

**Civil Contracts Consultative Group (CCCG)
Minutes**

21st September 2022

Date:	Wednesday, 21 September 2022, 3pm
Where	Microsoft Teams
Chair	David Phillips - Service Dev and Commissioning [LAA]
Minutes	Grazia Trivedi – Service Development [LAA]
Present	<p>Anastasia Kostaki – Bar Council Avrom Sherr – Peer Review Carol Storer – LAPG Chilli Reid – Advice UK - until 4pm Chris Bone - MoJ Chris Minnoch – LAPG Chris Walton – Shelter Deborah McLaughlin - Civil Legal Means [LAA] Eleanor Druker – Service Development [LAA] Ellie Cronin – The Law Society Helen Perkins – Service Development [LAA] Ian Bickley – External Comms [LAA] Jane Robey – Family Mediation Jenna Steens - Exceptional Complex Cases Team [LAA] Jennie Mirfin – Central Commissioning [LAA] Jill Waring – Contract Mgmt./Assurance [LAA] Karl Ford – Area Contract Manager [LAA] Kathryn Grainger – Cust Serv/Case Mgmt. [LAA] Maria Brown – Exceptional Complex Cases Team [LAA] Nicholas Omiros – Mental Health lawyers Association Nimrod Ben-Cnaan - Law Centres Network Paul Seddon– Association of Cost Lawyers [ACL] Paul Tyrer – civil operations [LAA] Richard Miller – Head of Justice [TLS] - Sally Cheshire - Housing Law Practitioner Assoc. [HPLPA] Sarah Hannah – Senior Legal Caseworker [LAA] Sarah Telford – CAB Simon Cliff - The Law Society Tim Collieu – Commissioning [LAA] Tom Fitzgerald – Civil Operations [LAA] Vicky Ling – Resolution Zoe Bantleman – Immigration Law Practitioners Association [ILPA]</p>
Apologies	

Chair welcomed everyone. The Ministerial team is now in place which is welcome news.

D Phillips informed CCG that Steve Starkey, who had been a member of the group for many years, had sadly passed away a few weeks before. P Tyrer would share the relevant contacts with those members of the group that wished to express their condolences. **Action 1 [Sep]**

1. [Minutes](#) of the July meeting were approved and would be published.

Action 6 [July] *Representative Bodies [RBs] to ask their members to volunteer to collaborate with LAA to review current return rate of applications, amendments, and assessments.* This was carried over to the next meeting. RBs to respond directly to Tom.Fitzgerald@justice.gov.uk **Action 2 [July]**

2. Review of the Terms of Reference [ToR]

The Process Efficiency Group [PET] and CCG Terms of Reference were reviewed and approved; it was agreed that the word 'consultative' would be kept in the CCG title.

3. Update on Trapped Capital

D McLaughlin said that the working group set up to work on the Public Law Project [PLP] recommendations to address the issue of clients with trapped/inaccessible capital and access to legal aid had completed a number of actions - produced a guidance for providers with a case specific example, recorded a webinar to support providers both of which were available on the training website. Communications had also been placed in the LAA Bulletin, sent out to CCG and PET members and updates placed on twitter to support the changes. Updated guidance had also been provided to Civil Legal Advice [CLA] operators who gave advice over the phone and their relevant IT systems had been updated. The only actions outstanding linked to MOJ policy or CCMS IT changes which would take some time. In the meantime, providers were asked in the new guidance to use the merits report to flag a case with trapped (inaccessible) capital. Actions would be tracked by the Processes Efficiency Team [PET]. To date only one case had been refused because the provider had not replied to repeated requests for further information. E Cronin thanked D McLaughlin for this work.

4. Civil Operations Update

Civil Applications: T Fitzgerald said that a new slide [slide 22] had been added about trapped capital. It included links to the training and support website; the civil Financial Manageability webinar included a substantial section on trapped capital cases.

On Application Fixer queries there seemed to be the same small number of providers using the service regularly and representative bodies were invited to promote the service to their members. The LAA would do some communications on that too **Action 3 [Sep]**

E Cronin asked whether it was possible to get data for Exceptional Case Funding [ECF] applications in different areas of law **Action 4 [Sep]**.

Civil Billing P Tyrer said that two CCMS billing guides had been recently published and were flagged on slide 77. He asked representative bodies to flag these guides to their members. **Action 5 [Sep]**

Help Us Say Yes Webinars were going to be run in November on avoiding rejects and paying bills first time; the Eventbrite link would be shared in due course. In June only 12% of bills had been rejected, the lowest level for 3 years [slide 53].

Rep bodies were asked to find out from their members what method of training was most liked by providers **Action 6 [Sep]**. There were no questions on the High-Cost Family cases slide and stats.

Exceptional Complex Cases Team [ECCT] J Steen flagged two new slides in the pack [41-42] featuring new appeals data.

E Cronin wasn't sure that the data of ECF cases in the quarterly stats release was correct and J Steen would check. **Action 7 [Sep]**. N Ben Cnaan pointed out that CCMS made it difficult for the ECF and ECCT cases to be reported correctly from the outset, and some manual intervention was needed to ensure all of the cases received were properly reflected in the stats.

5. LAA Commissioning update.

T Colliou talked about the main points in the report on *provider numbers* by category of law which showed that numbers were holding steady. With the exception of Housing, the minimum commissioning target was in place in all procurement areas. The *activity report* showed data on work that had been reported from April to July; the numbers would change in the coming months thus allowing a proper analysis of trends and comparisons with previous years.

C Minnoch asked whether the data on provider numbers in Family included inactive providers because if it did then it could be argued that the minimum commissioning target might not be met. If the report could separate active from non-active firms the information could be used for work on the civil sustainability review, client access to services, reasons behind long periods of inactivity that put in doubt the firms' ability to comply with quality standards. T Colliou agreed to split the data **Action 8 [Sep]**

E Cronin asked whether the family data on activity could be split into Private Family and Public Family law. E Druker would provide this information as a one-off. **Action 9 [Sep]**

J Waring talked about some of the reasons behind firms' inactivity and gave some examples: in Clinical Negligence [CN], which had a high proportion of inactivity, providers were able to meet the supervisor standard by doing private work; few CN cases were eligible for legal aid.

Firms doing little or no legal aid work could still meet the quality standards and Contract Managers checked every provider annually whether they did work or not. In the case of Social Welfare, some providers carried out work funded by local authorities; services were delivered under other contracts to avoid the bureaucracy attached to legal aid.

Commissioning and Contract Management leads shared intelligence on provider activity and the reasons for that, through the capacity reviews. Contract managers kept Commissioning colleagues informed about access gaps, inactive firms and any other emerging issue that might affect services in their areas.

Representative bodies were concerned about the extent of provider inactivity and the gaps in services as shown in the heat-map and wanted reassurance that MoJ policy colleagues and ministers were aware of this intelligence. D Phillips said that policy/Ministers were made aware of the health of the civil legal aid market based on the LAA's operational data and insights. The LAA

could provide an operational response to gaps in the market for example by running additional tenders. MoJ policy advised Ministers on issues such as remuneration which was outside the LAA's control.

T Colliou had produced a heat-map of housing providers for Housing and asked for feedback. N Ben Cnaan asked whether it was possible to see snapshots of the map at different times, thus showing changes over a defined period **Action 10 [Sep]**.

C Minnoch thanked T Colliou for producing the map and said that if ministers could see them, they would immediately understand the situation without having to study a complex spreadsheet. He said that the data did not show the correlation between supply and the likely demand for that service. For instance, some areas like London had high density of social housing, large population and a high deprivation level and one provider wasn't anywhere near enough to meet demand while in rural areas it probably was. He said the commissioning target of one supplier per procurement area was simplistic and needed to develop a more sophisticated capacity review mechanism and a more realistic target. E Druker said that It would be a complex and demanding task. The Agency would see what could be done within existing resources. **Action 11 [Sep]**

S Cheshire said that one housing practitioner per Procurement Area was not enough as there was scope for conflict of interest in a lot of different housing cases especially in areas with large social housing communities. T Colliou made it clear that the agency would welcome many more bids for services and didn't just stop tendering when they had one provider.

T Colliou would find out what tools were available to analyse and cut data to satisfy bespoke requests for data sets **Action 12 [Sep]** D Philips reminded the group that there were limited resources to undertake this work and prioritisation of requests was important.

6. Early Legal Advice Pilot [ELAP]

E Druker said that the plan was to start the pilot on 24th October and run it till the end of March 2023; the contract offer had been sent to providers in Middlesbrough and Manchester and she was waiting to see what the take up would be. At the end of the pilot MoJ would decide how to proceed.

C Minnoch said that some practical issues had been raised at a recent meeting about the Housing Loss Prevention Advice [HLPAS] service and the agency's contracting and commissioning plans. Some of these were similar to ELAP such as the extension of scope and the requirement for a provider who was a Housing specialist and had a Housing and Debt contract to be delivering advice outside of their immediate areas of expertise.

The Law Society had raised concerns about what was required by the solicitors, compliance by the SRA rules and what was going to be required under the contract. E Druker said that the matter was being considered by the Commercial Legal team. Similar issues had been discussed in relation to ELAP during the course of the year; and the agency would assess whether providers signed up to the ELAP pilot and what arrangements they put in place whilst not breaking any regulatory rules. Contract managers had conversations with all the providers about what might work and what would be the best approach.

The Law Society would flag to their members that undertaking work outside of the area of competence posed a risk of breaching SRA rules. C Minnoch asked whether the agency had

included in the contracts any caveats stating that if a housing lawyer was to deliver a service either directly or through an agent, he/she was going to be individually responsible for the quality of welfare Benefits advice. E Druker said that the matter had been discussed extensively but the ELAP offer letter did not include such warning because the agency's lawyers were still discussing whether this was appropriate to add to tender documentation. E Druker would update rep bodies when the legal team and other work leads had made a decision. **Action 13 - closed**

Post meeting note – ED confirmed to Law Society and LAPG that warning would not be included in the tender documentation.

7. Cost of Living Pressures

E Druker said that at the last meeting J Wrigley said that MoJ were keen to look into the possibility to make amendments to the regulations that disallowed certain payments, such as the cost-of-living crisis payment. A ministerial team had just been announced and this would be one of the more urgent pieces of work to go to them.

S Cheshire said that some clients had to make capital contributions and had to use their cost-of-living crisis payment to pay for a certificate; she asked whether the client might be able to recover these costs retrospectively. E Druker to raise this with the MoJ lawyers drafting the regulations **Actions 14 [Sep]**

E Druker said that contract managers had raised the matter of flexibility in the contract to help firms with their administrative costs; discussions were taking place with the LAA lawyers to see what could be done, however making substantive changes to the current contract would be challenging. E Druker would update CCCG as soon as possible **Action 15 [Sep]**

8. Timetable for new civil contracts

E Druker said that the 2018 civil contracts were due to end on the 31st August 2023, however the existing contract might be extended for a further 12 months in order to give MoJ time to do a civil legal aid review that would feed into future contracts. She asked rep bodies not to share this information outside CCCG as the LAA and MoJ were going to formally make an announcement shortly.

Post meeting note: The extension of civil contracts until 31st August 2024 has now been announced - <https://www.gov.uk/government/news/civil-news-extension-of-civil-contracts-until-31-august-2024>]

There would be opportunities for Housing and Immigration providers to enter the market through planned tender activities.

N Ben Cnaan said that Sarah Dines MP said in Parliament that MoJ were going to run a Legal Problem Resolution survey and asked whether the outcome of the survey would influence the agency's approach to commissioning. E Druker was no aware of this announcement and would look into it. **Action 16 [Sep]**

9. AOB

Carol Storer raised the Civil Justice Council Consultation on Costs:

<https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/cjc/current-work/costs/> - the deadline for responses was originally 30 September but it was now noon on 14 October. There were a number of serious concerns for legal aid practitioners most particularly fixed recoverable costs and the lack of reference to the 1994 Regulations which were brought in when legal aid rates were reduced to below market rates. The principles that led to that had not been referred to in the Consultation and there were very serious risks for legal aid providers. Carol asked for details of anyone in the MoJ and LAA who was working on this so that the issues could be flagged up. E Druker to send details **Actions 17 [Sep]**.

Actions from this meeting		Owner	Deadline
AP1 [Sep]	Send relevant contact details to rep bodies who wish to express their condolences for Steve Starsky's passing	P Tyrer	Closed
AP2 [July]	Ask members to volunteer to collaborate with LAA to review current return rate of applications, amendments, and assessments. PMN: 1 Resolution member volunteered	Rep Bodies	Closed
AP 3 [Sep]	Promote the Applications Fixer service with providers	Rep Bodies D McLaughlin	Closed
AP4 [July]	Check whether it is possible to get data for [ECF] applications in different areas of law	H Keith	15 Nov
AP 5 [July]	Flag the new CCMS billing guides to members [slide 77 of the operational performance pack]	Rep Bodies	Closed
AP 6 [Sep]	Find out from their members what method of training was most liked/useful	Rep bodies	15 Nov
AP 7 [Sep]	Check whether the ECF cases in the quarterly stats were correct	H Keith	15 Nov
AP 8 [Sep]	Split active from inactive providers in the commissioning activity report	T Collieu	Closed
AP 9 [Sep]	Provide data on firms' activity for Family work split into 3: those doing both Public and Private Family Law and those doing one or the other	E Druker	15 Nov

AP 10 [Sep]	Show snapshots of the heat-map at different times	T Colliou	Closed
AP11 [Sep]	Look into the possibility of developing a more sophisticated capacity review mechanism	E Druker	15 Nov
AP12 [Sep]	find out what tools are available to analyse and cut data to satisfy bespoke requests for data sets	T Colliou	30 January 23
AP 13 [Sep]	Find out if warnings about the risk of breaking regulatory rules could be included in tender documentation. Post meeting note – ED confirmed to Law Society and LAPG that warnings would not be included in the tender documentation.	E Druker	Closed
AP 14 [Sep]	Find out whether clients that had used cost-of-living payments to pay for a certificate could recover these costs retrospectively	E Druker	15 Nov
AP 15 [Sep]	Update CCCG on whether some flexibility could be applied to contracts to help firms with administrative costs	E Druker	15 Nov
AP16 [Sep]	Look into the announcement that MoJ would be running a Legal Problem Resolution survey	E Druker	15 Nov
AP17 [Sep]	Send details of the MoJ Civil Justice Council Consultation on Costs to C Storer	E Druker	Closed