



The Law Society



Legal Aid Agency

Crime Contract Consultative Group (CCCG) meeting

Minutes

5 October 2021

V1.0

When	Tuesday 5 October 2021 at 15:00
Where	By Microsoft Teams
Chair	David Thomas – LAA
Minutes	Lisa Obadan – LAA - using the recording transcript Eloise Worrall - LAA
Attendees	Alice Mutasa – TLS Andrew Cosma – MMS Avrom Sherr – IALS Caroline Olaiya - HMCTS Chris Henley – CBA Daniel Bonich – CLSA Elaine Annable – LAA Glyn Hardy – LAA Ian Bickley - LAA James MacMillan – MoJ Jennifer Johnson LAA Kathryn Grainger - LAA Kathy Hartup - LAA Mark Troman – LCCSA Matt Doddridge – LAA Melissa Thompson – LAA Neil Lewis - LAA Nick Ford – LAA Nick Poulter – LAA Richard Atkinson – TLS

Apologies	Adrian Vincent – BC Arron Dolan – CBA Caroline Goodwin – CBA Elliot Miller – LAA Gerwyn Wise – GCLAW Helen Johnson – LAPG Henry Hills – SAHCA Ian Kelcey – CLC Jelena Lentzos – LAA Jill Waring – LAA Jon Heavens - MoJ John Foster – MoJ Liz Bryant - HMCTS Rakesh Bhasin-LCCSA Richard Miller - TLS Roger Ralph – CILEx Stuart Nolan - TLS Will Hayden - LAA
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D Thomas started the meeting and welcomed the group to the October meeting.

D Thomas confirmed papers and minutes were circulated in advance.

1. Minutes from August meeting were reviewed and approved.

Actions were discussed as follows.

APFEB06 - NEW APAPR02 NEW APJUN02	H Johnson to email N Poulter details about a case regarding issues of obtaining a P45. M Troman to send details of a similar scenario to N Poulter	Nick Poulter	This is waiting internal approval, once this has been granted details will be sent round.
	N Poulter to cover this Action point in the operational update. This can be closed		
APFEB07 - NEW APAPR03 NEW APJUN03	N Poulter to speak to the Digital team and look into whether it is possible for the portal to be amended to get date stamp facilities for indictable offences	Nick Poulter	This is still in progress. Action to remain open
	N Poulter to cover this Action point in the operational update. This can be closed		
APJUN05	D Bonich to send through details of the Local Authority Duty Scheme to G Hardy	D Bonich	This is still in progress. Action to remain open
	D Bonich confirmed he has sent it to G Hardy, and it is being looked into. G Hardy confirmed that D Bonich		

	<p>had raised some examples of local authority schemes operating in courts that were rarely used but slots rotated to duty solicitors. G Hardy updated the group that the duty performance teams are taken it up with the local courts and making progress on it.</p> <p>G Hardy came back to D Bonich on of the examples sent. G Hardy asked if D Bonich happy with what is being done, then Action can be closed. D Bonich confirmed he is happy, so Action closed.</p>		
APJUN06	G Hardy to look into the Local Authority Duty Scheme.	G Hardy	This is still in progress. Action to remain open
	Please see APJUN05 above – Action can be closed.		

D Thomas then asked the group if anyone attending the meeting for the first time, to raise their hand and introduce themselves.

Caroline Olaiya – HMCTS Head of Corporate Relations;

Ian Bickley – LAA, Head of External Communications, etc, introduced themselves.

D Thomas then went through the agenda

2. Nick Poulter – Operational update

N Poulter gave an overview: things are strong and on applications, they hit 100% in October and processed within 2 days. Remain in a strong position and they took an opportunity to drive other areas down.

Billing – Facing increased intakes and overall, crime billing intakes have been 115 – 120% pre-Covid levels and mainly in the crown court and AGFS. Sustained increase in volumes. Despite this, still turning claims round within 3 days on litigated fees and 4 days on advocates.

N Poulter asked if there were any comments. A Cosma stated he is getting a lot of reductions in AGF claims and asked if claims were being processed properly within 2 days. A Cosma asked that if after redetermination, a large percentage agrees with the provider, then maybe there is an issue with the process. N Poulter agreed that some mistakes will be made, but difficult to comment without seeing the particular set of circumstances on this case but redetermination rate has gone up by less than the 120% in terms of the initial claims and getting a little better in that sense. Feedback is always useful for us and we can take steps to help caseworkers see where they get it wrong and make sure they don't get it wrong in the future.

N Poulter asked A Cosma to send through examples and will have a look. A Cosma stated he will send directly to N Poulter – **#AP01 [Oct]**

N Poulter carried on and talked about the issues relating to indictable overnight cases that were raised a while ago where it is proving impossible to claim the sending fee when it is rejected because the application was incomplete for indictable only cases.

N Poulter confirmed that they have received approval now to be able to change their processes going forward and so there will be back-dating in a limited set of circumstances for indictable only applications and it will enable them to claim the sending fee on those cases where they were previously unable to do so.

N Poulter stated that they are currently updating their external guidance and he is proposing to send it round to the group to look at it. N Poulter asked if they will be able to feedback quickly as they would like to start the process soon. N Poulter said this will be sent the next day for the group to look at the first draft – #AP02 [Oct]

N Poulter then commented on a question asked by M Troman previously about cases in the past where they were not able to claim them and what will be done about them. N Poulter confirmed that they have again gone through the internal governance procedures in the LAA and got agreement where they can institute a process to look at those and pay them where the inability to backdate where we were rejecting applications in those circumstances, has led to you not being able to claim it.

N Poulter stated that there are some things that still need to be done and have to make sure there is no scattergun approach to this. Looking at how this would look like and hope to get the going forward process agreed first. There are various things that they need to do but the commitment is there that we will look to pay those. N Poulter states that it is a 2-stage process and they will be sending something round on 'going forward' and then once it is agreed, then they will look at the back stuff.

M Troman thanked N Poulter for the update and also the points of principle about back payments. M Troman stated it was sensible to ask for submissions on one spreadsheet but wanted to check about obstacles to claiming the fee and envisages cases where the firm appears at the sending hearing and the date of the representation order is a few days or weeks later and not date stamped it, M Troman hopes it will not be an obstacle.

M Troman also asked if the provider may have claimed an LGFS payments, presumes it is not a barrier to claiming the sending fee? N Poulter confirmed that that this will not be a barrier and the fee can be claimed and there is no problem. However, N Poulter stated that on M Troman's first question, there needs to be some evidence that the provider was advising the client before the sending hearing and the main ways to show that, is the date the application form was submitted. N Poulter confirmed that the Criminal Legal Aid manual will also be updated.

3. Graham Hughes – Mandating of Unused and Special Preparation claim forms

G Hughes was unfortunately unable to attend the meeting to cover this item.

N Ford spoke on GH's behalf and mentioned that this was around special preparation forms and different versions being submitted, with further information being asked on some of them. This was a plug to ask for the correct form to be used and talk through what needs to be provided. They are talking about mandating it and make sure providers provide the right information first time around, so the team can process them without the need to come back for further information. N Ford was not fully involved in

this, so maybe worth G Hughes coming back to answer any queries on his paper. D Thomas says any queries by email is fine, but G Hughes can come and talk about it next time.

N Poulter asked if he could talk about the training website and directed the group to GOV.UK for the website where there are useful videos. N Poulter stated that the website previously used to be mainly for Civil and exclusively for CCMS, but this has now been expanded to include Crime, AGFS & LGFS with hints and tips, and webinars for training rolled out to providers in those areas. N Poulter shared the link with the group.

4. Richard Atkinson – Digital submission of Non-Standard Fee CRM7 claims and Prison Law Escape CRM18A claims for assessment post Covid

R Atkinson raised the issue of going back to putting in paper submissions for CRM7 and CRM18A forms and wanted to talk about getting these digitalised. R Atkinson mentions this is a practical issue because since they have had to go back to printing these forms which could be about 80 files a month, they have had to take on part-time staff to undertake the printing and R Atkinson thought it was incredible that at this time, they are having to employ people to print material for the purpose of submitting it to be billed.

R Atkinson mentioned that these are digital material, they have to work digitally, LAA requires them to work digitally in their contract, and everything is going digital, yet they are employing staff in order to print out paper to send to LAA to prepare a bill and R Atkinson is not sure he has heard anything that suggests this is likely to end imminently. Yet through COVID, they could operate in a way they did not have to print everything out.

R Atkinson states that this is a plea and they should go back to not printing things out and if this is a workaround, then it should be an LAA workaround until they find a solution. R Atkinson asked why not revert to the COVID workaround until the LAA sorts the system out?

N Poulter responded and stated what they are looking at is half a million pounds a year; in terms of what they would normally assess off CRM7s during lockdown and just taking things submitted electronically, amount assessed off normally is 10k a week and a full year is 500k and these are effectively incorrectly claimed and this is an amount that can be used elsewhere in the public sector.

R Atkinson responds that they are not asking for it not to be assessed, but they should not ask them to print it out to assess them. N Poulter mentioned that the problem they've got is at the moment, about 40% of CRM7 claims are submitted electronically on the eforms system and 60% are not. The eforms has a size limit and people fall foul of that. We tried Galaxkey for bigger files, but it takes the caseworker twice as long to assess each claim.

These are the challenges they face. Have been lobbying internally to get digital resources allocated to this to improve the situation. Have got some digital resources lined more and they are due to start imminently

in the next couple of weeks, and one of the things they will do, will be contacting providers on the PET group. Need to work to find out options available to us and also looking at how to enhance the CRM7 forms and changes that can be made to that. N Poulter then went through some numbers with the group in terms of the journey towards becoming fully electronic.

A Sherr stated that what R Atkinson & N Poulter are saying, is the same problem providers and peer reviewers are having in relation to looking at digital files through Galaxkey and the difficulty for peer reviewers is getting data that is unidentifiable. This needs to be sorted out because if having digital format, then it needs to be visible for both sides when they are looked at. A Sherr asked D Thomas if the 2 different issues could be brought together in relation to working out the system, as it would be helpful to both sides. D Thomas says he will ask Karen Mychajlyshyn or Jill Waring to pick up with A Sherr separately because although they may be some commonality, but they may be some differences in the context they are used. Looking to ensure our electronic file exchange works well in all context.

5. Remote Supervision Changes

Discussion started with D Thomas stating that 2 queries had been received and asked M Troman to talk about his query.

M Troman stated that this started with a conversation with G Hardy about the transition from contingency arrangements for supervision back, but not entirely back to where it used to be. M Troman wanted to raise an opportunity to rethink it and ensure there is still quality supervision but without prescribing that the supervisor and their supervisees all coincide in the office. For the average supervisor to be profitable, they have to comply to duty solicitor attendance requirement and life of a criminal practitioner is varied, so M Troman is asking to consider allowing supervision to be entirely online. Appreciate they are changing and adopting all collectible model but can go a bit further.

G Hardy responded that it is important to look at the starting point and the position currently in the contract is that supervisors have to be in the office all the time. Wanted to make sure the contract better reflects hybrid models of working for supervisors. Recognise the changes may not go as far as some may want and gave this careful consideration and at this stage, we were not comfortable going with a fully remote model. None of us understand the long-term implication of that but accept there may be benefits to organisations and individuals.

First step in an ongoing conversation and keen to work with the group to monitor how it is working and if any changes need to be made. Looking to take a proportion approach here.

G Hardy asked if D Thomas wanted to say anything on the Contract Management approach? D Thomas stated that the order of this in the past has been pretty light touch and proportionate. Certainly not planning on making it a key focus for people to be diving into your local records on a regular basis. So hopefully we can all find a sensible and pragmatic level of audit there.

D Bonich endorsed what M Troman said especially on the quality of the supervision because we can't assume just because you're physically in the same room that the supervision is necessarily any better. G

Hardy stated that need to see how this beds in and it will find its natural level and not expecting firms to close offices. Encourage ongoing conversations with their Contract Managers.

A Mutasa also endorsed what people have said and does not personally have an issue with the requirement for the supervisor to see the person they are supervising face to face, as long as it does not have to be in a specific location. A Mustafa mentioned that it was the other requirement to travel into the office she does not understand and what purpose it serves. The supervisor, and the people they're supervising can easily make arrangements to do the supervision in other locations. But in order to satisfy this requirement, they have to get in their cars or get on transport and drive all the way to the office. In Wales the rules are still very strict, so a lot of people still haven't opened their offices and yet you're basically forcing them to go into those offices.

G Hardy mentioned there's a couple points raised. I'll take the last one first:

This all builds into the contract management approach and the proportionate approach we intend to take here. Obviously, we know there are areas we might see local spikes and local lockdowns, and we will not expect firms to do anything against public health advice. There are the Covid-19 temporary standards, and we know that firms are working under the temporary standards in areas where they haven't been able to comply previously and likewise if there are spikes, it is something we can rely on. Encourage firms to have conversations with contract managers if they have any concerns.

On your first question/point, there is a provision that says they need to have a supervisory meeting once a month in the same physical location and we also say they need to be in the office once a month and it can coincide. The reason for the second requirement is that caseworkers are going into offices and on the whole, offices are not closed and are open, and they have staff operating from them. It is about visibility of the supervisors, so they can answer questions, which is why we have those provisions.

A Mutasa stated that their members in Wales are informing her about the situation there, where the rules are still strict and a lot of them have not opened their offices, and staff are not going in. D Thomas reassured A Mutasa that the Covid-19 temporary standards are currently available, and they recognise this situation and they are not forcing anyone to not comply with Welsh government recommendation or requirements. D Thomas tells A Mutasa that if any of their members raises this as a problem, encourage them to speak to their Contract Manager, to ensure they are making full use of the flexibility we offer around that.

A Mutasa asked if the flexibility is not going to be replaced by the new standards. D Thomas responded that it may be the case, but it has not yet been removed and they are looking at the question as to what point they should be removed and the Welsh government advice is also not a permanent feature and they will be looking at the interplay between those when considering what to do next regarding those temporary standards. They are temporary standards and we will be looking to removing them, but they are currently available, and no firm should be having a problem.

M Troman talked about an issue of bounce that came up during the ongoing contributions to the amendments to the contract about 'who is a supervisor', 'who needs to be supervised'? Just need to perhaps look at who we are supervising. Focus our supervisory efforts on the more inexperienced.

G Hardy stressed that this is a first step and they can monitor this and come back to this as part of this group, as the requirements bed in. See how it is operating and if there are any issues with the operation of it or think we can go further in some areas, then will be open to that conversation. See this as a step in the right direction.

D Bonich mentioned that in some meetings, people have suggested that they are over complicating the question of supervision by putting it in the contract at all. Worth it for the group to hear this had been suggested elsewhere. G Hardy said this is part of a wider conversation with Civil colleagues in relation to the Civil contract and they recognise the contract requirement as it stands, did not appropriately accommodate hybrid working. This is their first attempt at offering some more flexibility and G Hardy is happy to have an open conversation on this.

D Thomas thanked those who had raised the observations on this and helpful to work through it and it will no doubt be a position they will look at and consider over the future contracts.

6.

Representative body queries

D Thomas asked A Mutasa that she had a query.

A Mutasa says she had a query about not paying travel and this issue was about where people are not going into the offices, there are not likely to live near the courts and will be travelling from their home. Concerns about the cost of travel being taken away.

M Doddridge responded and mentioned that the contingency would not stop someone in Wales or any part of the country where their offices are closed, from claiming travel from their home, as they will have to take a reasonable proportionate approach to what is happening. Upon reflection, wondered if an extra line could be added to the contingency acknowledging that offices are still going to be closed in Wales. Does not think the contingency precludes that but maybe make it a bit clearer. Take it away with G Hardy, E Annable and others to see what they want to update on **#AP[Oct3]**. Sensible way forward.

A Cosma raised an issue about the new police protocol and don't know if the LAA are saying they will still pay for remote attendances and did not see any change in the contingency. Issue for London & South East duty solicitors is they don't have fuel. So, when the police say they are abandoning the original protocol, and the default position is they are attending, not sure the protocol mentions exceptional circumstances. Really push back to do this remotely as protocol says it is going back to default. Public transport at night is not feasible and unless the LAA will pay for taxi fares, then maybe a message needs to go out to them until the fuel crisis is resolved in the South East. Needs to be some leeway in allowing remote working or interviews for police stations.

G Hardy responded that the LAA's position is they will make payment for remote attendance as if there were physical and it was in line with the protocol. Raise with police leads or those who have been drawing up the protocol.

R Atkinson mentioned he has been one of those involved with drawing up the protocol and they have weekly meetings where it can be raised. It is a question of whether it was an exceptional circumstance and it was partially within contemplation because of a discussion of not being able to attend police station due to floods. It is probably covered but the protocol allows for appeals to the superintendent where there are issues and that is what needs to be pursued. A Cosma thinks a gentle nudge from above to custody staff would help.

D Bonich stated that, in his view, the fuel crisis would be covered by the exceptional circumstances within the protocol and says as long as there is a protocol, the LAA should pay.

7.

AOB

There was no other business. D Thomas thanked the group for constructive questions and answers.

D Thomas ended the meeting.

Actions from this meeting:

APOCT01	N Poulter asked A Cosma to send through examples about reductions in AGF claims issue and will have a look. A Cosma stated he will send directly to N Poulter	A Cosma	7 December
APOCT02	N Poulter to send the group their external guidance and for the group to send feedback as soon as possible– #AP2 [Oct]	N Poulter	Action now closed
APOCT03	M Doddridge, G Hardy and E Annable to add an extra line to the contingency acknowledging that offices are still going to be closed in Wales.	M Doddridge/ G Hardy/E Annable	Action now closed

The next meeting is on Tuesday 7 December 2021 via Teams