

Dear ACL LAG member

I hope that this communication finds you well, amongst all of the current lockdown requirements brought to us by COVID-19.

There are some important developments about which the LAG Committee have been engaged in discussions with the LAA and the other representative bodies of the various parts of the profession.

You will be aware that from yesterday a system of assessment of civil bills by the LAA which are normally required to be assessed by the Court has been introduced. It is currently a *voluntary* system but within a short time, probably within the next six weeks or so, this will become a mandatory process.

You will be able to access the CCMC Provider Advanced Guide and the other published Guidance materials on the new processes for by following this link -

<https://www.gov.uk/government/news/civil-news-speedier-payments-on-way-for-court-assessed-bills>

The announcement by the LAA only yesterday is the culmination of a series of events over the years about this issue and which has been live since at least 2007, when the requirement for assessment of civil legal aid costs by the Court was completely removed from legislation with the introduction of the new fees schemes under the Unified Contract and the assessment of all costs became the responsibility of the then LSC which could be delegated another body i.e. the Court; a product of the Carter Reforms. Moving the requirement for any Court assessment from the Contract itself to the Costs Assessment Guidance in 2010, making it simply an operational procedure rather than policy, resulted in even less surety of the scheme remaining.

No advance notice of this change in the procedure was given until 13 May 2020 when it was mentioned in passing during a meeting between the LAA and the representative bodies. It was suggested that a full announcement would be made within a few days. Yesterday that announcement was made that the LAA have decided to change their operational procedure. The LAA have said that there will be a 14-day period consultation for changes to the Costs Assessment Guidance.

It was unclear from meeting with the LAA which we attended today whether this is the standard consultation for amendments to the Costs Assessment Guidance under Clause 14.7 of the Standard Contract, and we are asking for clarification on this.

It is apparent that the current guidance issued on the transfer is adequate and clear but what is not clear yet is what format of bill will be acceptable once the transitional stage is over. The LAA will accept unassessed court bills or Claim1/1As in lieu to be uploaded with summary level CCMS claims (as well as line-by-line CCMS claims). We will be asking how long the LAA will be committing to accepting these, in particular Claim1/1As i.e. whether this is only a temporary measure for the anticipated 6 weeks before LAA assessments become mandatory (which is what we suspect).

At today's meeting with the LAA, we asked for details of the specific operational arrangements that will facilitate the LAA taking on these assessments, in particular for the long term. We were not given any satisfactory answer.

We intend to make representations and work with the LAA to the best of our ability to try and ensure that the system works to the benefit of all involved in legal aid work. There is no doubt that assessments by the LAA will speed up payments to providers, at least in the short term. What we do not know yet is how these much larger and more complex assessments will be undertaken by the LAA case workers, but the LAA say that there will be no major changes to the assessment result.

Case workers at the LAA will be working overtime in order to clear the backlog of court assessment bills currently in the court system or awaiting submission to that system. The backlog should be cleared within about 10 weeks and it is said that payment of about £20,000,000 will be made as a result to the providers and counsel.

The LAA have been critical of the way that some Court assessments had been carried out with an inconsistency and a number of errors and allowance of work that is not properly claimable and this new system has been introduced as a result of a long standing intention by the LAA to bring their assessment process fully in-house. The COVID-19 situation has given the perfect opportunity to effect this change and release funds for providers in these troubled times but in the long term we do not know what format of bills we will all have to produce in the more complicated larger cases covering costs up to £25,000. It is hoped that we can arrive at some agreement with the LAA that all bills from now on do not have to be submitted in the cumbersome CCMS format and that to some extent there will be a flexibility in the type of bill that they can and will accept.

We will keep you updated as and when we hear more but we do encourage you to give feedback about the way the system is to operate going forwards. There is no discussion or consultation now about the principle of costs being assessed by the LAA as this is an operational decision already made by the LAA and HMCTS.

We will provide support, training and guidance as and when we can but do feel free to let us have any feedback on the issues surrounding these major changes.

Finally, there is another announcement from the LAA which does not affect the ACL membership. From now the providers will be able to claim POA payments up to four times per year rather than the current two times per year. There is no change for POA payments to counsel.

ACL Legal Aid Group Committee



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