



Quality Assurance Joint Working Group

Minutes

Date: 7 September 2009

Chair: Louise Collins (LSC)

Attendees: Shanta Bhavnani (ASA)
Avrom Sherr, (IALS)
Penny Mackinder (LAPG)
Peter Jones, Geoff Mountjoy, Jennifer Will, Stephen Dodds, Alexia Mawdsley (LSC)
Karen Mckay (Resolution)
Liz McAnulty (SRA)
Richard Miller, Linda Lee, Simon Cliff (TLS)

Minutes: Grazia Trivedi (LSC)

Apologies: Carol Storer (LAPG), Karen Finlay (MoJ), Clare Gilligan (SRA), Wendy Hewstone, Rodney Warren (TLS)

	Action Points from previous meeting	By Whom	By When
AP1	Respond to RW's requests for information	PJ	17 July
AP2	Send comments to qualitymark@legalservices.gov.uk about the EIA and Discussion Paper.	All	30 July
AP3	Find out how much it would cost the LSC to start auditing for SQM standard	PJ	Next meeting
AP4	Report on the outcome of the accreditation research	AS	Next meeting
AP5	Set up QWG Meeting for September	GT	30 July

Item 1	LC welcomed everyone and requested that attendees introduce themselves.	
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Item 2	<p>Actions arising from the previous meeting</p> <p>AP1 and AP3_In the previous meeting PJ was asked by RW to find out</p> <ol style="list-style-type: none"> 1. The cost of the new Special Quality Mark (SQM) audits process to understand how it would affect providers. 2. The impact of SQM outsourcing on providers' profitability <p><i>Cost of audits</i></p> <p>PJ said that the cost to the LSC of undertaking a two-day SQM audit was £950.00 if carried out by in house auditors. This accounted for all staff costs and overheads, but assumed 100% utilisation of the staff. Based on the standard rates in the industry, the work would cost £1,100-£1,200 if done by an external body; LSC expected to be able to negotiate for a competitive rate. . LL said that every effort should be made to keep the costs down, and was concerned that a private body might incur excessive costs promoting the standard to encourage take-up. PJ reassured LL that the costs would be kept to a minimum</p> <p>PM said that their members would see this added cost as another burden imposed on them, and some providers would abandon legal aid. Members would blame representative bodies for allowing the LSC to go ahead with the outsourcing of the SQM audits. In her view the SQM should be marketed as a brand and made attractive to its audience rather than presenting it as a grudge purchase. KM said that this could be achieved by allowing more time to develop the brand and make it attractive</p> <p>Suggestions were made with regards trying to keep the cost of SQM audits low:</p> <ul style="list-style-type: none"> • Study the market to look at how others procure • Make the costs subject to competition between providers • Subsidise providers' costs • Ensure that the full cost of the service was factored in to the providers' estimates since underestimation might put pressure on quality or lead to unexpected price increases <p><i>Impact of SQM outsource on providers' profitability</i></p> <p>PJ said that it had not proved possible to gauge the impact of this cost on providers' profitability because the LSC held little information on providers' financial accounting. PJ asked RM whether TLS might be able to help obtain the data but RM said that TLS do not have access to solicitors' accounts.</p> <p>LC said that providers could be asked to provide this type of information through a survey. The Quality Assurance for Advocates (QAA) team carried out a similar survey for the Barristers Equalities Impact Assessment (EIA). A very good response was obtained, in part because the Bar Council took the lead. LL thought it unlikely that many firms would respond, particularly since the information sought was both sensitive and complex,</p>	
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	<p>although it was noted that any business might reasonably be expected to know what profit it made. However, there was wide agreement that efforts should be made to find out more about the impact on providers' profitability. RM said TLS would consult with their members regarding how the impact could be assessed. The following ideas were agreed:</p> <ul style="list-style-type: none"> • RM: Ask TLS's research team to include the survey in their current programme (AP1) • LC: LSC to give full support with administration, logistics and formulation of questionnaires (AP2) <p>Consideration was given to whether the Public Defence Service (PDS) could be a good model to assess the impact of the costs. However, the location and workload of PDS offices meant that they did not necessarily reflect legal aid firms more generally.</p> <p>AP2_Attendees had been asked to read the Impact Assessment and the Discussion Paper published on the LSC website and send their comments.</p> <p>LC thanked everyone for sending their comments, which had been summarised in the <i>Summary of Responses</i> and circulated prior to the meeting.</p> <p>AP4_AS to circulate a more formal report on the outcome of the accreditation research.</p> <p>This report was completed and PJ agreed to circulate it to the Quality Working Group (QWG) (AP3). It was agreed that the report would not be published. LC asked that feedback be sent about the report, especially regarding any next steps (AP4).</p>	<p>AP1 RM</p> <p>AP2 PJ</p> <p>AP3 PJ</p> <p>AP4 All</p>
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Item 3	<p>Summary of themes from SQM Outsourcing. Discussion of Paper Responses</p> <p>PJ stated that the following themes emerged from the responses:</p> <ul style="list-style-type: none"> • The cost of SQM audits and how this could be controlled • How accreditation panels should be used in future • The possibility that professional standards might overlap with quality requirements, and if audited serve to passport through some requirements • Operational issues relating to SQM outsourcing, such as whether a contract should be let to only one audit body or several; and how early take-up could be encouraged • How to ensure there was no adverse equalities impact, whether for providers or clients <p><i>Timetable</i></p> <p>The LSC's timetable for implementation of the changes to the SQM audit process was deemed unrealistic by KM. Any providers that wished to bid for a 2013 contract would be required to pay for an audit against the SQM standard between December 2010 and December 2012. Several points</p>	
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<p>were raised:</p> <ul style="list-style-type: none"> • LL: Providers would want to be audited as late as possible. The diminishing confidence of providers in legal aid would affect the number of providers wishing to bid for a new contract in 2013. As a result there would not be predictable volumes of timings of requests for SQM audits. • SB: Many providers would not know until the very last moment whether they wished to, or were even able to, place a bid for a new contract. LSC needed to be very clear about their plans to enable providers to decide what to do. • KM: Too much change was taking place in legal aid in a short time and this caused uncertainty, so paying for an SQM might seem a financially risky option. • PJ said that every effort would be made to be clear and informative <p>KM suggested that the date for publishing the Contract Notice, currently 2 November 09, be pushed back by one year in order to give time to providers to adjust to the changes and consider the costs involved. SB said that if implementation of the change could be postponed till after the next bid round it would be possible to predict the number of providers committed to continuing with the SQM. PJ said that LSC was in a strong position to estimate what the approximate take up for SQM would be.</p> <p>It was agreed that PJ should meet with KM to discuss the timetable (AP5)</p> <p><i>Professional Standards</i></p> <p>RM said that the SQM is a proxy of quality and in reality is designed to measure managerial standards. LL added that the SQM was too detailed and it imposed a high degree of quality for diminishing remuneration. LC said that Best Value Tendering (BVT) addressed this issue by enabling providers to competitively set the price at which the requirements for holding a legal aid contract could be met.</p> <p>LL questioned the value of the SQM. She said that Lexcel was a highly regarded quality standard and should be sufficient. LC said that implementing and maintaining a quality standard could promote efficiencies, and efforts should be made by all QWG members to make providers appreciate the value of adopting them.</p> <p>LC asked how the SQM could be made a more attractive standard akin to Lexcel. KM said that it took 10 years for Lexcel to become recognised so it would take time for the SQM to get a following outside legal aid. The group observed that Lexcel was not open to Not for Profit (NfP) organisations, which would also find it hard to afford the high cost of being accredited in Lexcel. The SQM was the only alternative for them.</p> <p>SD said that monitoring peer review reports helped to show patterns in performance. The group agreed that peer review was still the best method of assessing and monitoring quality, and that as many providers as possible should be reviewed. The LSC would continue to bear the cost of peer review so long as it was not required of all LSC providers, but hoped the tool might pass to the regulators in time. It was likely that regulators would recover the costs of peer review from the professions.</p>	<p>AP5 GT</p>
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LM asked whether the profession would be consulted on the Discussion Paper. PJ said that the consultation process was via the publication of the discussion paper, supported by discussions with the QWG. LM also asked whether a standard could be developed that combined Lexcel and SQM, as a single standard would help keep things simple. She felt that there wasn't enough clarity about the issue of quality standards. JW said that a comparison of Lexcel and SQM had shown them to be very similar but the former wasn't available for NfPs. Furthermore, it was useful for providers to have a choice of quality standards. LL suggested that a SQM be made for NfPs, leaving Lexcel for all other providers. SB was concerned that the SQM remain open to all kinds of organisations, rather than becoming an NfP only standard.

LL said that the new SQM process was going to be too expensive and that providers should be consulted about what type of standard they wanted. PJ said that, although the price had not been set, LSC's experience of the market indicated that the SQM would not be an expensive standard. The LSC could no longer bear the cost of auditing the standard, and needed to move away from driving all quality assurance, so that providers could assume greater ownership. LC said that it should be the responsibility of the regulators to enforce quality standards, a role currently fulfilled by the LSC. RM said that the LSC expected more from the profession than the regulators. PJ replied that the LSC's standards were developed to be on a par with the professional standards set by the regulators. LM said that in her view there was a gap between the SRA's enforcement of standards and the LSC's requirements, which needed to be filled. She added that complaints received from clients pointed to the need for better regulation and changes to the way professional standards were set and monitored. Monitoring the standard was the crucial and most difficult part.

LM proposed that a discussion take place to address the gap between the SRA's and the LSC's standards. She suggested road shows aimed at engaging the profession in the debate.

LC proposed that a meeting be set up as early as possible with the SRA to discuss

- 1 The gap between regulatory requirements and the quality standards used by the LSC
- 2 The overlap of regulatory functions with LSC's quasi-regulatory role
3. What standards were required to enter practice and take on areas of specialism, and how assessment should be developed
4. The base line requirements of NfPs

The group would be updated on the discussion.

Accreditation

PJ said that the LSC would not change its current policy of reimbursing a proportion of the costs of accreditation until after the next bid round. Consultation responses had drawn attention to some organisations and areas of law that would be particularly affected if support were withdrawn. A way had to be found to agree a way forward that delivered lower, more predictable costs for the LSC but avoided adverse impact on providers.

	<p>LM said that the SRA intended to review accreditation and its role in professional standards with more legal services being delivered by non-solicitors, such as legal executives, it was important to consider who could apply for accreditation. LL added that non-solicitors could be accredited by TLS.</p> <p><i>SQM Outsourcing – Operational issues</i></p> <p>The pros and cons of having one auditing body or several were discussed. Although consultation responses had indicated a preference for a single audit body to ensure consistency, within the room there was support for using several because:</p> <ul style="list-style-type: none"> • The capacity risks of creating a monopoly would be avoided • The cost would be set on a competitive basis • Contracts could be awarded to auditing bodies to cover different areas of the country • A consistent, high quality standard of audits could be maintained through close contract management <p>GM acknowledged that if the uptake of the SQM standard was low, outsourcing wouldn't work because it would be uneconomical for the audit bodies. He predicted that, unless there were clear incentives in place, providers would apply for an audit at the latest possible date and this would create a bottleneck near the time of a contract bid. At other times demand would be low. But with effective incentives in place, providers would request audits at staggered times, which would ease the pressure on auditors. The LSC's Providers Assurance team would achieve consistency through training and by reviewing audit reports.</p> <p>The criteria for selecting applicants were discussed and the LSC indicated the likely membership of the outsourcing body selection panel.</p>	
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Item 4	<p>Enabling client choice</p> <p>PJ asked how clients could be helped to make an informed choice about which provider was most suitable for their needs. Should the client be asked for feedback on services received? Websites such as www.solicitor.info had been developed, which showed a public appetite for such information. RM was critical of the accuracy and scope of the information on that particular website.</p> <p>LL suggested that instead of collecting feedback, a series of standard questions could be created to help a client to choose. Questions should range from the location of the provider's office and parking facilities to the range of services available and success rates. LM thought that it wasn't relevant to know whether a provider's office had parking facilities. What mattered was that solicitors worked to a required standard. She gave the example of a client who complained about receiving a short letter from a solicitor with an unacceptable number of typos. AS suggested that clients read the <i>Improving your Quality Guides</i>. SB said that a leaflet on how to select a lawyer had been developed in the past, but not put into circulation.</p>	
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	<p>SB agreed to circulate the draft for QWG to consider (AP6)</p> <p>LC said that the LSB was determined to put clients' interests and opinions at the centre of regulatory priorities. It was important to respond to this agenda by finding a way to collect meaningful feedback from clients. LL was concerned that using information about feedback or complaints would deter providers from taking on "unlovely" clients that were hard to please and often complained. SD added that because few clients understood the legal process it was difficult to manage their expectations. JW said that providing clear information to educate the public with could help.</p> <p>PJ asked whether TLS could share information about complaints to inform LSC contract management. LL and RM were not in agreement with this as it was too negative. RM added that the LSC should not extend its interest beyond the quality standards. SB was concerned that it would create a conflict of interest. LC said that this was an idea that the LSC wanted to sound out but was at a very early stage in development.</p> <p>LC asked what factors determine the popularity of a particular provider. RM said advertising could be one of the reasons. He added that The Law Society's Solicitors Directory and the CLS Directory were useful sources of contact information but gave no indication of capacity to take on new cases.</p>	AP6 SB
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Item 5	<p>AOB</p> <p>It was agreed that the group would continue to meet every 5 to 6 weeks. GT to get group's availability for mid October (AP7)</p>	AP7 GT
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Summary of Action Points		By Whom	Deadline
AP1	Ask TLS research team to help with a survey into impact of costs onto providers profitability	RM	By next meeting
AP2	Admin support and formulation of questionnaires for survey	PJ	By next meeting
AP3	Circulate report on outcome of accreditation report	PJ	By next meeting
AP4	Feedback on report	All	By next meeting
AP5	Arrange a meeting between KM and PJ to discuss timetable	GT	By 25 Sep
AP6	Draft of a leaflet on how to select a lawyer	SB	By next meeting
AP7	Obtain group members' availability for next meeting	GT	By 11 Sep

The next meeting is scheduled for:

Date: Monday, 12 October

Time: 2.00 to 4.00

Venue: Room 2C, Abbey Orchard Street