

Jane Harbottle
Chief Executive
Legal Aid Agency

9 June 2025

(By email)

Dear Jane

LAA systems and contingency approaches

Thank you for including Resolution in the circulation of the LAA's updates on Portal availability. We appreciate your colleagues prompt responses to queries we have raised to date, but I am writing on behalf of Resolution's many family and mediation legal aid providers, and the families and children they work with, to raise our concerns about especially the current contingency approach to civil billing and applications, and the impact the arrangements are having on our members' businesses. We are aware that The Law Society has raised and continues to raise similar issues with the LAA.

We would also ask you to provide a clear timetable in relation to when normal systems will be available again as soon as possible to provide much needed certainty for both providers and legal aid users. Even a broad indicative estimate or communication of by when you think this could be provided would be helpful.

We understand that you are working in very challenging circumstances, but we and our members would appreciate more consistent communications. Some members report that they have received certain communications from you by email (for example, the contingency arrangements for mediation payments) whereas others have not. It would also be very helpful if you would date the FAQs on the website as it can be difficult to identify what the updates are.

Civil billing contingency process

Whilst we know that the new weekly payment system is well intentioned, our members are seriously concerned about its limitations and the difficulties it will pose for firms in managing their systems and finances going forward. Their level of concern and the longer term implications will only increase the more prolonged the period of disruption becomes.

There are concerns that payments based on the last 3 months may not be typical and we would ask for more flexibility around this.

The inability to allocate payments to ledgers and the administrative burden of a separate accounting system to manage these payments are unfortunately unacceptable and will cause chaos for providers. It will be far more difficult than it needs to be to allocate in accordance with the SRA's rules. Our members need to be able to allocate payments and know what they are for (for example, profit costs, disbursements, VAT).

We are unclear why it is not possible for the LAA to take an alternative approach with a focus on returning to a system of email-based claims processing with evidence and vouchers attached to bills for assessment, similar to the pre-CCMS process.

Please could you at least confirm that the LAA will consider accepting claims for payments on account in civil cases and accepting claims and assessing final bills identifying profit costs, disbursements and VAT (with providers providing information on POAs already made so the LAA can pay the balance).

The [CIV POA1: payment on account of claim process](#) and the [Covid-19 process](#) both seem to us to provide available, viable and tested alternative processes to the current arrangement, provide a better audit trail and ensure timely payment of experts and others. Unfortunately our Legal Aid Committee sees the current approach as the worst contingency arrangement possible.

If none of this is possible, we would ask that the reason for this is communicated to ourselves and our members. For providers on the ground this feels as serious as the Covid emergency, which the LAA addressed reasonably well, and some members have commented to us that they feel more anxious than they did then.

Recoupment process

As you will know, the LAA's current guidance allows for a two-week grace period before repayments begin following systems restoration, followed by weekly payments of a quarter of the usual amount until debts are cleared. Our Legal Aid Committee members consider that this grace period will be far too short and there is also some concern that the LAA will be overwhelmed with applications and claims once a system is back up and running, meaning that claims will not be paid quickly. We believe that the grace period should be extended to at least 4 to 6 weeks. There will be a need for flexibility in relation to repayment amounts and the ability to negotiate recoupment terms, particularly given that firms have varying monthly payment flows.

This reinforces the need for a ledger approach as set out above to be introduced. For finance purposes, regarding the payments received, the current approach is like operating a separate suspense ledger for cash flow. The recoupment process will need to make clear exactly what sums the LAA say relate to recoupment in due course.

Civil applications

Contingency arrangements need to be introduced for civil licensed work applications as a matter of urgency. The current arrangement around whether a hearing is scheduled to take place within the

next 7 days is far too limited and hindering access to justice for families and children. Where new clients are coming on board, the provider is carrying some risk and still required to undertake work even if there is no hearing in the next 7 days. The matter may become urgent in due course. The flow of clients has a direct impact on current and future income of legal aid providers and you will appreciate how difficult it is to manage taking on new clients and communications with them in the current circumstances.

Can non-urgent/non-delegated functions legal aid applications be emailed to the LAA? We suggest that the LAA should assess more complex applications with providers being given authority to sign off on applications where they consider the applicant is definitely eligible for legal aid, including non-means and non-merits tested applications.

We also ask what arrangements are being made to deal with legal aid applications uploaded to CCMS but not processed before the system became unavailable? 6 weeks has already passed for those legal aid applicants concerned, and any delay can feel like a lifetime for their children, for example, where they are not spending time with a parent or other significant family member who is applying for legal aid. Many clients are chasing up with our members about what is happening.

We suggest that it should be possible to email to the LAA those applications previously uploaded and printed for manual processing.

The current contingency arrangement also doesn't take into account 'compliance with directions'. Particularly in private law, extensions of certificates are needed (scope and costs limit) where the hearing is quite far ahead but nevertheless the client will be in breach of an order, often with a penal notice, if directions aren't complied with.

CWA – civil and mediation submissions

The contingency process provides for a global monthly submission sum to be claimed. Is there a reason a bulk load spreadsheet could not be completed and emailed so accurate payments, against files, could be claimed to avoid unnecessary duplication of administration later?

High Cost Cases

Please could you explain why it is apparently not possible for a contingency process for accepting Family High Cost Case Plans to be set up? We believe it would be possible to agree them using email.

Additional loans

Is any consideration being given to the LAA paying for additional interest charges and arrangement fees firms incur for additional lending to get over the current crisis?

Finally, we would emphasise again the importance of clarity and consistency of communications to all providers, caseworkers and contract managers. We would ask that the published contingency payment schedule is kept to as firms will be relying on this money to meet their outgoings.

Members of our Legal Aid Committee would welcome the opportunity to meet with you as soon as possible to discuss in more detail the difficulties that the current contingency arrangements during the CCMS outage and gaps in those are creating. We are very keen to work together to minimise the impact of this incident on family legal aid and to find a better fix for the medium to long term as necessary.

I will also discuss with the President of the Family Division what are our members are facing, and the likely impact of the situation on the especially the flow of private law cases into the family courts.

With very best wishes

A handwritten signature in dark ink, appearing to read 'Melanie Bataillard-Samuel'.

Melanie Bataillard-Samuel
Chair

Copy to Sarah Sackman KC, Minister of State