

Civil Contracts Consultative Group (CCCG)

V3

Date:	Wednesday, 18 September 2024, 3pm
Where	Microsoft Teams
Chair	David Phillips – Service Development and Commissioning [LAA]
Minutes	Grazia Trivedi – Service Development and Commissioning [LAA]
Present	<p>Allan Blake – Family Mediation Anna Hepburn – Head of Design [MoJ Digital] Avrom Sherr – Peer Review Chris Minnoch – Legal Aid Practitioners Group [LAPG] David McLaughlin – Mental Health Lawyers Association [MHLA] Eleanor Druker – Service Development [LAA] Ellie Cronin – The Law Society [TLS] Helen Keith – Exceptional and Complex Cases [LAA] Jasmin Garner – Civil Legal Aid Policy [MoJ] Jill Waring – Contract Management and Assurance [LAA] Kane Carlile – Civil Billing [LAA] Karen Firth – Contract Management and Assurance [LAA] Karl Ford – Contract Management and Assurance [LAA] Kate Pasfield – Legal Aid Practitioners Group [LAPG] Lauren Mallon – Commissioning [LAA] Louise Cowell – High-Cost Family [LAA] Mary Richardson – Association of Lawyers for Children [ALC] Niamh Fegan – Immigration Law Practitioners Association [ILPA] Nimrod Ben-Cnaan - Law Centres Network [LCN] Robert Damiao – Civil Billing [LAA] Rowan O’Neil – Bar Council Sarah Burke - Mental Health Lawyers Association [MHLA] Simon Cliff – The Law Society [TLS] Tabita Hilary – [LAA] Tim Collieu – Commissioning [LAA] Tom Fitzgerald – Civil Applications [LAA] Tracey Jack - Association of Cost Lawyers [ACL] Vicky Ling – Resolution Vicky Feweks – Housing Law Practitioners Association [HLPA]</p>
Apologies	<p>Chris Walton – Shelter Paul Seddon - Association of Cost Lawyers [ACL] Mark Bowden - Shelter</p>

D Phillips welcomed everyone.

1. **Minutes** of the June 2024 meeting were approved and would be published. All actions had been completed except for that which asked for an explanation of how to apply for Deprivation of Liberty [DOL] cases when they arise in care circumstances. E Cronin raised a concern that this action had been outstanding for a long time. E Druker said that she would write to CCG before the next meeting in December with an update Action 1 [Mar].

Post meeting note If an application is made for a deprivation of liberty order under the inherent jurisdiction of the high court and this is to be heard within or alongside ongoing care proceedings as part of related proceedings, then this can be added to the existing SCA certificate. This will cover you for any hearings for a DOLS order whether that hearing is also a hearing in the care proceedings or whether it's a standalone DOLS hearing. This will cover you up to the final hearing on the section 31 care application.

You do not need to get an amendment for each DOLS application that may be made in the proceedings, one amendment will cover all applications and hearings made.

This can be done by adding a hearing limitation and free typing the proceeding wording.

If the DOLS application is made when there are no care proceedings before the court and is therefore free standing or is made within care proceedings and is going to continue after the conclusion of the care proceedings, then a means and merits application for inherent jurisdiction application must be submitted at the time the care proceedings conclude.

Policy are working on amendments to the Lord Chancellor's guidance to make clearer that any inherent jurisdiction application that comes in during care proceedings will be considered related proceedings although we are not sure when this will be.

2. El Druker presented on the following updates.

Review of Civil Legal Aid [RoCLA] and Green Paper Consultation

The information gathered during the review was being considered. The policy team had summarised the key findings, produced a range of high-level options on what could be taken forward and asked the minister to consider them. CCG would be updated when definitive proposals were agreed. There was no information on when the response to the Green Paper consultation and the Call for Evidence would be published.

The representative bodies expressed their disappointment that there had not been rapid enough progress in setting up the next steps for the response to RoCLA. D Phillips explained that the Agency understood the importance of what was captured by the review and had shared operational perspectives with policy colleagues and ministers. The new government understandably needed to take stock on policy positions as well as decisions on priorities and funding.

Family Early Advice Pilot

There wasn't yet any further information on the pilot; more would be known after the October budget and the 3 years spending review to be agreed in Spring 2025.

Illegal Migration Act

The Agency was waiting for the Home Office to confirm its policy and operational direction. The LAA was meeting with the Home Office and other stakeholders to ensure that legal aid was factored into decision-making.

Housing Loss Prevention Advisory Scheme [HLPAS]

When HLPAS became operational representative bodies raised several concerns. It was agreed that there would be a policy-led review of the service to make sure it worked well, to assess whether those concerns had been realised and/or whether it needed to be adjusted.

MoJ had started the review but there had been no end-date and no outcome yet. J Garner said that she would speak to colleagues leading in the housing area and ask them to give an update on how the scheme was operating to date and how it would adapt to future changes such as the Renters Rights Bill going through Parliament and HMCTS' plan to develop a digital procedure. Action 2 [Sep] K Pasfield would forward to J Garner an email with many contributions from HLPAS providers following a meeting with Serena before the election. The email contained a lot of information that would be useful Action 3 [Sep]- Closed.

Domestic Abuse Protection Order [DAPO]

Ministers had not decided yet when the launch would be. Policy colleagues were aware of the issues raised by stakeholders and were taking them on board. The Law Society and LAPG had provided substantial responses to the formal consultation on the legal aspect of this which MoJ and the Agency had found very useful. J Garner said that the responses would inform policy development. A contract consultation would be finalised as soon as possible. Representative bodies wanted to get some feedback on their responses before the pilot started, to see whether the issues they raised had been addressed. A major issue was fees and how much providers would be paid to do this work. E Cronin said that the policy consultation was not clear on this point and simply put a link to the regulations which are extremely complex; it was important to get clarity. E Druker agreed to take this on board and produce something that would try and make clearer how much providers would be paid to do this work. Action 4 [Sep]

Post meeting note: [New measures set out to combat violence against women and girls - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Means Test Review [MTR]

No new information was available following the update given at the March 2024 CCCG meeting by Madeleine VanOss.

Evidence From Medical Practitioners Outside the UK

This was about letters from overseas healthcare professionals being accepted as evidence of domestic violence; this had been agreed and work was on-going to consider implementation.

MoJ policy colleagues planned to set up a working group to look more broadly at Domestic Abuse evidence requirements.

3. Legal Aid Content on Gov.UK

A Hepburn raised the matter of improving the legal aid content on [GOV.UK](https://www.gov.uk) and asked representative bodies for their views on how the pages could be improved. C Minnoch suggested that a comprehensive content audit of everything that was available online was undertaken to avoid duplications. He also asked about an initiative that the previous administration had started, to create a platform called Early Legal Support and Advice [ELSA]. One of the purposes of ELSA was to raise public awareness of legal aid. E Druker remembered this initiative and would find out whether it was still active Action 5 [Sep]. She also flagged that the digital team were in the early stages of introducing a 'Find A Legal Adviser' tool. N Ben Cnaan pointed out that many individuals with legal problems did not understand that they had a legal problem, so they did not look for a legal solution. He proposed an integrated approach to all content on Gov.uk. across the legal aid/legal support dividing line because that was the way the public was thinking about it. No matter how good the content on Gov.uk was, if people didn't understand they had a legal problem

and didn't know where to look, it wasn't much value. Representative bodies would email anna.hepburn@digital.justice.gov.uk directly with more views.

4. LAA Civil Operations updates

4.1 Civil Applications T Fitzgerald talked about the main points in the Case Management Operations Report; in relation to CCMS enhancements K Pasfield asked him if these could be flagged in writing to representative bodies so that they could inform their members.

Action 6 [Sep]

4.2 High-Cost Family

L Cowell talked about the main points in the report. Between now and Christmas the team would be holding monthly clinics for providers as part of their '*Right First Time*' strategy and would hold tutorials on *How to Submit a Two Counsel Care Case Fee Scheme [CCFS]* case plan. They would also hold a *Transfer of High-Cost Cases* webinar and an *Hourly Rates* webinar.

Post meeting note:

- Link to Two Counsel tutorials on 15th October; [#HUSY tutorial: HCF: Two Counsel CCFS | Eventbrite](#)
- Link to next round of clinics on 16th October; [#HUSY clinic: HCF: 16 October by LAA external communications | Eventbrite](#)
- Links to sign up are not yet available – they will be going out in the bulletin early October.

4.3 Civil billing R Damiao also talked about the main points in the report.

4.4 Exceptional and Complex Cases. H Keith said that a notable percentage of appeals were overturned when they reached the external Independent Funding Adjudicator (IFA) and the Special Controls Review Panel stages, prompting a review to understand why and determine any action. H Keith would investigate the reasons. Action 7 [Sep]

5. **Contract Management and Assurance [CMA]**

K Ford talked about the main points in the CMA written update for the financial year 23/24.

N Ben Cnaan requested that the next CMA report due in December acknowledge the additional reviews that were carried out with providers this financial year as part of an *Inactive Case Review* as this was an extra burden for them. J Waring agreed to add a note however she explained that this wasn't an audit activity but rather a request to providers for an update on unbilled cases. Action 8 [Sep]

K Ford also agreed to compare data in the next report relating to Immigration interactions considering the pull forward of immigration activity earlier in the year. Action 9 [Sep]

6. **Civil 2024 Tender Process:**

L Mallon said that the tender process was in its final stages. Whilst final figures were not yet available there was coverage across all categories and procurement areas, except for Housing and Debt and some gaps in HLPAS. Wherever possible, operational mitigations would be implemented to ensure service provision either remotely or otherwise. She emphasized that the LAA had adopted a much more flexible approach to the tender to support potential providers. It included running additional concurrent tenders and extending verification deadlines up to the 31 August 2024. This caused delays in finalising the data. A post contract report *Through Find A Legal Advisor* would be published as soon as the numbers were finalised.

The Commissioning team had observed a deterioration in the quality of bids, particularly for competitive categories, HLPAS and DDAS. Many bids lacked sufficient detail, and there was a significant number of providers who did not engage or respond to follow-up requests.

C Minnoch expressed his and representative bodies' appreciation of the Agency's efforts to get providers' bids over the line. He asked what improvements were planned for future tenders based on the crime tender.

7. Future Commissioning Strategy

A short discussion followed on future civil strategy and the way that relevant changes in the new crime contract might be replicated in the civil contract alongside any other changes flowing from RoCLA.

L Mallon said that the Agency was committed to improve and simplify the process of civil tenders and would find solutions working with representative bodies as well. The crime tender would give the opportunity to test a completely different way of working.

Representative bodies were eager to obtain the data on the outcome of the civil contract and pressed the Agency to commit to a publication date. L Mallon said that the final data would be available the following week and it would be submitted to the Minister before it could be shared more widely.

The discussion acknowledged the operational and policy challenges in addressing unmet legal needs and ensuring sufficient coverage across all legal categories and areas. L Mallon emphasised the need for a thoughtful approach to future changes, considering the outcomes of the crime contract and ongoing policy developments.

Ellie Cronin asked whether a needs assessment/demand analysis had taken place prior to the civil tender launch on 13 September 2023. D Phillips replied that the procurement area approach had been used for each category of law. He referenced the National Audit Office report published on 9 February 2024 on the Management of Legal Aid and subsequent Public Accounts Committee hearing which recommended that the MOJ/LAA carry out work to consider what improvements could be made to their understanding of demand and capacity in the legal aid sector. That recommendation had been accepted.

8. Crime Tender Update

The crime tender for a 10-year contract was launched on 17 September; the Agency was committed to apply some of the changes in the crime contract to the civil contract as soon as possible and to apply those benefits, such as greater flexibility, more widely.

C Minnoch said that members had fed back that the deadline for the crime tender was too close; they also complained that they had not had a response to the crime lower consultation and there had not been a resolution to Law Society Judicial Review. These matters were causing providers to lose their good will.

He also asked for clarification of the difference between contract change and operational change on things like interim payments. Significant process changes like interim payments ought to be included in the contract however, L Mallon explained that whilst contract and fees were interlinked, Civil and Crime contracts commissioned by the LAA did not set fees or guidance on payment process.

Actions from this meeting		Owner	Deadline
AP1 [Mar]	Update CCCG on how to apply for Deprivation of Liberty [DOL] cases when they arise in care circumstances.	E Druker	Closed 15/10/24
AP2 [Sep]	1- Find how HLPAS was working and 2 - inform CCCG	1-Serina Mehmi 2-LAA	Closed 23/10/24
AP3 [Sep]	Forward and email to Jasmine Garner with information about HLPAS following a meeting before the election	K Pasfield	Closed
AP4 [Sep]	Provide clarity on fees for doing DAPO work	E Druker	Closed 3/12/24
AP5 [Sep]	<p>Find out if ELSA was still an active project</p> <p>Post meeting note:</p> <p>The original vision for ELSA was a model with a series of tiers offering different forms or levels of support based on the severity of the individual's legal problem and their legal capability.</p> <p>The aim was to ensure everyone could access some appropriate support for their legal problem, so this vision encompassed both digital and in-person provision of support.</p> <p>Funding implications, the challenge of delivering such extensive reform in the context of Covid-19 meant the project focussed on the digital elements of ELSA in the short-term.</p> <p>Since 2021, ELSA's digital workstreams have become aligned with work on the Digital Justice System. Various pilot projects have also contributed to the evidence base around the value of investing in legal advice and support services.</p> <p>We are also providing over £10m of grant funding up to March 2025 to identify what works best in the delivery and provision of legal support and advice for people with social welfare legal problems. This includes the 'Improving Outcomes Through Legal Support' grant, which supports the work of organisations to sustain and improve access to early legal support and advice, including support at court.</p> <p>It also includes the 'Online Support and Advice' Grant, which ensures the provision of online support across a range of civil, family and tribunal problems via one service.</p>	E Druker	Closed

AP 6 [Sep]	Going forward, inform representative bodies in writing about any CCMS enhancements so that they could inform their members	T Fitzgerald	Closed
AP 7 [Sep]	Find out why a few of the ECF appeals are overturned by external adjudicators	H Keith	December meeting
AP8 [June]	Add a note to the CMA report in December to acknowledge the Agency's request for an update on unbilled cases.	K Ford	Dec 24
AP9 [Sep]	Compare data in the next CMA report relating to Immigration interactions considering the increased number of audit activity earlier in the year.	K Ford	Dec 24