



The Law Society



Legal Aid Agency

Crime Contract Consultative Group (CCCG) meeting Tuesday 8 February

Minutes

V1.0

When	Tuesday 8 February 2022
Where	By Microsoft Teams
Chair	Richard Atkinson – TLS
Minutes	Lisa Obadan - LAA
Present	<p>Alice Mutasa – TLS Andrew Cosma – MMS Avrom Sherr – IALS Daniel Bonich – CLSA David Thomas - LAA Elaine Annable – LAA Glyn Hardy – LAA Hesham Puri - LCCSA James MacMillan –Moj Kathryn Grainger – LAA Martin Secrett Matt Doddridge – LAA Melissa Thompson – LAA Neil Lewis - LAA Nick Ford – LAA Nick Poulter – LAA Stuart Nolan - TLS</p>
Apologies	<p>Adrian Vincent – BC Arron Dolan – CBA Caroline Goodwin – CBA</p>

	Chris Henley – CBA Elliot Miller – LAA Helen Johnson – LAPG Henry Hills – SAHCA Ian Kelcey – CLC Jelena Lentzos – LAA Jennifer Johnson LAA Jill Waring – LAA John Foster – MoJ Kathy Hartup – LAA Rakesh Bhasin-LCCSA Richard Miller Richard Owen - Chair of TLS A2J Cttee Will Hayden - LAA
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R Atkinson started the meeting and welcomed the group to the February meeting.

R Atkinson confirmed papers and minutes were circulated in advance.

1. Minutes from December meeting were reviewed and approved.

Actions were discussed as follows:

APDEC01	A Cosma to send email to N Poulter setting out the issues above along with specific examples. N Poulter will investigate and respond in due course.	A Cosma & N Poulter	
	A Cosma confirmed examples had been sent to N Poulter and there has been a suitable resolution to all the issues. Action can be closed		
APDEC02	E Annable to discuss with N Poulter and G Hardy about any guidance for sending fee claims and file audits.	E Annable & N Poulter	
	E Annable stated there was nothing to add to the update already given in the Action log. Other than the clauses that are in the contract, there has not been anything specific that has been issued. Action can be closed		

2. Nick Poulter – Operational update

N Poulter gave the following update:

Applications

N Poulter stated they continue to hit nearly 100% of applications within 48 hours.

Intakes on applications are still lower than pre-Covid levels and seeing about 80% of pre-Covid intakes.

Billing

We have recently seen high levels on intakes. For example, LGFS for the last 4 weeks was 122% pre-Covid levels, AGFS was 133% pre-Covid levels and CRM7 was 116% pre-Covid levels. So, we are seeing quite high levels of billing.

Real pressure on the team to keep on processing but they are holding the line.

N Poulter also mentioned that they have recently been deluged with CRM4 lately and they cannot think of the reason why this would be the case, so N Poulter wondered if the group had any feedback on why this might be happening.

R Atkinson asked if there were any specific areas but N Poulter confirmed there was not and that it was across the board. Some members responded they could not think of a reason for this.

N Poulter asked if the group had any concerns from their end on where they might be getting it wrong? No response from the group.

D Bonich made a general observation about the operational update and mentioned that it would be quite helpful if there was another column in the tables, that gives an idea on how the volume compares with preceding month or the same month last year, so they can see patterns of things such as CRM4s as previously discussed.

N Poulter mentioned they can start putting in data on intakes into the operational update and a graph rather than a table showing over time will be added in. D Bonich agreed with the idea of a graph. R Atkinson also agreed that it would be a useful addition and thanked N Poulter.

No further questions raised on the operational update.

3. Representative body queries

SCCO rates increase

A Mutasa raised an issue around the SCCO increased rates for court appointed advocates payment and how some members have reported that their claims based on the new rates were being rejected and the explanation given for this. A Mutasa mentioned that they were not informed or aware of this decision to ignore the SCCO rates increase and this was not communicated to them or discussed with them and they would have appreciated some discussion and understanding of the rationale, or if not an actual consultation paper.

D Bonich noted that it seems a policy decision has been made that:

1) Court appointed rates would not track the SCCO rates for the first time and more significantly,

2) Travel and waiting rates would now be paid at 50% of the rate they were being paid at pre-October.

However, the first they heard of this, was when people were getting their bills back and getting less than they thought they would get.

D Bonich stated the most disappointing about it, was that they had not been told this was a change that had been brought in and after seeing the correspondence that members are getting and especially in regards to a specific paragraph, D Bonich is not sure this is a tone they would expect from MoJ/LAA and it is a little disappointing. D Bonich asked if this is something the LAA knew about or could explain to the group.

N Lewis responded he has had a look into this with the team but there is no one from that team at the meeting today and maybe would consider inviting them for future meetings but 3 things he would say:

i) the payments are central funds and not Legal aid funds; ii) as regard the process, these are paid on a case by case basis and it's a general reasonableness of the claim test and there is no mandation or regulation that sets out what these rates are and so that case by case reasonableness test is continuing and has not changed; iii) not too sure about the travel and waiting part and not followed what has exactly happened on that but in terms of the overall fees, the LAA has not changed.

N Lewis noted that there are right that the link to SCCO rates and the conversation about whether it should have come to the group to discuss it, is one N Lewis will take away with the team and reflect on as probably there should have been some discussion.

N Lewis continued and said they are continuing the process that they have got and may be because there was no guidance to be updated for example, which will often trigger a conversation in the group and that's possibly why that conversation has not happened here.

N Lewis can take it away and reflect on it but in terms of the specifics, the rates are higher than legal aid rates and they will continue with the approach they have, which is the general reasonableness test.

N Lewis asked N Ford if he knew anything specific about travel and waiting and has been able to follow it up. N Ford confirmed they will pick this up with the team and if whether it has changed slightly, then will need to pick it up with the team and feed it back.

R Atkinson responded that the way he understands it, is that it is a policy decision and not a case by case that they would pay half normal rate for travel and waiting.

R Atkinson further noted that they previously used to pay the hourly rate but now say they will pay half the hourly rate, so it is a policy decision and not a case by case basis because if it is a case by case basis, then they are festering the discretion they had.

N Lewis apologised that although he had looked into this issue today, but he had not picked up the specific bit on travel and waiting. N Lewis stated that he had looked at the overall rates question and thought that was the central aspect and had not noted the point about travel and waiting.

N Lewis noted that unfortunately there was no one at the meeting who could answer what has happened recently on travel and waiting but N Lewis will go away and pick that up with team and understand what has happened with it. **#AP01 [Feb]**

R Atkinson mentioned the Bellamy report and the general point it highlighted which was the overall level of remuneration is not sufficient to sustain the profession going forward and what this decision

has done is to reduce the overall remuneration that the profession is receiving, pending any acceptance by the government of Bellamy's recommendation to increase rates.

R Atkinson noted that they used to get paid the full amount for travel and waiting but this has been halved and they have reduced the total amount of money legal aid practitioners will receive, which goes completely against the independent review that was commissioned by the Ministry of Justice.

R Atkinson stated if that sort of thing is going on, then it should have been a subject of consultation and discussion within the group to explain what is going on because this is a retrograde step at the moment when we are told the government is considering Bellamy but at the same time, the government is imposing cuts and it is not looking good for the professions.

N Lewis reiterated that the aspects of this he has looked into, has been about the overall rates and he has not looked at the specific aspects about travel and waiting and he will go away and check on that and find out what has happened. N Lewis continued and stated that on the point of a consultation, and regardless of the travel and waiting issue, they should have found a way to raise it here in the group.

N Lewis will look into it and get an answer out as soon as he can.

A Cosma queried that although the rates have been put up by an independent committee, the LAA have said they will not be increasing it and to compare these rates to Legal aid is not a fair comparison.

N Lewis responded that the LAA have said they would continue with the approach they have undertaken and they have not changed what they have done but N Lewis agreed they should have come to the group and talked it through but does not think it would have changed the position on the overall rates but travel and waiting is a separate question N Lewis will need to come back to the group on.

A Mutasa spoke and stated that though N Lewis says it is on a case by case basis, however the email seems to indicate a blanket policy decision for all cases and the assessment was that the already existing hourly rates provide appropriate remuneration for publicly funded work. A Mutasa asked on what basis was that assessment made and that there is no information on what was assessed or how they assessed whether it was adequate and paying travel and waiting at lower rates than substantive casework is fair and reasonable.

A Mutasa noted that is a blanket approach/policy approach and not case by case basis because it is not addressed to a specific case that is being claimed but it is saying this is how you will approach all claims.

N Lewis responded that it sounds like that is how they will approach travel and waiting but admitted that he has not seen that communication and was only able to look at it this morning in the last couple of hours. N Lewis mentioned he has done his best right now to investigate this to the extent he can but there are other aspects to go back and look into with the team and will do that and come back to the group.

D Bonich thanked N Lewis and mentioned that he appreciated N Lewis had not had the chance to look at it properly yet but said that A Mutasa is right in terms of pulling out from what the actual standard paragraph says. D Bonich read through the paragraph and stated there are 2 parts to the query: the travel and waiting is particularly problematic, and they were not told about it because it is a cut and the rest is a change in policy.

D Bonich noted that many firms would have made the assumption that the rates they will get paid would be the SCCO rates and as always been the case but it seems in the words of the document, you

have reassessed it and if N Lewis can go away and look at it, they would be pleased to hear back to understand what the policy is.

D Bonich continued and noted that this probably should have been raised at least in this group and they would have had a sensible discussion over what the policy was and how best to announce this to people because firms will have taken work and are now going to be paid less than what they believed it was going to be when they took it on and will can all agree that is not fair, so look forward to hearing from N Lewis.

N Lewis thanked D Bonich for the summary and was it was really helpful to understand what they need to go away and clarify for the group.

R Atkinson asked if there could be a swift response, as there is a 3-month time limit on Judicial Review (JR) if people want to take it further. R Atkinson stated it would help if there is a quick response so anyone considering a JR will not find themselves in difficulties over time limits.

N Lewis agreed and will intend to get back to the group soon.

R Atkinson thanked N Lewis.

IDPC bundles on Common Platform

H Puri raised an issue about how one of their members received an email from their Contract Manager as the CPS had complained that they asked for an IDPC bundle directly from them and not from common platform even though the court they were at does not have common platform.

H Puri noted that it was interesting to know why the CPS are going to the LAA to complain to say solicitors need to get IDPC bundles from common platform as opposed to directly communicating with the defence. H Puri stated that it was a rather odd email from a contract manager, and it raised some concerns as what is going on and if anyone could ask that question.

E Annable responded and mentioned that it could be a local implementation team and the contract manager might sit on one of them and the CPS have gone direct to them in error rather than the local defence and we need the specific example to look into it further and it would be helpful, so they can work out the chain of events and why it has gone directly to a contract manager.

D Thomas responded and stated E Annable was right on what had happened and they are aware of the specific email sent out and D Thomas will be speaking to the contract management team responsible because the tone of the email was not what he would have expected to be communicated.

In terms of the routes for CPS to talk to firms, D Thomas thought it was positive in many ways if contract managers can help and assist and flow things through although the manner this one had been done here is not one they would aspire to. Think there is a legitimate challenge could CPS be talking directly to defence on these points and they will be pick it up with them.

D Thomas apologised for the slightly blunt tone of the email and they will be improving that in the future.

H Puri thanked D Thomas and will pass on his comments.

4. AOB

There was no other business. R Atkinson thanked the group and confirmed the next meeting will hold in April.

R Atkinson ended the meeting.

Actions from this meeting:

APFEB01	N Lewis to look into the specific aspects about travel and waiting rates issue, and feed back to the group.	N Lewis	
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The next meeting is on Tuesday 12 April via Teams