



The Law Society



## **Civil Contracts Consultative Group (CCCG) Minutes**

**11 July 2011**

Date:	Monday, 11 July, 15:00-17:00	
Where	LSC Boardroom, Abbey Orchard Street, London SW1P 2BS Video Conference: Debra Challis – LSC Tele Conference: Steve Starkey-LSC	
Chair:	Ruth Wayte (LSC)	
Attendees:	Alison Harvey-ILPA Andrew Caplen – TLS Ann Lewis – ASA Avrom Sherr-IALS Carol Storer– LAPG David Keegan – LSC Ian Bugg – Bar Council Jan Luba – Bar Council	John Sirodcar – LSC Kerry Wood – LSC Neil Lewis – LSC Nicola Jones-King – ALC Richard Miller-TLS Richard Jenner-ASA Vivien Gambling – HLP
Minutes:	Grazia Trivedi (LSC)	
Apologies:	Alan Bean– ALC; Howard Thompson – MoJ; Richard Charlton – MHLA; Anne Graham – TLS; Dave Emmerson – Resolution; David McGrady – ILEX	

Action Points from the previous meeting		By Whom	By When
AP1	Send a list of contracted providers to rep bodies	KW	asap
AP2	Review ToR and circulate for discussion at next CCCG meeting.	NL	11 July
AP3	Review ToR & membership of the group and send comments to GT/NL	All	11 July
AP4	Clarification on total number of MS for 2010-11	KW	11 July
AP5	Update the group re review performance of MS	KW	11 July
AP6	Send the letter re consortium verification audit to JohnS	Rep bodies	11 July
AP7	Circulate additional data re assessment rates	SS	11 July
AP8	Circulate information on rejects and link to e-forms	SS	closed

*1. Minutes and actions from the previous meeting* The minutes were approved.

AP1. KWood had sent a list of contracted providers to CStorer. This data was intended to be used for internal/administrative purposes only and could not be shared. CCCG members asked that the list be forwarded to them as well. **AP1-KW**

AP2 - AP3. At the previous meeting it had been agreed that representative bodies would send their views to GT in relation to future membership of the CCCG so that NLewis could review the ToR. As no feedback had been received, it was agreed that NLewis would circulate the original ToR with some questions around it to try and formalise it. **AP2- NL.** Representative bodies agreed to send their comments to GT by 31 August. **AP3-Rep bodies.** ToR would be discussed at the September meeting.

AP4. RMiller had asked the LSC to explain why, according to a LSC published report, a total of 850K new matter starts (MS) had been achieved in the year 2009-2010 against approximately 700K in the following year, a drop of 20%.

RWayte said that, because the LSC had not yet completed its accounts for 2010-2011, accurate data on MS for that year could not yet be obtained. She suggested that RMiller wait for the verified NAO figures,

expected to be published at the end of July, before initiating any action to investigate the alleged drop. In the meantime, JSirodcar would be prime liaison point and would send data once available. **AP4-JS**

AP5. Covered below, in agenda item 7.

AP6. ALewis had not been able to produce the letter. She would try to find it and produce it at the next meeting.

AP7. The LSC did not at present have the software necessary to produce a breakdown of costs and disbursements. That level of information would become accessible once case management moved to the Integrated Delivery Programme (IDP). Only a report of the total claimed and how much was allowed could be run. SStarkey was asked to share the most up to date figures, which had been obtained a year earlier when a specific programme had been run. See item 4, below.

## 2. VHCC

### Family development

DKeegan said that the LSC had been running a 2 Counsel 'Events' model for the last year and 60-70% of cases were now agreed on that basis. The model had simplified family case planning.

A model for Family 1 Counsel cases had been designed to cover Care cases in County and High Court with FGF and non-FGF cases; an information pack was available on line: [www.legalservices.gov.uk](http://www.legalservices.gov.uk) > CLS > High cost civil cases. The model would be ready for operation by the end of September and DKeegan was the contact for queries about it.

Meetings with an interest group (TLS, ALC, Resolution, Bar) would take place in tandem with the piloting of the 1 Counsel model to pick up any glitches with the pack. IBUG asked to be included in the interest group.

### Contracts

JLuba had circulated the draft of an amended VHCC contract, which identified the Clauses, the proposed changes and the reasons why the changes had been made. JLuba asked that the CCG consider the changes and put forward their views. It was agreed that a small working group, made up of people with specific knowledge and an interest in the VHCC contract, be set up to take on this work. Members would send nominations to GT by 31 August. **AP5 - Rep bodies**. The output from the working group would be considered by the LSC.

3. Review of ToR Covered above – AP2 & AP3

## 4. Operational issues

### Applications for legal aid

SStarkey quoted the most recent available data relating to processes' timescales, which was approximately 12 months old.

- Oldest App 1 non-family application currently held - 35 days
- Oldest family - 25 days
- Oldest children Act - 20 days
- Oldest appeal on legal - 30 days
- Oldest Finance application - 56 days
- Oldest amendments and extensions - 26 days
- Oldest Mental Health exceptional case - 33 days old
- Oldest Civil exceptional case - 50 days

AHarvey asked what the overall timescale was for an appeal. **AP6-SS**

### Backlog recovery efforts

Two papers were handed out which outlined the LSC's efforts to deal with the backlog. GT was asked to circulate electronic copies. **AP7-GT**. One of the measures already implemented by the LSC was the recruitment of additional caseworkers.

SStarkey asked representative bodies to urge members to sign up to the on line system of submitting claims electronically. These claims were processed much quicker. Registration for this service was done on line: [www.legalservices.gov.uk](http://www.legalservices.gov.uk) > LSC Online> using e-forms.

#### Telephone service

Currently, 45 experienced caseworkers answered on average 10K phone calls a week at the civil claims processing centre; 45% of calls were routine queries, the answer to which could be found online. The number of calls had to be reduced to free up resources needed to clear the backlog, therefore the telephone service hours would be reduced to four hours per day; this measure would free up approx. 500 hours of processing time per week. SStarkey asked CCG members to choose one out of three proposed time slots when the telephone lines would be open. It was agreed that the least bad option was 10-12 and 3-5. The new times would start from Monday, 18 July and would be reviewed after three months; members were asked to send any providers' feedback to GT.

#### Emergency certificate duration

From 1 May civil emergency certificates would be deemed to last for 8 weeks. Cost limits would remain the same.

#### Hard reject policy

This had been reintroduced because it was taking too long to deal with the high volume of errors found in submitted work. Hard rejects were sent out with an explanation of what was needed and were returned to the processing team with a priority slip that would send the claim to the front of the queue. IBUG requested that a civil billing report be produced, as was for the previous meeting, so that a comparison could be made between processing times before and after the recovery efforts were introduced. **AP8 -SS**

In response to a query from VGambling about submission of vouchers for disbursements, SStarkey said that ledger print outs or file notes would be accepted as evidence of court fees.

#### 5. Streamlining of audits

The outcome of a meeting on 2 June between LSC's CEO, Carolyn Downs and rep bodies to discuss audit activities and operational issues, would be circulated shortly. In this package the LSC would put forward its plans for improving work practices. JSirodcar would respond to members' comments and views on the contents of this package, which would then be published with a list of individual audits that would take place.

#### Update on IAS

JSirodcar had circulated a paper prior to the meeting informing members that IAS had gone into administration. This affected about 300 staff and in excess of 7K live files. The organisation appeared to be in better stead than Refugee Migrant Justice had been when it wound up the year before. Clients using the Community Legal Advice (CLA) telephone service were informed of the situation; information would also be published on the IAS website.

JSirodcar would shortly receive information about the volume of unaccompanied asylum seeking children and any court hearings that were due in the following three weeks; these cases would be given priority. The LSC planned to publish an invitation to providers in the procurement areas where IAS had offices and with immigration/asylum contracts, to express their interest in taking on more work, and if so how much.

The LSC expected that demand would be satisfied with the possible exception of a couple of locations, in which case a tender would take place. JSirodcar said that lessons had been learned from the demise of RMJ, which would help when dealing with the consequences of this event.

In response to a query from AHarvey, JSirodcar said that he was prepared to increase the volume of Immigration and Asylum MS by 50% for providers in IAS' procurement areas. AHarvey also asked for clarification on detention contracts and whether these would be retendered. JSirodcar said that work had been reallocated to existing contract holders for both detention centre and immigration at police station advice contracts. The decision whether a retender was needed could follow later.

In response to queries from members, JSirodcar said that IAS had approximately 31K Immigration MS, although he didn't yet know how many were unused; Cork Gully were the liquidators; IAS funds would formally be ring-fenced but the absence of a regulator / intervener was regretful in regards to file transfers and storage; the administrator, Cork Gully, would have a telephone helpline set up to help clients; IAS non legal aid clients were less than 5% of the total.

#### 6. Remuneration rates cut and their effective date

RWayte said that new rates were usually applied to new cases. The policy makers, MoJ, would issue detailed guidelines in due course. In the meantime, NLewis would get more information and pass it onto the CCCG. **AP9-NL** (*Update since the meeting*. 'New work' to which the new fees would apply was determined by date of application for certificated work (provided that the application was received within a week of the start date) and by case start date for all other cases. In the civil categories it applied to all cases on or after October 2011 and on or after February 2012 in family cases and those housing cases dealt with under the Unified Contract.

Experts instructed before the commencement of the order would not be subject to the new rates. Experts instructed in cases where the date of application (for certificated work) or case start date (for all other cases) was on or after October 2011 would be subject to the codified rates.

#### 7. Tender and Matter Starts

##### Publication of the LSC Tender Review

This was a reference to the external review of the 2010 tender exercises. RWayte said that the findings had been taken into account in development of the interim family re-tender exercise. The LSC planned to publish an interim commissioning strategy in early autumn which would list key findings and recommendations from the review and the LSC's response.

##### Areas in which tender exercises had failed - Immigration Interim tenders

Following the LSC's assessment of the outcome of the 2010 civil tenders, three access points had been identified where it had failed to secure services: City of Plymouth, The Kent Coast and East Essex

In the City of Plymouth and the Kent Coast interim tenders had been undertaken with a view to placing services. In the Kent Coast area one bidder had been successful.

In the City of Plymouth the tender had been cancelled because the successful applicant had been unable to satisfactorily verify its tender before the required start date for the new contract. The LSC had extended existing emergency arrangements until the end of the current schedule period and planned to re-tender for services there in time for the start of the next schedule period.

In East Essex outreach from a neighbouring procurement area had been introduced to identify whether demand for services existed. Arrangements would tie up with the IAS situation. KWood would find out what the definition of access point was for AHarvey. **AP10-KW**

##### Results of review process for the reallocation of new MS

A capacity analysis had not been completed as some of the procurement areas were still being looked at. However, Mental Health and Asylum providers would shortly be informed that, in the event that they had or were going to run out of MS, they could approach their contract manager to ask for up to an additional 50%. Other categories were not under the same pressure; therefore they would be looked at a later date.

In the areas affected by the IAS issue, consideration was being given as to the best way to deal with unused IAS matter starts in order to avoid further disruption to clients and providers.

RMiller asked KWood to send him information relating to the process so that the Law Society could inform its members. **AP11-KW**

#### 8. Novation

Most of this work was around partnerships converting to LLP. The LSC's approach was that, provided the request came from the same people, the same location and providing the same services and there were no concerns in relation to performance, the request was granted. Guidance in relation to other scenarios was being developed, although it wasn't always possible to do so as it was often necessary to make a decision based on the individual facts.

RMiller said that, as alternative business structures were being adopted, the LSC would come across more cases presenting new circumstances and providers needed to know how to approach these issues. It was agreed that Novation would be discussed further at the following meeting. **AP12 - RW**

#### 9. Update on the Integrated Delivery Programme (IDP)

There was no additional information to report. The IDP team was engaging directly with the profession by participating in the PRG meetings that were taking place around the country. DNorville would be at the next CCG meeting in September. Information on IDP was now available online at: [www.legalservices.gov.uk](http://www.legalservices.gov.uk)  
>CLS > Civil legal aid on line.

#### 10. AOB

##### Experts

RMiller said that an increasing number of members were reporting that experts' fees were being assessed at the current rates and following current rules even though they had been authorised under the old rates/rules.

SStarkey said it was true that the LSC were looking more closely at experts' fees since the qualification of its accounts; he also confirmed that the NAO had raised issues over the level of assessment in this area. As a result additional controls and checks had been introduced. Local, internal guide rates in respect of experts' fees had been introduced, but any hike in assessment level had been relatively modest. It was also confirmed that the internal guide rates which were being used by the LSC were those published by the MoJ, who had recommended that the prescribed rates for experts should be the LSC guide rates less 10%.

NJones-King said that the current system had an impact on practitioners who, having been directed by the court to procure an expert, weren't sure whether they should proceed or ask for prior authorisation. If the expert was hired and practitioners submitted the fee as a POA, they ran the risk of having it reassessed at the end of the case, which resulted in money having to be recouped from the expert. If the expert wasn't paid, the services would be withdrawn. Many practitioners would not now instruct any experts without receiving prior authority. This practice increased the work for practitioner and LSC and delayed the case.

The current system didn't make it easy for the practitioner to make the right choice and guidance on what to do as the case progressed was needed. RMiller said that practitioners should be allowed to make these kinds of decisions without having to bother the LSC with an application for every single fee.

VGambling said that surveyors' fees in housing disrepair cases had been assessed down more than they ever used to be. This made it difficult to find experts willing to do the work.

JBugg asked that the LSC clearly state at the next CCCG meeting in September what was meant by 'new work' to which new fees would be applied, i.e. whether the date being considered was when the expert was instructed, or when the new matter had started. **AP13-NL** (please read the 'update since the meeting' in item 6, above)

CCCG Minutes

The Civil CCG minutes were published on the LSC web after they had been approved by its members. The link to the page was: [www.legalservices.gov.uk](http://www.legalservices.gov.uk) > CLS > Civil contracts > Agreement with the Law Society > Civil contracts consultative group

Action Points		By Whom	By When
AP1	Circulate a list of contracted providers to all CCCG members	KW	Closed
AP2	Circulate CCCG's original ToR with questions	NL	Closed
AP3	Rep bodies to send their views to GT re ToR	Rep bodies	Closed
AP4	Find out the current position re MS and report findings to CCCG	JS	Taken forward
AP5	Send nominations for a working group to look at JL's proposed changes to the VHCC contract to GT	Rep bodies	Taken forward
AP6	Find out the overall timescale for an appeal	SS	Taken forward
AP7	Circulate electronic copies of backlog recovery measures	GT	Closed-14 July
AP8	Civil Billing information – circulated with the minutes	SS	Closed-12 Aug
AP9	Clarify what work the new rates will apply to – in the minutes	NL	Closed-12 Aug
AP10	Find what the definition of access point was and inform AH	KW	Closed
AP11	Send information about IAS allocation exercise to RM	KW	Closed
AP12	Novation to be discussed further at following meeting	RW	Taken forward
AP13	Clarify position on experts – in the minutes	NL	Closed

Date of next Civil-CCG Meeting	Monday, 12 September 2011
Time	15.00 to 17.00
Venue	LSC, 4 Abbey Orchard Street