

Civil Contracts Consultative Group (CCCG) 6 December 2023

Date:	Wednesday, 6 December 2023, 3pm
Where	Microsoft Teams
Chair	Kate Pasfield – Legal Aid Practitioners Group [LAPG]
Minutes	Grazia Trivedi – Service Development and Commissioning [LAA]
Present	<p>Avrom Sherr – Peer Review Brendan Lynch – [LAA] Carol Storer – Access to Justice Chris Bone – Civil Policy [MoJ] Chilli Reid – Advice Uk Chris Walton – Shelter Chris Minnoch – Legal Aid Practitioners Group [LAPG] Danielle Watson – Civil Legal Aid [MoJ] David McLaughlin – Association of Mental Health Lawyers – MHLA David Phillips – Service Development and Commissioning [LAA] Eleanor Druker – Service Development [LAA] Eleanor Fray – Policy, Illegal Migration Act [MoJ] Ellie Cronin – The Law Society [TLA] Eve McNally - Stakeholder engagement [LAA] Helen Keith – Exceptional and Complex Cases [LAA] Jill Waring – Contract Mgmt./Assurance [LAA] John Ozap-Marshall – Commissioning [LAAA] Justin Belcher - Association of Lawyers for Children [ALC] Karen Firth – Area Contract Manger [LAA] Karl Ford – Area Contract Manager [LAA] Kathryn Grainger – Process Efficiency Team [PET] Lauren Mallon – Commissioning [LAA] Lizzie Checkley - Legal Aid Policy [MoJ] Louise Cowell –High-Cost Family [LAA] Nicholas Craigen - Strategy and Legislation [MoJ] Oliver Williams – [LAA] Robert Damiao – Civil Billing [LAA] Rowan O’Neil – Bar Council Sean Wardale – [LAA] Serina Mehmi – [MoJ] Simon Cliff – The Law Society [TLA] Tim Collieu – Commissioning [LAA] Tom Fitzgerald – Civil Applications [LAA] Vicky Ling – Resolution Vicky Fewkes - Housing Law Practitioner Assoc. [HLPAs] Zoe Bentleman – Immigration Law Practitioners Association [ILPA]</p>
Apologies	<p>Nimrod Ben-Cnaan - Law Centres Network [LCN] Richard Miller – The Law Society [TLS] John Fowler-Unrecouped POAs [LAA]</p>

K Pasfield welcomed everyone.

1. **Minutes** of the September 2023 meeting were approved and would be published.

Action 4: Discuss providers' management tasks/activities that were non chargeable with LAPG representatives. The meeting had taken place. C Minnoch thanked K Ford for his contribution towards a really useful discussion which would inform a larger piece of work planned by LAPG and possibly something that The Law Society [TLS] were doing as well. A meeting with other representative bodies that might be interested in working with LAPG on this could be arranged.

2. **Pre-CCMS Certificates Project**

A paper had been shared before the meeting describing the scope of the project which concerned all older paper-based cases in that are 'billable', but didn't have 'final bill', including providers with and without a contract with the LAA.

The project was specifically targeted Unrecouped Payments on Account [UPOA] activity. The Agency would close down cases if the affected providers did not respond to the Agency's request for information or confirmed no bill was due. The LAA had agreed to a number of providers' requests to have 'recovery plans' (i.e., the LAA would stagger the recoupment of POAs over a number of months rather than recouping all POAs in one go) which were all currently under active management. R Damiao would find out how many providers had agreed to a recovery plan **Action 1 [Dec]**

3. **LAA Civil Operations update**

Civil applications: T Fitzgerald talked about the main points in the slides pack. V Ling flagged that feedback from members said that a larger number of domestic abuse applications were being rejected/refused; this was mainly linked to the evidential requirements. She agreed that this was a matter for the Process Efficiency Team. T Fitzgerald agreed to look into the most common reasons for an application to be refused based on pieces of evidence. **Action 2 [Dec]**

High-Cost Family: Processing rates had been on target throughout 2023. The team were starting to plan for activities in 2024 to further improve their right-first-time rate. Representative bodies were invited to make suggestions for areas of High-Cost Family work they would like covered at webinars, tutorials or lunch and learns. The number of complaints had also come down considerably: only 11 in the current year compared with 27 the year before.

Billing: R Damiao said that there had been a steady increase in the number of rejected bills specifically where counsel was paid under the family advocacy scheme, because the figures paid didn't reconcile. Providers could find help with this by checking the published guidance [CCMS Billing With Counsel \(justice.gov.uk\)](https://www.justice.gov.uk/guidance/ccms-billing-with-counsel) on the LAA Learning website.

The second area where rejects were becoming an issue was escape cases in Immigration and Asylum, Mental Health and Civil where claims didn't reconcile with CWA. Representative bodies were urged to ask their member to ensure that the amount on the claim reconciled with the figure entered on CWA.

Exceptional Complex Cases Team [ECCT] update: there had been a dip in performance in September and October due to resourcing levels, unexpected absence and change in management. Performance was back on track and expected to remain strong in December.

4. **Contract Management and Assurance [CMA] update**

The update from April to September was circulated in advance of the meeting and K Ford talked about the main points. It was agreed that future reports would include details of the reasons for sanctions and terminations. J Waring offered to representative bodies if they wanted to spend any time going through the report in more detail or for us to explain particular areas to contact us.

A Sherr pointed out that in the category of Immigration and Asylum the number of firms scoring 4 and 5 at Peer Review had gone up. He said that firms were failing for reasons including not looking carefully at the decisions of tribunals, not spending time with clients going through information received from them and comparing that with the Home Office reports and having little contact with clients. He confirmed he couldn't comment on whether this was linked to levels of fees. C Minnoch suggested that the Peer Review Quality Guides should be publicised more widely.

J Waring flagged that the reasons for undertaking peer reviews may impact on the outcome (for example if there had been more targeted reviews in a particular period). She agreed to look into the possibility of training for providers based on the quality guides. **Action 3 [Dec]**. Currently peer review panels were set up in the higher volume categories of law, but this was kept under review. The quality guides could be found here: [Legal Aid Agency audits - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/legal-aid-agency-audits)

***Post meeting note** because of lack of resource in Peer Review the agency plan to develop the training in the first quarter of next financial year [2024/2025] in the meantime the quality guides can be accessed via the website.*

5. **Illegal Migration Act [IMA]**

Druker said that the LAA had published the revised Immigration and Asylum contract to accommodate the IMA. Some changes come into force in January 2024, specifically in relation to remote advice in the Immigration Removal Centres [IRCs]. The Agency was working with the Home Office and IRC staff to ensure the process works well. Changes have been made to the 2018 civil contract and the 2024 civil contract has been updated.

For IMA work the following arrangements would apply:

- Providers would have delegated functions to grant themselves certificates.
- Cost and disbursement limitations would be increased for both controlled and certificated work.

Efforts were being made to ensure that enough interpreters and experts would be available given the likelihood of higher demand. It was possible that higher rates may have to be paid to ensure availability. Guidance on applying for prior authority will be amended.

Rotas for providers in IRCs had gone out. The agency would do final checks to ensure the slots were deliverable for the period January-March 2024.

An Expression Of Interest [EOI] had gone out asking existing Immigration providers whether they would like to offer advice in IRCs or, if they were already giving advice in certain IRCs, whether they would like to do so at additional locations. The approach to rotas would be as flexible as possible to make it easier for providers to join/leave.

The Agency would share data on the EOI tender, which was supplementary to the current provision of providers as soon as it became available. The deadline for responses to the EOI varied as it was dependent on the providers' readiness to join the rota.

C Minnoch said that representative bodies appreciated the fact that their comments and feedback on the initial draft changes to the contract specifications had been taken on board by the Agency and appreciated the opportunity to collaborate during the process.

Representative bodies were concerned about the concept of assessing capacity to take on the work arising after the Detained Duty Advice Service [DDAS] sessions and how that might be used by the Agency. Z Bentleman added that she wanted to understand how the LAA were going to deal with paragraph 8.161 of the revised contract which states that *'where a provider is aware that they will not have capacity to advise one or more clients following the 30-minute advice session, you must inform us of this issue as a minimum of least three business days prior to the detained duty advice scheme surgery'*. She asked whether knowledge of the provider's capacity would have an impact on the rota. What was the agency going to do in relation to the monitoring of people's ability to take on the cases after the DDAS sessions? What was the Agency going to do with information about people's capacity or willingness to take on certain cases.

D Phillips said that the agency's intent and the processes to support that were to ensure clients had access to advice both at the DDAS triage and subsequently. The reasons for lack of availability would vary including personal issues such as illness. E Druker added that if certain providers regularly cancelled DDAS surgeries at the last minute for example then there would a discussion with them about their commitment to the work. The expectation is that if a provider takes on the DDAS slots they would offer the substantive follow-on advice as well. However, it was recognised that some providers may only realise when they had seen the clients that they would not be able to take on all clients e.g. due to complexity of cases.

Due to the tight time scales associated to the IMA and the larger amount of work, a team of four will be dedicated to managing the rotas and dealing with associated issues.

Training had been running on DDAS for new providers and a training programme on IMA work was being set up. There would also be training on CCMS and CWA changes.

K Pasfield flagged that regulations were not clear about the work that qualified for the 15% increase in the fee. E Fray said that MoJ had laid one Statutory Instrument [SI] and another needed to be laid which would provide a fuller picture on the regulations and the 15% uplift applied to all IMA related work.

D Phillips said that the agency would keep practitioners informed about the IMA.

6. LAA Commissioning update.

Civil Contract 2018: T Collieu had shared a table with CCCG showing the breakdown of successfully completed verifications for the 2018 re-tender exercise conducted earlier in the year. He confirmed that 40 firms covering 42 categories of law withdrew from the contract or didn't renew the contract. C Minnoch worked out that with the re-tender there had been a net gain of 191 contracts. He asked whether there had been a net loss in any of the categories. T Collieu would find out this and also how many inactive firms that had dropped out of the contract or renewed it **Action 4 [Dec]**.

Office requirements: In relation to work to revise the crime contract, D Phillips said that where possible the agency would try to agree to the same office arrangements in crime and civil keeping in mind that there were differences in the way they operate. K Pasfield said that representative bodies had met with the agency to discuss the matter for crime and would welcome the same discussion with regards to civil. E Druker to set up a meeting to discuss **Action 5 [Dec]**

Civil Contract 2024: T Collieu said that 1400 organizations had bid for the civil tender 2024 and if they all converted into contracts there would be an increase of 56 in the overall level of supply. Just before the start of the re-tender in August 2023 there were 1267 firms. Notification letters are due to go out from the 22nd January 2024. The information on the verification process was in the Information for Tender document. A frequently asked question was received which queried whether verification could be sent in with tenders and the Agency had said no to that. Another question was whether the Agency would accept verification after the deadline and the agency had set out their response in question 74 of the FAQ document to the effect that flexibility would be exercised in certain circumstances. T Collieu would share the answer with the minutes **Action 6 [Dec]** Closed

Post meeting note As set out at paragraph 6.6 of the Award ITT:

“6.6 At our absolute discretion and where it is practical and feasible to do so we may, but are under no obligation to, accept verification information submitted after the Verification Date subject to the conditions outlined in this Section 6 and our obligations to comply with relevant legal principles.”

This means, where verification information is not available by the Verification Date it must be submitted at the earliest opportunity but by no later than the Contract Start Date, except in respect of Individual Bids for HLPAS Areas and Contract Work delivered in an IRC setting where Verification Deadlines apply.

As set out at paragraph 6.8 of the Award ITT:

“Applicants that do not successfully complete the verification process prior to 1 September 2024 will not be able to undertake Contract Work at the Contract Start Date and the Contract award may be withdrawn at our discretion.”

7. Means Test Review [MTR] Update.

L Checkley said that MoJ had delivered Phase 1 of the review. Work was progressing in relation to the other phases 2, 3 and 4. It is a highly complex project requiring many changes to the IT systems to make it operational. MoJ is working through detailed implementation plans and plans to work more closely with representative bodies going forward. Not all the work could be shared, however the team would consider how best to involve the profession. L Checkley would share an engagement plan with representative bodies in due course **Action 7 [Dec]**

Deprivation of Liberty Safeguards [DOLS]. MoJ were looking at the guidance on amending certificates for DOLS. L Checkley said that her team was aware that some organizations had views about what it should say.

C Minnoch wished to thank Madeleine VanOss and LAA colleagues for attending the LAPG conference. The main issue that was covered at the conference was about Universal Credit and the knock-on effect of having to means test people to work out whether or not they were passported. He asked whether there was scope for the MoJ to revisit this problem which was a burning issue for practitioners with serious practical implications. L Checkley

said that MoJ were aware and understood practitioners' difficulties and were trying to find an operational solution that would make things easier. K Pasfield hoped that MoJ would attend CCCG in future to update on MTR.

Inadequacies of CCMS: D Phillips said that there had not been time to get a response from the digital team so would provide a written answer after the meeting **Action 8 [Dec]**.
Closed

Post meeting note: *The system which underpins most civil legal aid services (CCMS) is a complex web of many systems. Its size and complexity present challenges when large scale, rapid digital changes are required to implement new policies. Implementing the Means Test Review is one of the most ambitious set of changes yet proposed for CCMS. Scoping the potential impacts to CCMS of digital changes required to implement MTR forms a significant part of the planning activities to support effective MTR delivery. Our digital team is working closely with teams across the LAA to work through how to deliver the required changes in the most effective way possible. The Apply for civil legal aid service is still developing and is not intended to replace all of the services provided by CCMS. The service is one alternative path for legal aid, where the majority of that path must still take place in CCMS.*

Review of Civil Legal Aid [RoCLA]: representative bodies asked whether any further means test changes were likely to arise. D Watson said that MoJ is not planning to look at financial eligibility as part of the review. That is mainly because the MTR had comprehensively looked at means testing arrangements. But MOJ is going to look at related issues that affected user experience such as the eligibility process and means testing process. E Cronin said that the Terms of Reference in RoCLA stated that means testing would not be part of the review and yet means testing had an impact on the viability of services and the user experience. It should be made clear that MoJ were going to consider the user experience in relation to means testing. D Watson would take this away for consideration **Action 9 [Dec]**.

Post meeting note: *Changes to eligibility for legal aid are not within the remit of the Review, so we do not foresee any recommendations arising out of the Review for means-testing policy. However, aspects of means-testing may come up in relation to other issues the Review is looking at, like the administrative burden associated with legal aid. If that happens, we would generally consider those points, as they relate to issues the Review is covering. In relation to the question about whether stakeholders may not mention any admin issues associated with means-testing because they think means-testing is out of scope, I don't think we are too concerned about that because we have been clear that the admin burden is something the Review is looking at.*

Housing Loss Prevention Advice Service [HLPAS]

A written update had been circulated before the meeting. C Beedell and C Bone added some more detail to that. C Bone discussed MoJ plans to assess early impressions of HLPAS impact after 3 months of operation. In response to a query from C Minnoch about whether provider engagement would be a part of this work, C Bone confirmed this. Meeting invitations would be sent out in due course.

8. High Profile Case Policy

Prior to the meeting representative bodies asked H Keith to provide data on how many cases had been subject to consideration under the High-Profile Case Policy for the year to

December 2023. H Keith had sent a written update together with a copy of the current *High-Profile Cases Standard Operating Procedure* [SOP] for the internal management of these cases. C Minnoch asked whether data could be included in the Case Management Operational Report. He also asked if there were any circumstances in which external legal advice was sought on non-high-profile cases and whether there was a difference between the grant rate for these cases to other cases in those categories that were not subject to the procedure. He explained that it was helpful to know how the process worked in practice so that practitioners could understand how and why this process existed.

H Keith explained that the data gave an overview of the types of cases considered under the process during the year as the Agency didn't hold the information by contract category.

The Director of Legal Aid Casework [DLAC] (caseworkers using delegated authority) may obtain legal advice on cases that don't fall into the process as well as cases that do. Outside litigation, on decision making DLAC may obtain legal advice on any matter. There is a governance framework to protect the independence of the DLAC decision-making role .

Inclusion of data in the Operational Report could be considered; information about grant/refusal rates for this cohort of cases would not necessarily correlate with a wider population of case in individual categories. However, the agency may be able to highlight any particular trends or points of interest. To consider including information in the Operational Pack on High Profile cases **Action 10 [Dec]**

9. AOB

- 9.1 Z Bentleman asked for an update on the discussions in relation to immigration accreditation following the MoJ consultation response on the IM bill and asked for representative bodies to be included in discussions. E Druker would find out **Action 11 [Dec]**

Post meeting note: The Law Society in collaboration with the Ministry of Justice (MoJ), have established a new funding arrangement aimed at supporting Immigration and Asylum Accredited members within firms holding legal aid contracts.

As part of this collaborative effort, the MoJ will fund the cost of the accreditation application and examination fees under the Immigration and Asylum Scheme for eligible members within firms. This initiative is designed to ease financial burdens and promote continued excellence in immigration and asylum services.

The benefit of the funding is available to those applying for initial accreditation as a senior caseworker or re-accreditation as a senior caseworker for up to 12-months starting on 1 January 2024. Further information can be found here: [Immigration and Asylum Law Accreditation | The Law Society](https://www.thelawsociety.org.uk/immigration-and-asylum-law-accreditation) and a FAQ document can be found here: [https://f.datasrvr.com/fr1/324/21912/FAQ_Immigration_and_asylum_Jan_2024 - _pdf?utm_source=accreditations&utm_medium=email&utm_campaign=Exclusive+funding+arrangement+and+coupon+code_02%2f05%2f2024](https://f.datasrvr.com/fr1/324/21912/FAQ_Immigration_and_asylum_Jan_2024_-_pdf?utm_source=accreditations&utm_medium=email&utm_campaign=Exclusive+funding+arrangement+and+coupon+code_02%2f05%2f2024)

- 9.2 Lauren Mullen introduced herself to CCCG, she has recently joined the LAA as Head of Commissioning.

Actions from this meeting		Owner	Deadline
AP1 [Dec]	<p>Find out how many providers have agreed to a pre-CCMS project recovery plan</p> <p><i>PMN – there are 15 firms currently under a recovery plan</i></p>	R Damiao	Closed
AP2 [Dec]	<p>Look into the most common reasons for an application to be refused based on evidential requirements</p>	T Fitzgerald	13 Mar
AP3 [Dec]	<p>Look into the possibility of training for providers based on the quality guides.</p> <p><i>PMN-because of lack of resource in Peer Review the agency plan to develop the training in the first quarter of next financial year [2024/2025] in the meantime the quality guides can be accessed via the website.</i></p>	J Waring	Closed
AP4 [Dec]	<p>Find out whether 1) there has been a net loss in any of the categories of law in the civil contract re-tender 2018.</p> <p>Post meeting note: With the exception of Clinical Negligence providers who remained at the same number, there has been a net increase in both provider numbers and offices in all categories.</p> <p>2) how many inactive firms have dropped out of the contract or renewed it</p> <p>Post meeting note: three inactive providers chose not to extend their 2018 Contract. Two were full withdrawals: a clinical negligence provider in the Southeast procurement area and Mental Health Provider in the North procurement area. The third withdrawal was a partial one with the provider choosing not to maintain an Immigration & Asylum office in the Northeast, Yorkshire, and the Humber procurement area. 208 providers that had an inactive office in at least one category accepted the extension.</p>	T Colliou	Closed
AP5 [Dec]	<p>Set up a meeting with rep bodies to discuss office requirements in Civil law.</p> <p><i>PMN: This is likely to happen later on in the year</i></p>	E Druker	Closed
AP6 [Dec]	<p>Share the answer to question 74 in the civil tender FAQs</p>	T Colliou	Closed

AP7 [Dec]	share an engagement plan on MTR with representative bodies	L Checkley	TBC
AP 8 [Dec]	Written update on the Inadequacies of CCMS and the timetable for resolving these problems through the development of APPLY.	Digital team	Closed
AP 9 [Dec]	Make it clear that MoJ are going to consider the user experience in relation to means testing	D Watson	Closed
AP 10 [Dec]	To consider including information in the Operational Pack on High Profile cases	H Keith	13 Mar
AP11 [Dec]	Update on immigration accreditation.	E Druker	Closed