

Civil Contracts Consultative Group (CCCG) 14 September 2023
Minutes V1

Date:	Wednesday, 14 September 2023, 3pm
Where	Microsoft Teams
Chair	David Phillips – Service Development and Commissioning [LAA]
Minutes	Grazia Trivedi – Service Development and Commissioning [LAA]
Present	<p>Avrom Sherr – Peer Review Bob Baker – Association of Cost Lawyers [ACL] Carol Storer – LAPG Chris Walton – Shelter Chris Minnoch - LAPG Claire Blades – CAB David McLaughlin – Association of Mental Health Lawyers – MHLA Deborah McLaughlin – Civil Applications [LAA] Eleanor Druker – Service Development [LAA] Ellie Cronin – The Law Society Jennie Mirfin – Commissioning [LAA] Jill Waring – Contract Mgmt./Assurance [LAA] Karen Firth – Area Contract Manger [LAA] Karl Ford – Area Contract Manager [LAA} Kate Pasfield – LAPG Kathryn Grainger – Process Efficiency Team [PET] Louise Cowell –High-Cost Family [LAA] Malik Waleed – - Data and Analytical Services [MoJ] Nimrod Ben-Cnaan - Law Centres Network Robert Damiao – Civil Billing [LAA] Robert Carthy – NAO (Observer only) Robyn Lee – - PA Consulting [external contractor conducting the economic analysis workstream] Rowan O’Neil – Bar Council Simon Cliff – The Law Society Tim Collieu – Commissioning [LAA] Tom Fitzgerald – Civil Applications [LAA] Vicky Ling – Resolution Vicky Fewkes - Housing Law Practitioner Assoc. [HLPAA]</p>
Apologies	<p>Helen Keith – ECCT Chilli Reid – Advice Uk Zoe Bentleman – ILPA Kerenssa Kay - Policy [MoJ]</p>

D Phillips welcomed everyone.

1. **Minutes** of the June 2023 meeting were approved. All the actions had been closed. At the last meeting J Waring invited representative bodies to attend the next CCCG meeting at the LAA Leeds office to give them the opportunity to observe/engage-with the case management teams based there, to understand how they work and to see the kind of systems they use. As only a limited interested had been expressed it was decided to not arrange a visit on this occasion.

D Phillips added his support to the idea of improving understanding of the LAA operating environment. He gave an example of the digital challenges in his own team.

Pressures around the Illegal Migration Act [IMA] and competing priorities had had an impact on the team's intention to give providers more notice of the publication of the Standard Civil Contract 2024 tender and he apologised for this.

N Ben Cnaan said that representative bodies not included in consultation activity with the LAA had been left out of the loop; the LAA should have communicated their timetable for Standard Civil Contract 2024 to CCCG.

D Phillips accepted that this was a valid point and that the agency should do their best to give representative bodies as much notice as reasonably possible.

2. **Provider Survey - Review of Civil Legal Aid [RoCLA]**

R Lee explained that MoJ were running a survey for providers of civil legal aid as part of the economic analysis work stream of RoCLA. This workstream had two key aims: firstly, to conduct an in-depth analysis of the civil legal aid market to assess how it was currently working and what was driving problems and gaps in the market. The second was to identify options on what structural changes could be made to ensure a more efficient and effective civil legal aid system. The provider survey would feed into that by assessing satisfaction with different areas of civil legal aid, key pain points, challenges experienced, and providers' rationale for staying in the market.

The survey would target current providers as well as firms and organisations that had exited the market recently. Representative bodies' help was counted upon as a conduit for reaching out to members and encourage them to take part.

In response to a query W Malik said that the aim of the survey and the review as a whole was not to save money for MoJ but was about shaping a system that was more accessible and more effective for users and providers; it was a formal review commissioned by Government, which would help inform future policy.

D Phillips noted that representative bodies had made the following observations:

- they had raised concerns about sustainability for many years.
- the preference was an earlier injection of cash into the sector ahead of the outcome of the review.
- The approach seemed to duplicate previous surveys and their own research.

K Pasfield said that LAPG members and others too, may be reluctant to take part in another survey as they had done so many over the years which covered the same topics and took a long time to complete.

C Minnoch said that providers and representative bodies were not going to believe in this review until the MoJ addressed the core issue of fees, publicly acknowledged the impact of

low fees over a number of decades, and explicitly stated that one of the purposes of the review was to look at putting fees back up to a commercially viable level.

D Phillips emphasised that in contrast to previous activities RoCLA was a formal Government-commissioned piece of research and analysis designed explicitly to inform policy changes. Providers would have a direct chance to feed-in and therefore influence its conclusions. D Phillips therefore encouraged participation.

3. LAA Civil Operations update

The LAA work leads talked about the main points of interest in the Case Management Operational Performance Report. The agency encouraged representative bodies to share the report with their members.

R Damiao made a plea for providers to remember to submit all disbursement vouchers with their claims as this would ensure more bills could be paid first-time.

A common reason for assessing both certificated and Legal Help escaped case bills was that file notes were missing but were then provided on appeal. Another reason was missing evidence that work had been done throughout a file. V Ling suggested that difficulties caused by extracting whole files and transferring them to LAA via CCMS or Secure File Exchange might be the reason for missing chunks of evidence. Paper files presented a different problem as providers scanned them and things went missing along the way. It was agreed that this was a matter to be discussed with the Processes Efficiency Team [PET].

N Ben Cnaan asked for an update on escaped case billing; R Damiao acknowledged that there had been delays in payments over a period of time, but extra resource had been put in place and the backlog had been cleared. If any providers wished to discuss problems with particular claims, they could contact R Damiao directly and in confidence.

LAPG asked for an update on the payment run issues that had occurred recently. D Phillips explained that on this occasion the payment process had not worked properly and that the agency had dealt with it as a critical incident. The issue had been resolved, the cause identified, and he offered his apologies on behalf of the agency, who took such incidents extremely seriously.

LAA Commissioning update.

Standard Civil Contract 2018 extension: Issues Arising

T Collieu said that the Civil extension commenced on 1 September. Over the course of the previous week, it had become apparent that a small number of providers were missing some or all of their schedules. Interim arrangements were put in place for all providers affected.

Preliminary indications were that part of the problem stemmed from where there was an addition of one or more categories of law to the schedule at some point in the year, either because of a further tender or a novation. The LAA had rectified the position by 6 September.

The LAA continued to investigate the underlying reasons. The agency would amend its processes in the light of the lessons learned from this.

Standard Civil Contract 2018 re-tender: Activity and Current Status

The process of shutting down the tender has begun. Activities include:

- Quality controlling the upload of the new contracts and schedules and amendments to the existing schedules.
- Withdrawal of the offer of the 19 providers who did not engage in the verification process.
- Those that did not complete verification but had submitted information were contacted on 14 September and given an additional 5 working days to submit their outstanding information. However, they had to demonstrate that the information was valid as at 1 September, the commencement date for re-tender work.

The outcome of the tender would be published once finalised.

Standard Civil Contract 2024 tender

The tender for any provider wishing to deliver civil services from October 2024 opened on 13 September 2023 and will close on 17 October 2023.

V Ling asked whether the agency would be flexible in relation to the verification deadline of 15 March because providers incurred considerable costs to become compliant and March was a long way away from 1 September when the contract started. It was agreed that this would be added to the FAQs. Action 1 [Sep]

E Druker said that the two areas where it would be difficult to be flexible were HLPAS and Immigration in relation to the Immigration Removal Centres. This is because the LAA needed to know definitively in advance so that rotas can be produced ahead of work starting.

Housing Loss Prevention Advice Service [HLPAS] tender

The HLPAS tender launched on 1 August 2023. Some gaps in procurement remained in some areas and the agency were working with HMCTS and the judiciary to find a local solution.

N Ben Cnaan asked whether the agency was considering appointing more than one provider per court in the areas where there was no provision of HLPAS services. D Phillips confirmed the LAA would consider this as an option.

N Ben Cnaan asked whether the terms of the current HLPAS tender differed in any way from those in the previous tender and E Druker said that they were the same.

4. Means Test Review [MTR]

A written update had been circulated prior to the meeting.

N Ben Cnaan asked whether stage 2 of the MTR, the tabling of the regulations in Parliament, would be completed before the end of this calendar year. E Druker would ask policy colleagues to provide a written update Action 2 [Sep]

K Pasfield asked for detailed information to be published about when the changes would come in and where the changes were in the eligibility guidance.

Post meeting note: Here is the link on the communications on GOV.UK [Civil news: Phase 1 Means Test Review civil legal aid changes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/civil-news/phase-1-means-test-review-civil-legal-aid-changes)

5. Court Assessed Bills

Following the consultation on whether assessment of claims for civil proceedings over £2,500 (but less than £25,000) that concluded in front of a District Judge or higher, should be transferred from the HMCTS to the LAA, the decision had been taken to collect information for a period of time and during that time there would be a hybrid model whereby providers could choose where they sent their bills: the courts or the LAA. The agency had updated CCMS in April 2022 and a good set of data had been collected since then. The agency planned to launch another consultation where the data would be shared.

Data showed that 89% of bills came to the LAA voluntarily for assessment and 11% stayed with the court however the trend was upwards with more bills coming to the LAA. In May of this year 95% of bills came to the LAA. The payment rate was 98.87%, including any costs allowed on appeal by the Independent Costs Assessor (ICA).

B Baker asked whether the agency would carry on accepting bills in multi format; high-cost cases and bulk-upload cases didn't work very well on CCMS. The ACL would broadly support the move to the LAA for assessment bills providing the format of the bill was as flexible as it was now. B Baker was happy to let this matter be discussed during the regular meetings the agency had with ACL reps.

Another issue affecting submission of bills was that firms operated different case management systems, and no one operated the same system in the same way; when working remotely it was very difficult to keep orderly files in a way that providers were not used to doing. In many cases junior staff were given the task of filing and often it wasn't done correctly.

R Damiao was asked for the percentage of bills that were appealed Action 3 [Sep]. C Minnoch asked whether the consultation could have a section on appeals because providers regularly fed back how difficult it was to know whether they could get paid for work and complained about the interaction with the agency when there was a difference of opinion which led to appeals. He said this was one of the main reasons given by providers for giving up legal aid.

Post meeting note: Chris Minnoch asked how many claims the agency have had appeals on where they have assessed the claim on a voluntary basis in place of HMCTS. It's 235 cases out of about 25,000 total (so 1%) with a successful appeal against LAA decision.

6. AOB

D Phillips asked representative bodies whether they would be interested in having an update on the Illegal Migration Act [IMA] at the next meeting. It was agreed that this topic should go on the agenda at a specific time so that people who were not interested could leave.

LAPG asked for an update on the pre-CCMS certificate project at the next meeting. Action closed and asked whether a firm could be audited during a live tender; the answer was yes;

however the contract manager could be flexible if a provider was particularly busy preparing for a tender.

C Storer announced that the face-to-face LAPG conference was on 9 November; D Phillips agreed to be the point of contact for that at the LAA.

C Minnoch asked the agency to provide a list of all the management activities/tasks that were attached to a contract but were not factored into the fixed fees to ensure that the total cost of doing business with the LAA/MoJ was captured. E Druker replied that she had flagged the issue of non-chargeable activities such as responses to contract consultation and means test to the RoCLA. J Waring would take this up with LAPG separately. Action 4 [Sep]

D Phillips announced that Jennie Mirfin would be leaving the agency at the end of September and thanked her on behalf of CCCG for her work on several tenders that took place under her tenure at Commissioning.

Actions from this meeting		Owner	Deadline
AP1 [Sep]	Add the question around flexibility on the verification deadline for the civil contract 2024 tender to the FAQs The request has been noted and providers will be directed to what it says in the IFA.	LAA Commissioning Team	30/9/23
AP2 [Sep]	Ask policy colleagues to provide a written update on stage 2 of the Means Testing Review	EI Druker	30/9/23
AP3 [Sep]	Find the percentage of bills that are appealed. It's 235 cases out of about 25,000 total (so 1%) with a successful appeal against LAA decision	E Damiao	Closed
AP4 [Sep]	Discuss providers' management tasks/activities that were non chargeable with LAPG representatives	J Waring	Closed