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Changes to the Contingency for Criminal Legal Aid Applications

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Overview

LAA Digital teams have been working hard to restore access to the systems we use to process Criminal Legal Aid applications, and it has now been confirmed that we have access to our internal systems, and following some activity to get caseworkers back online, we will be able to start processing Criminal legal aid applications from Tuesday 10 June. Whilst we will get access to internal systems, this does not yet include Crime Apply which we are still working to make available. Given this, the only way that providers will be able to send in applications will be by email.

To begin with, we will be focussing our processing on those cases that will be going to the Crown Court or where the means position is more complicated. This means that providers should **not** send in any **Summary only \ Either Way applications where the proceedings are taking place in the magistrates' court and the client is on a passported benefit \ is unemployed \ is a youth.** All other applications will need to be submitted, and you can start to send these applications in with immediate effect.

This guidance sets out the arrangements in more detail. We would ask all providers to read this guidance carefully, as it does change the way that we will process applications during the contingency period. These arrangements will continue until further notice.

Applications already submitted via Crime Apply

We are hoping to gain access to those applications that were submitted to Crime Apply (but had not been processed when system access was removed) shortly after we gain access to our other internal systems. Providers do not need to do anything in relation to these applications – we will email providers with the result of our assessment once we are able to complete them.

Summary only \ Either Way applications where the proceedings are taking place in the magistrates' court

If your application relates to a Summary Only matter(s) or Either way proceedings being heard in the magistrates' court **and** the applicant is on a Passported benefit, is unemployed or is a youth, please assume that the application will be granted. Do not submit an email application for these cases. If the defendant is employed, self-employed, a director or is living off savings please submit these applications for consideration.

Please take care when reviewing the offences on the case to ensure you have correctly determined the case classification.

To receive an indication if your client will pass the means test for these cases, please use the Financial eligibility calculator for criminal legal aid: Criminal legal aid: means testing - GOV.UK This will be particularly important where your client is on benefits but is not passported. Whilst this is not mandatory, we would strongly advise providers to use this tool.

When Crime Apply is available to use

When Crime Apply is available again, you will need to submit these Summary Only and Either Way applications that have been dealt with in the magistrates' court, through the service. Please indicate clearly on the application the date stamp you would have secured had the portal been available and caseworkers will back date your application to this date.

When assessing your application, if we determine that the case should not have been granted, the caseworker will still authorise legal aid from the date of the initial stamp until the date your application is reviewed. At that point, a withdrawal of legal aid will occur. This process will enable you to claim for any costs incurred prior to the withdrawal of the Representation Order.

Claiming for Cases Where No Representation Order Has been Supplied

If you need to claim for the case before our systems are back up) and so you have not been able to submit the application), please feel free to do this. Whilst we understand that you will not have a Representation Order, a note on the file referring to the incident will be sufficient for audit purposes. If you need to submit a CRM7, an explanatory note will equally suffice.

As you will not have received a MAAT number for these cases, please use 900900 as a dummy MAAT number when claiming. This is essential to ensure that it is clear that your claim is a contingency claim and allows us to track and monitor these.

All Other Applications

For all other application types (other than the case types referenced in point 2) please follow the contingency process by manually completing the CRM14 and CRM15 forms available online (CRM14: criminal legal aid application form - GOV.UK (www.gov.uk)) and submitting them by email as follows:

For passported / unemployed / youths and employed applicants please send these to: **Crime.applications@Justice.gov.uk**

For self-employed, directors, non-means tested, and hardship applications please send these to: **nationalcrimeteam@justice.gov.uk**

For further details of non-means tested applications please refer to Section 25 – Annex H – Prescribed proceedings in the Criminal Legal Aid Manual.

We would encourage providers to initially focus on applications where a contribution might be payable, as we will be processing applications in strict date order.

Please note that the existing criminal legal aid regulations will apply. Applications must be fully completed, and all necessary evidence must be attached in accordance with the current guidance and regulations. This is crucial to avoid your application being rejected and to prevent any further delays in receiving a decision.

Initial applications should be submitted to the email address provided above. However, if your application is rejected, you may receive a reply from our existing NCAT mailboxes. In such cases, please reply to Crime.applications@justice.gov.uk and **include both the initial application and attachments from your original submission**, along with any additional evidence or information that has been requested. We will have many thousands of emails to deal with, and finding an earlier email to match up with additional information provided will not be possible.

If your application was previously rejected when the Crime Apply service was still online, please note that we don't have access to these applications at this time. In these circumstances, please complete a new CRM14/CRM15 as appropriate and email into the address above. Please clearly indicate on the form(s) that this was previously rejected in Apply.

Additionally, please clearly indicate on the form if the date stamp needs to be backdated due to the service being offline. Note that **during this contingency only**, we will backdate all applications (including indictable only) to the date that they would have been submitted had the portal been available. Once Crime Apply becomes available, we will revert to the existing backdating arrangements as set out in CLAM.

Post submission Evidence (PSE)

Please send your post submission evidence applications to the following email addresses, clearly indicating in the subject that the email relates to a PSE application.

Please use one of the following for passported / unemployed / youths and employed applicants:
BirminghamCAT@justice.gov.uk or LiverpoolCAT@justice.gov.uk or NottinghamCAT@justice.gov.uk

For applicants that are self-employed, or a director please send these to:
nationalcrimeteam@justice.gov.uk

Please ensure you provide sufficient details to assist us in locating the substantive application. Where possible the following information should be provided: Crime Apply application reference, MAAT ID and defendant's name and date of birth.

Passported applicants

In line with existing guidance and regulations, please provide the applicant's and/or partner's National Insurance Number.

To avoid delays in processing your application, please provide the details of any benefits the defendant receives, this should include the name of the benefit, the amount and frequency of the payments as indicated at question 16 on the application form.

Please also complete questions 17 to 22 (and relevant questions relating to capital on the CRM15), even where you have indicated the defendant is on a passported benefit.

As you are unable to use Crime Apply to check your client's benefits status, the Legal Aid Agency will carry out these checks and if these return a negative or undetermined result, then we can continue to assess the application and avoid rejecting your application for this information.

Change in Financial Circumstances (CIFC) applications

Applications for change in financial circumstances should be submitted using the same submission method outlined in point 3 above. Please use the relevant email address for your submission based on the applicant's financial circumstances and use the same CRM14 / CRM15 forms for this submission.

Please indicate clearly the date you would have submitted.

Where a change in circumstances application is submitted more than 28 days after the change it should be accompanied by a reasonable explanation for not complying with the time limit. If the explanation is deemed to be acceptable then the reassessment can be backdated to the date of the change. (CLAM 14.1.1). The unavailability of the portal will be considered as a reasonable explanation.

Interests of Justice (IOJ) Widgery criteria

The IOJ reasons should be given to support your legal aid application. We appreciate when the Crime Apply service was online, for some applications you received a message to state the IOJ justification was not required.

However, for all applications as part of the contingency, please provide the IOJ justification in line with the Widgery criteria. For those cases that you are not submitting (Summary Only etc), please keep a note of the IoJ reasons on file.

Declaration signatures

Guidance and regulations remain in place for signatures for applicants and partners.

The Criminal Legal Aid Manual (3.4.6 Signing the form) states “For audit purposes and except for applicants with severe mental health problems, the applicant must sign the applicant declaration form in all cases.

Even though there are some circumstances where a solicitor interviews a client via video link or from behind a screen, the applicant must still sign the applicant declaration form. For clients appearing via video link the applicant declaration form can be emailed or faxed to the applicant to sign.

In addition, note that an electronic signature is acceptable and can be transposed on to the Applicant Declaration Form and stored electronically. Also, an applicant may sign directly onto an electronic version of the form if software permits.

We accept all methods which meet the requirements outlined as Simple Contracts in the Law Society practice note.

Text messages are not considered an acceptable method of digital signature and are not covered by the Law Society.

The applicant must provide a fresh signature with each application, and you must not use saved copies of the electronic signature.”

For applications submitted via Crime Apply, and previously via eForms, we did not ask for evidence of the signature itself and either an undertaking check box was ticked or declaration page to confirm that the signatures(s) has been obtained and kept on file. We will not be requesting a copy of the applicant’s or relevant partner’s signatures with the application and expect the obtaining and retention of the signature(s) on your file to continue but without that explicit confirmation.

However, if you have obtained a ‘wet’ signature on a paper application, you are welcome to submit that as part of your emailed application. If the form is not signed, then we will not reject the application.

Additional guidance

The Legal Aid Agency will continue to implement our soft reject policy where possible, to obtain certain information over the telephone to assist with processing your application. Please provide up to date contact details on your application to assist with processing.

If an LAA caseworker contacts you, please aim to assist them as best as possible to provide the information or clarification needed to avoid your application being rejected.

If you would like documentation relating to your application to be sent to an additional or alternative email address, please indicate this in your email to us.

Please be aware that we have limited access to printing facilities, as such these documents are being issued via email only. We would be much obliged if you could please relay the contents to your client.

Please use the following link to check our current application processing dates: Crime processing dates - GOV.UK.

During this contingency phase we are unlikely to be able to maintain our 2-day KPI.

Please do not contact our customer service team or our alternative mailboxes to chase an update on your application if it was submitted within the current processing timeline mentioned on the weblink. This will impact our ability to focus all of our resource on processing applications and in turn will lead to unnecessary delays. If you have not heard from us 2 days after the oldest dates shown in the weblink, please contact us for an update on your application.

To assist with processing your applications correctly on the first submission and reducing the administrative burden on your firm and the LAA, please ensure you clearly indicate on the application if your representation order needs to be backdated. Please specify the exact date for both initial applications and ‘Change in Financial Circumstances’ applications.

Annex A

Some examples of when to submit / not submit:

Case Type	Means Situation	Action Required
Summary Only / Either Way in the Magistrates' Court	Passported / Unemployed / Youth	Please do not submit. We recommend that you confirm defendants means eligibility using the online calculator
Summary Only / Either Way in the Magistrates' Court	Employed / self-employed / director / living off savings	Please submit for assessment
Either Way that has been committed	All means types	Please submit for assessment
Indictable Only	All means types	Please submit for assessment
Trial already in Crown Court	All means types	Please submit for assessment
Committal for Sentence	All means types	Please submit for assessment
Appeal to Crown Court	All means types	Please submit for assessment