update on the platform in Derby. EM stated that as of 4th Dec, 1,169 cases have entered the common platform in Derby and a total of 562 hearings have been managed by the platform. In the Derby Crown court, 97 cases have been sent to that site and it has resulted in 47 hearings.

I Kelcey asked if the LAA would put some pressure on the HMCTS to ensure the platform is rolled out properly. Very important the platform is running properly before it is rolled out fully.

E Miller responded the issues would be distinctive to each agency and the part allowing to process applications in a timely manner, is key area of interest for us.

E Miller referred to the attendance note issue mentioned earlier where providers are asked to evidence their attendance at breach hearings in the magistrate court. E Miller stated he would take away an action to look into the professional sign-in function for crown courts, which is in the common platform. This allows litigators and advocates to register their appearance at a hearing. EM not sure it applies for magistrate court, so he will take that away and check and report back to the group.

A Cosma confirmed that there is no current functionality to do that in the magistrate court. E Miller agreed this was not available with existing systems, but feels that because common platform is designed to be used across both jurisdictions, then any functionality developed will apply in both magistrate and crown courts but wants to be certain that it is at the same stage of development in the magistrate court as it is in the crown court.

E Miller to check if the professional sign-in function in common platform for crown court, is available for the magistrate courts. **#AP 3 [Dec]**

5. Rep Body Queries

D Bonich mentioned a recent announcement in relation to LAA access to the Crown court digital case system and there is now a role you need to access it. D Bonich felt it did not deal with the original query he & R Atkinson raised about whether they had permission to invite the LAA to the courts system and did not know if the new role was a result of HMCTS agreeing the LAA could have access and they could invite them. However, they still invite the LAA as they think they should have access.

D Bonich also asked if LAA could get blanket approval from HMCTS to have access when required and if they got anywhere with that or is there a procedural way of allowing them access.

D Bonich wants to know if HMCTS are content for them to invite the LAA.

E Miller responded that a bespoke role was created by HMCTS for LAA determining officers to have access. D Bonich asked if they can infer from the fact that the role has been created, whether HMCTS are now happy for them to allow LAA access on that basis. Nothing from HMCTS saying they can.

E Miller says HMCTS are happy and they went down the route of creating the role and it satisfies the stipulation of MoJ security.

D Bonich asked if a resolution has been found for peer reviewers. E Miller responds that there is nothing to stop them to apply for the read-only role and use it to conduct the review.

C Storer wanted to reflect on simplification and that if some things were made simple, then it would be easier for the LAA to run things quicker and allow people to get things right. C Storer wondered if EU procurement made things easier, then surely couldn't they simplify the contracts. It is such a big issue and simplification would be helpful to everybody.

R Atkinson hoped that is what will be worked towards for the next contract.

A Mutasa wondered if any there was an update on their request for a modification of the hardship allowance payments to assist firms and they have had a couple of suggestions for how the system could be improved and A Mutasa has sent on J MacMillan.

A Mutasa wanted to know if there has been any progress on that. J MacMillan responded he will pick up with A Mutasa and get in touch.

6. AOB

6.1 Issues with Marstons

I Kelcey raised an issue about a client getting inundated with letters from Marstons about payment plans or not having made payments, even after receiving letters earlier about making payments in relation to contributions. Dealings with them don't seem fit for purpose.

D Bonich also mentioned about having a client receiving a letter about payments they have made so far although no payment yet had been made by them. Trying to correspond with them is very difficult.

R Atkinson asked if there was somewhere to direct these observations to.

N Lewis confirmed he will take this away and discuss within the teams internally and find the right place to feed the information to. **#AP 4 [Dec]**

N Poulter asked if any information sent to N Lewis could include case details such as the example from D Bonich as it will be useful to have details to work with.

Actions from this meeting			
AP1 [Dec]	N Poulter to bring more comprehensive data showing what things are being found in relation to reject rates of applications.	N Poulter	9 February
AP2 [Dec]	M Troman and A Cosma to send in some examples of attendance notes for N Poulter to review as a starting point.	N Poulter	9 February
AP3 [Dec]	E Miller to check if the professional sign-in function in common platform for crown court, is available for the magistrate courts.	E Miller	9 February
AP4 [Dec]	N Lewis to discuss with internal teams to find right place to feed observations made about Marstons	N Lewis	9 February

The next meeting is on Tuesday 9 February 2021 via Teams