



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

11 January 2011

When:	Tuesday, 11 January 2011, 14:00 – 16.00	
Where:	MoJ, LG Room 9, 102 Petty France, London SW1H 9AJ	
	Teleconference: Nick Poulter – LSC; Sarah Schofield - LSC	
Who:	Chair: Ruth Wayte – LSC	
	David Keegan – LSC David Szaroleta - LSC Elaine Annable – LSC Greg Powell – LCCSA James MacMillan – MoJ Jacqui Hislop - LSC	Jim Meyer - LCCSA Mike Jones – CLSA Rodney Warren – TLS Vanessa Bailey - LSC Vishal Dhall - LSC
	Minutes	Grazia Trivedi (LSC)
	Apologies	Paul Keleher QC; Alice Mutasa – TLS; Avrom Sherr – IALS; Helen Riley – LSC; Shamsun Nahar – LSC

Actions from the previous meeting		By whom	By when
AP1	E-mail a snapshot of Regional Committees to members	EA	Closed
AP2	Value & Volume Figures: <i>Proceedings claims</i> -check whether a way can be found to obtain data from HMSC	SN	Closed
AP3	Find out which courts charge a fee for handing out forms and let SS know	AM	Outstanding
AP4	Information about the text pilot in Yorkshire	EA/Riona O'Brien	Will be sent before next meeting
AP5	Information about any evidence of Counsel overcharging and if so how much money had been recouped	MS	Closed – Item 2.1 on the Minutes
AP6	Evaluation of Virtual Courts following a meeting with the profession	SO	Closed
AP7	More information about EEP (Electronic Evidence Presentation)	JMM	Outstanding

1. Minutes and actions from previous meeting

The Minutes of the previous meeting were approved.

Action points 1, 2, 5, 6 were closed.

AP3 was still outstanding due to the information not having been received by AM. This action point would remain outstanding till the name of the courts that charged for handing out LSC forms was known.

AP4 would be carried forward to the next meeting.

AP7 could not be closed because the working group responsible for this work had not yet met. However JMM handed out CDs with a demonstration version of a case served electronically produced by the City of London Police. JMM would update the group at the next meeting if progress on EEP had been made **AP1-JMM**

2. Crown Court

2.1 Assurance/Recovery work

This work started in January 2010 and it focused on three main areas:

1. *Duplicate claims*
 - o Two or more co-defendants, same litigator – separate bills claimed and paid
 - o One defendant, joined indictments, same litigator – separate bills claimed and paid
 - o Claims for the same case using different account or court numbers
2. *Hardship and final claims made using different T numbers*
3. *High amounts of Pages of Prosecution Evidence - PPE (over 25,000 pages claimed)*

Duplicated Claims

The LSC initially focused on claims paid between January 2008 and November 2009 and the scope was later increased to cover payments up to May 2010. Indicators of duplication included: PPE, Offence classes, hearing dates, account number, court and client/s name.

Where possible duplication was identified, the LSC reviewed other claims made by that firm. The LSC then wrote to the firms explaining that duplicate claims may have been identified and that they could seek a redetermination within 21 days. If the LSC did not receive a response, it would recoup the overpayment.

The LSC estimated that this exercise would be completed by the end of the current financial year and would then look at all claims paid since the conclusion of the previous exercise.

The LSC was considering processes that would allow duplicate claims to be identified prior to payment.

Hardship claims

Hardship payments were reviewed at 6 monthly intervals. Where no final fee had been paid within 6 months of a hardship payment, firms were contacted in writing to query the issue. If no response was received or the firm advised that the claim had been made in another way, a recoupment of the hardship payment was made. If the case was ongoing, the firm would inform when the final claim was likely to be made. The LSC would review at that time or in the next 6-month exercise. Whilst this had not proved to be a major problem, there had been a couple of instances and the LSC would continue to review hardship payments.

High PPE figures

The LSC was reviewing all paid claims where the PPE was 25,000 or more:

- there was no issue with a majority of claims
- some PPE claims had been found to be incorrect as they predated the current validation processes
- there was one case to review.

The current process of sign off for high value claims, PPE validations with CPS and 10,000 PPE limit on newer cases reduced the risk of errors occurring in the future.

Overall, 261 accounts had been reviewed to date and £2,075,354.00 had been recouped / agreement agreed.

The main reasons for misclaiming were:

- Confusion as to what was or was not a case
- What constituted PPE when large amounts of data were served by means of electronic media

The initial focus had been on matters over which the LSC exercised a degree of control that would allow processes to be developed and process issues to be ironed out.

2.1.1 For the Future

The LSC had started to look at older claims, where the PPE was not validated against information from the prosecution, to see whether there was a risk to the fund in such cases. Initial scoping work was almost complete but this work took time as old data was needed from the CPS.

NP's team would start to look at AGFS claims once the LSC took over the administration of that scheme from 7 Feb 2011.

2.1.2 Committal for Sentence

NPs' team were also looking into a substantial number of cases where solicitors had claimed multiple Committal for Sentence fees where the client was committed on a number of different issues but all were wrapped up in a single sentence hearing.

Paragraph 12 of Schedule 2 to the Funding Order said: 'the fee payable to a litigator instructed in – (c) a sentencing hearing following a Committal for Sentence to the Crown Court: is that set out in the table following paragraph 14.'

The LSC's view was that if there was only one hearing (even if several different matters were dealt with) then, because paragraph 12 stated 'the fee payable in a sentencing hearing' there was only one fee.

2.2 Costs Judge Decisions

RW raised a recent decision where the Costs Judge decided they did not have authority to hear an appeal because it followed a recoupment rather than a determination and redetermination of a claim.

RW asked whether a provision existed for a solicitor to appeal against a Costs Judge decision in the High Court. JMM said that under Article 31 of the Funding Order, a solicitor needed to apply to a Costs Judge to certify a point of principle of general importance. If the Costs Judge certified the point then the solicitor could appeal to the High Court.

JH said that the preliminary view of the LSC and the MoJ was that providers could appeal the decision to recover an overpayment. Fortunately, NP received a letter from a Costs Judge inviting the LSC to outline its position and the LSC had been working with the MoJ to draft a response.

RuthW suggested the LSC confirm its legal position first and then this could be taken forward with the Costs Judges and agree how to deal with the recent decisions. JH would take forward and inform RW on progress. **AP2 – JH**

2.3 Crown Court Means Testing (CCMT)

CCMT Project Implementation Summary Report had been circulated to the group

Representation Orders There was discussion around invalid representation orders. If a solicitor required legal aid for a Crown Court case, an application had to be made to the Magistrate's Court on a CDS14 and CDS15 form even where the application was made after the case had been committed/sent/transferred to the Crown Court. It was in the solicitors' interest to ensure that a properly completed application was submitted to the magistrates' court for processing before the case concluded to ensure that a valid representation order could be issued, ensuring that payment was received for the work undertaken.

This had been communicated to stakeholders in the LSC's news update (sent by e-mail) of 6 January. The LSC was in discussion with the MoJ on how to deal with the problem of invalid rep orders.

3. Police Stations

The LSC had amended the reference section in the published guidance on *Police Station Fixed Fees: Logging Cases with the DSCC* to confirm that: 'Where the circumstances of an investigation change and it transpires that the case will generate two or more fixed fees, you will need to obtain an additional reference number from the DSCC for each fixed fee'

Duty solicitors' rota A query was raised as to why no duty solicitors had been allocated to attend court on bank holidays. EA said that this was due to problems with centralisation. EA said that she would check the situation in the areas identified as lacking slots on the rota during bank holidays: Birmingham, Leeds and Sheffield. **AP3- EA**

It was suggested that the LSC publish the rota on its website. VB said that because the rota was amended on occasion, it could become confusing for providers to know which the current one was. Notification of changes by e-mails proved to be the most efficient means of communication. It was suggested that e-mails were not always received. VB would ask RO whether it might be possible to publish the final rota. **AP5-VB**

4. Volume and Value Figures

The Volume and Value figures report was discussed. All agreed how useful this report was and asked whether it was readily available. It was confirmed that the reports were published with the Minutes on the LSC website: lsc>CDS>crime contracts>criminal contract consultative group

It had not yet been possible to collate accurate figures for Crime Higher. This information should be available in February. A query was raised about obtaining information about the Financial Stewardship exercise and recoupment in relation to AGFS. JH said that this had not happened as the LSC didn't yet control this scheme but as NP mentioned earlier, the LSC would incorporate AGFS into its financial stewardship plan.

RuthW informed the group that significant disparities in the PPE had been identified; the LSC had worked closely with HMCS to ensure consistency. If members of the group were aware of any inconsistencies, they should inform JH. **AP6-AII**

5. Magistrates Courts

The LSC was working with HMCS to collate a list of MC closures. Some closures were scheduled in April but these would mainly be mothballed courts or the least complicated MC closures. The LSC would keep providers in the loop about developments. EA would update the group at the next meeting. **AP7-EA**

6. VHCC

Volumes of VHCCs were down year on year. There had been a reduction in terrorism cases and fraud cases were becoming the main category of VHCCs. The group agreed it would be helpful to have the figures included in the Volume and Value Figures. **AP8 – DK/SN**

5 VHCC contracts had been awarded since 14 July 2010 and there were 5 notifications pending.

DK expected £90million to be spent on VHCCs next year.

7. Virtual Courts. An evaluation of the VC pilot had been published. The outcome was that no cost benefits had been realised therefore VCs had proved to be ineffective. The format of future trials would have to be changed. The current pilots would run till the end of March 2011. The group requested that SO give an update at the next meeting. **AP9-SO**

8. AOB

Video link with prisons. The process of interviewing clients in prison was discussed. It was agreed that too much time was wasted while legal advisers were processed upon arrival at the prison, greatly reducing the time available for the interview. The use of video link with prisons to conduct interviews with detained clients was considered to be a much better option. Efforts had been made to contact someone that could help to make this facility widely available. It was agreed that this was an issue to be dealt with at national level. JMM agreed to make enquiries about who should be contacted. **AP10-JMM** RW said he would talk to someone in the National Offender Management Service (NOMS). **AP11-RW**

Electronic Service of Presentation Evidence (ESPE)

The ESPE working group was looking at a memorandum of understanding on the provision of paper copies of evidence and the TLS and CPS were expected to meet to finalise this document. RW would liaise with Ian Kelcey to check if this meeting had been arranged. **AP12 – RW**

The ESPE working group had also developed a protocol for service of electronic evidence but there were still issues with encryption which the CPS and Metropolitan Police were looking into. JH said that the Graduated Fee group would look at material that had only ever existed electronically and talked about how this would be dealt with in future.

Actions		By whom	By when
AP1	Update the group on any progress made on plans to agree how evidence might be served electronically in suitable cases	JMM	1 Feb
AP2	Confirm LSC's legal position in relation to providers' right to appeal the decision to recover an overpayment	JH	1 Feb
AP3	Check position re court duty solicitors' rota on bank holidays in Birmingham, Leeds and Sheffield	EA	1 Feb
AP4	Circulate information about the text pilot in Yorkshire	EA/ROB	1 Feb
AP5	Ask RO if rotas could be published	VB	1 Feb
AP6	Inform JH of any inconsistencies in the PPE	ALL	1 Feb
AP7	Circulate a list of timing for the MC closures	EA	1 Feb
AP8	Volume of VHCC cases	DK/SN	1 Feb
AP9	Update on VC pilot	SO	1 Feb
AP10	Enquire about who to contact about Video Link with prisons	JMM	1 Feb
AP11	Speak to NOMS about the use of video link facilities in prisons	RW	1 Feb
AP12	liaise with Ian Kelcey to find out whether CPS and TLS would meet to finalise a memorandum of understanding on the provision of paper copies of evidence	RW	1 Feb

Next meeting:

Tuesday, 1 March 2011

From 14.00 to 16.00

At the LSC Head Office