

<b>Report to:</b>	The Board
<b>Meeting Date:</b>	24 <sup>th</sup> June 2019
<b>Report Title</b>	Performance Report
<b>Report Category</b>	For Information
<b>Issue status:</b>	Business as usual

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Delivery of Strategic Objectives	
Select the Strategic Objective(s) relevant to the issues	1. to deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.
The purpose of this paper is to report on operational performance as at 31 <sup>st</sup> May 2019.	

Link to Board or Committee Remit
This is linked to the Board's role in monitoring organisational performance.

Publication of the Paper
The Board has previously agreed that this paper should be published as a matter of course. It will be published on our website in due course.

Executive Summary
<p>Applications - The performance across the Applications Department is good.</p> <p>Accounts - Performance is generally meeting the benchmarks with the exception of a few areas where there have been resourcing issues. In these areas performance is broadly in line with where we would expect it to be in the circumstances.</p>

Previous Consideration	
Meeting	Detail
7th May 2019	<p>Applications - The overall departmental performance was good.</p> <p>Accounts - The overall position remains mixed although there have been improvements in some areas.</p>

### Civil Applications

1. The overall performance in civil applications is good.
2. In the last three months our performance has stabilised and although the volume of initial applications has slightly increased, durations are broadly comparable to the benchmark after a lengthening of durations at the start of this year. As we have previously reported, that increase was the result of staff vacancies in the means assessment teams and new staff being trained.
3. The percentage of first decisions granted has exceeded the benchmark in recent times and the number of review applications has decreased. This is analysed further in the Trends Report. It is as a result of our policy of prioritising work that supports us in getting the decision right first time, and in particular efforts to ensure that we have better information available to us to support our initial decision making.

#### *Accuracy Results*

4. 99% of applications checked were marked as having a good level of accuracy, which has been the position, in the main, for the past year.

#### *Customer Satisfaction Survey Results*

5. We reported to the Board in May on the customer satisfaction survey outcomes for civil legal assistance.

### Criminal Applications

#### *Criminal - Summary*

6. The overall performance remains good with the average durations, the % of granted applications and the ratio of further work cases all now exceeding the benchmarks.

#### *Criminal - Solemn*

7. First Decision Average Durations have now settled down after being affected earlier this year by the DWP link for checking applicants' benefits being down for almost 2 weeks at the start of the year.

#### *Accuracy Results*

8. 99% of applications checked were marked as having a good level of accuracy, reflecting consistent performance.

#### *Customer Satisfaction Survey Results*

9. The short, regular customer satisfaction surveys were suspended after two sweeps to avoid respondent fatigue. These have now restarted and we now have results for the second phase for criminal legal assistance from April 2019 to compare against the previous sweep in September 2018.
10. We are pleased to see the increase in satisfaction level to 84%, up from 70% last time. Unfortunately, the response rate did reduce from 6.5% to 3.9%. A number of positive comments were also made about staff being helpful and polite.
11. There is an impressive improvement where 0% said they are very dissatisfied, compared to 6% in the previous sweep, with 39% very satisfied, compared with 33%. Both low and high volume solicitors are showing improved satisfaction levels, with high volume solicitors remaining more satisfied than those submitting fewer applications.

### **Children's applications**

12. The overall performance continues to be good.

### *Accuracy Results*

13. 98% of applications checked were marked as having a good level of accuracy which is a very steady performance.

### *Customer Satisfaction Survey Results*

14. The short, regular customer satisfaction surveys were suspended after two sweeps to avoid respondent fatigue. These have now restarted and we now have results for the second phase for children's legal assistance from April 2019 to compare against the previous sweep in August 2018.
15. It is pleasing to see the increase in response rate from 5.6% to 6.3% and the substantial increase in satisfaction from 67% to 79%.

## **Accounts**

### **Civil Accounts**

13. The performance of Civil and negotiations continues to meet the benchmark.
14. Civil A&A had been improving and March saw a significant increase in the volume of accounts processed. Subsequently this led to March as an individual month meeting the benchmark; however, the number of days to bank increased in April and May due to the impact of bank holidays. This results in an overall effect of A&A remaining marginally worse than the benchmark.

15. The initial assessments percentage paid in full has remained consistent. However, as we had a large increase in volumes paid in March this has led to a large increase in the volume of negotiations in April and May. As a result this distorts the ratio of negotiations to initial assessments and has led to the performance showing as 'Worse than'.

#### *Accuracy Results*

16. Accuracy in the three months was good with 95% having been marked a four. This is comparable to the two previous reports.

#### *Criminal Accounts*

17. With the exception of solemn and criminal non-auto all others areas are meeting or better than the benchmark. This represents a good performance especially when the bank holidays' impact is taken into account.
18. Although both areas that are not meeting the benchmark have not been meeting it for many months we have seen improvements of late. In both areas two of the last four individual months have met the benchmark. This improvement comes despite the aforementioned bank holidays' impact and longer term absences within the department.

#### *Accuracy Results*


19. Although accuracy has dropped slightly it remains very good at 97%.

#### *Satisfaction Survey*

20. Satisfaction was higher in the most recent sweep than in the September '18 survey, reflecting the ongoing work to engage with firms and promote positive interaction. The comments given were very similar to those made in relation to civil accounts, with the two main strands in the narratives provided showing a continued level of frustration with abatements of accounts; however there were many positive comments regarding staff attitudes, helpfulness and expertise.

#### *Children's Accounts*

21. As highlighted in the last report, a change in procedure around Interim Compulsory Supervision Order (ICSO) Hearings (Dec '18) led to further information being needed in many cases, leading in turn to increased durations in children's legal aid and performance has continued at worse than the benchmark. Subsequently this change has also led to an increase in the number of negotiations received.

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22. The children's team is a small team and is currently looking to recruit to replace a leaver as well as having one member on long term sick leave. The performance in the three months to May '19 is further impacted by the higher number of public holidays in this period which had a larger impact due to the team being small, taking further days leave around the bank holiday and larger teams have potentially more capacity to catch up.

#### *Accuracy Results*

23. Accuracy in the three months has remained consistent at a very good 98%.

#### *Satisfaction Survey*

24. Satisfaction has improved slightly since the previous two surveys; however, there have been no comments made by solicitors to allow us to analyse where this change has stemmed from.

## APPLICATIONS

### CIVIL

	Benchmark	Better is	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Zone defn
First Decision Avg Dur (AWI)	23.0	Lower	Better than	Better than	Better than	Better than	Better than	Met	Met	Met	Better than	Better than	Better than	Better than	10%
First Decision % Granted (AWI)	96.0%	Higher	Met	Met	Better than	Better than	Met	Met	Met	Met	Met	Better than	Better than	Better than	1%
First Decision Avg Dur (Other)	70.0	Lower	Met	Met	Met	Met	Met	Met	Worse than	Worse than	Worse than	Worse than	Worse than	Met	5%
First Decision % Granted (Other)	63.0%	Higher	Met	Met	Met	Better than	Met	Met	Met	Better than	Better than	Better than	Better than	Better than	4%
% First Decision with FW (Other)	18.0%	Lower	Met	Met	Met	Met	Worse than	Met	Met	Met	Met	Met	Met	Met	10%

	Current	Previous	Before that
Solicitor Satisfaction	Mar-19 70%	Jul-18 63%	Apr-18 64%
Accuracy (Score 4) (3 mth average)	May-19 99%	Apr-19 99%	Mar-19 100%

CRIMINAL															
	Benchmark	Better is	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Zone defn
First Decision Avg Dur (Solemn)	5.10	Lower	Met	Met	Met	Met	Met	Met	Met	Worse than	Worse than	Worse than	Met	Met	5%
First Decision % Granted (Solemn)	85.0%	Higher	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	2%
% First Decision with FW Solemn	9.0%	Lower	Met	Met	Met	Worse than	Met	Met	Met	Met	Met	Met	Worse than	Met	10%
First Decision Avg Dur (Summary)	10.0	Lower	Met	Met	Better than	Better than	Better than	Met	Met	Met	Worse than	Met	Met	Better than	10%
First Decision % Granted (Summary)	79.5%	Higher	Met	Worse than	Met	Met	Met	Met	Met	Better than	Met	Better than	Better than	Better than	1%
% First Decision with FW Summary	16%	Lower	Met	Met	Worse than	Worse than	Met	Met	Better than	Better than	Better than	Met	Better than	Better than	5%

	Current	Previous	Before that
Solicitor Satisfaction	May-19	Sep-18	Jun-18
	84%	70%	70%
Accuracy (Score 4) (3 mth average)	May-19	Apr-19	Mar-19
	99%	99%	100%

CHILDRENS															
	Benchmark	Better is	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Zone defn
First Decision Avg Dur (Sheriff Court)	8.0	Lower	Worse than	Worse than	Met	Better than	Better than	Met	Met	Worse than	Worse than	Met	Better than	Met	5%
First Decision % Granted (Sheriff Court)	80.0%	Higher	Worse than	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	4%
% First Decision with FW (Sheriff Court)	10.0%	Lower	Worse than	Met	Met	Better than	Better than	Met	Met	Better than	Better than	Met	Better than	Better than	10%

	Current	Previous	Before that
Solicitor Satisfaction	Apr-19 79%	Aug-18 67%	May-18 68%
Accuracy (4) (3 mth average)	May-19 98%	Apr-19 98%	Mar-19 98%



## ACCOUNTS

CIVIL	Benchmark	Better is	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Zone defn
<b>Avg Calendar days to bank:</b>															
- Civil A&A & ABWOR	22.1	Lower	Better than	Better than	Met	Met	Met	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	10%
- Civil legal aid	24.2	Lower	Better than	Met	Met	Met	Met	Worse than	Worse than	Worse than	Met	Met	Met	Met	10%
- Negotiations	50.6	Lower	Met	Better than	Better than	Better than	Met	Met	Met	Met	Met	Met	Met	Met	5%
<b>Initial Assessments % paid in full</b>	63.2%	Higher	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	5%
<b>Ratio of Negotiations to Initial Assessments</b>	14.1%	Lower	Worse than	Worse than	Worse than	Worse than	Worse than	Met	Met	Met	Met	Met	Worse than	Worse than	10%

	Current	Previous	Before that
<b>Solicitor Satisfaction</b>	<i>Mar-19</i> 48%	<i>Jul-18</i> 48%	<i>Apr-18</i> 46%
<b>Accuracy (4) (3 mth average)</b>	<i>May-19</i> 95%	<i>Apr-19</i> 95%	<i>Mar-19</i> 95%

CRIMINAL	Benchmark	Better is	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Zone defn
<b>Avg Calendar days to bank:</b>															
- Criminal A&A	9.6	Lower	Met	Better than	Met	Met	Worse than	Worse than	Worse than	Worse than	Met	Met	Met	Met	10%
- Criminal ABWOR Auto	6.4	Lower	Met	Met	Met	Met	Met	Better than	Met	Met	Worse than	Met	Met	Met	5%
- Criminal ABWOR Non auto	12.3	Lower	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Met	Met	Met	Met	10%
- Criminal Auto	6.4	Lower	Met	Met	Met	Met	Met	Better than	Met	Worse than	Worse than	Met	Met	Met	5%
- Criminal Non auto	12.7	Lower	Met	Met	Met	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	10%
- Solemn	18.1	Lower	Met	Met	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	10%
- Negotiations	39.9	Lower	Better than	Better than	Better than	Better than	Met	Met	Better than	Better than	Better than	Better than	Better than	Better than	10%
Initial Assessments % paid in full	93.0%	Higher	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	5%
Ratio of Negotiations to Initial Assessments	4.5%	Lower	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	Met	10%

	Current	Previous	Before that
<b>Solicitor Satisfaction</b>	<i>May-19</i>	<i>Sep-18</i>	<i>Jun-18</i>
	72%	69%	72%
<b>Accuracy (4) (3 mth average)</b>	<i>May-19</i>	<i>Apr-19</i>	<i>Mar-19</i>
	97%	98%	99%

CHILDRENS	Benchmark	Better is	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Zone defn
<b>Avg Calendar days to bank:</b>															
- Childrens A&A & ABWOR	23.0	Lower	Better than	Better than	Better than	Better than	Better than	Better than	Met	Worse than	Worse than	Met	Met	Met	10%
- Childrens legal aid	23.0	Lower	Better than	Better than	Better than	Better than	Better than	Better than	Met	Worse than	Worse than	Worse than	Worse than	Worse than	10%
- Negotiations	31.4	Lower	Met	Better than	Better than	Met	Met	Better than	Met	Met	Met	Met	Met	Worse than	5%
<b>Initial Assessments % paid in full</b>	35.3%	Higher	Better than	Better than	Better than	Better than	Better than	Better than	Better than	Better than	Better than	Better than	Better than	Better than	5%
<b>Ratio of Negotiations to Initial Assessments</b>	19.3%	Lower	Worse than	Met	Met	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	Worse than	10%

	Current	Previous	Before that
<b>Solicitor Satisfaction</b>	<i>Apr-19</i> 62%	<i>Aug-18</i> 58%	<i>May-18</i> 59%
<b>Accuracy (4) (3 mth average)</b>	<i>May-19</i> 98%	<i>Apr-19</i> 98%	<i>Mar-19</i> 98%

Governance Links	
1	<p>Finance and Resources</p> <p>Resources are key to the delivery of good performance. This paper sets out a number of current resourcing challenges that we are dealing with across the applications and accounts departments.</p>
2	<p>Risk</p> <p>Applications This report gives assurance that we are managing the functional risks identified in relation to: (i) Failure to accurately assess applications and increases in accordance with SLAB's policies and procedures; and (ii) Failure to take operational decisions within agreed service standards.</p> <p>Accounts This report gives assurance that we are managing the functional risks identified in relation to: (i) Failure to pay solicitors within a timeframe that is acceptable to the profession and enables management of the Legal Aid Fund; and (ii) Inconsistent approach to assessment of accounts.</p>
3	<p>Legal and Compliance</p> <p>No issues of note.</p>
4	<p>Performance</p> <p>No issues of note.</p>
5	<p>Equalities Impact</p> <p>An impact assessment is not required for this paper.</p>
6	<p>Privacy Impact and Data Protection</p> <p>No privacy or data protection issues identified.</p>
7	<p>Communications and Engagement</p> <p>This paper has been agreed for publication and we are also publishing separate information regarding our performance via our website.</p>

## Conclusion and next steps

Members are asked to note the report.

## Appendices

Appendix 1 - Guide to the SLAB Operation Performance Overview Report (SOPOR)

## Appendix 1

### Guide to the SLAB Operation Performance Overview Report (SOPOR)

#### STRUCTURE

Information is grouped by operational area and type of measure. The first 3 reports are on Applications areas: Civil; Criminal and Children's, and the bottom 3 on Accounts areas.

The reporting period structure is split between:

- the current 3 month reporting period, i.e. the average of the last 3 months and;
- the average of the same period one year ago.

In Civil we reporting Adults with Incapacity cases separately. These are high in volume and we take decisions on these in a much shorter timescale because the statutory tests are more straightforward. These are separated out to avoid a disproportionate impact on performance statistics.

In Criminal we report on summary and solemn cases separately: SL = Solemn cases; SC= Summary cases.

#### PERFORMANCE REPORTING IN THE SOPOR

A rolling 3-month average (i.e. a mean) is the basis for calculating and reporting performance. This is compared against a static benchmark with performance reported in terms of three zones:

- A) Met (the benchmark)
- B) Worse than (the benchmark)
- C) Better than (the benchmark)

A green-yellow-blue colour highlighting scheme is used. Green indicates a benchmark is being met. Yellow highlights the 'Worse than' zone and Blue highlights the 'Better than' zone.

The Met zone is defined initially as the benchmark plus or minus 5%. The 'Better than' and 'Worse than' zones are above or below the Met zone - depending on the type of measure. For example with the First Decision % Granted measure in general higher figures are better. So the 'Better than' zone is above the Met zone, i.e. above 105% of benchmark. But we aren't necessarily aiming to be as high as possible - we may find issues with accuracy and quality if we get too high or we may need to expend a disproportionate amount of effort.

With the Duration and Further Work ratio measures the 'Better than' zones are below the benchmark (less than 95% of benchmark).

The starting point for defining the width of the Met zone is plus or minus 5%. In some

cases it has been necessary to adjust it. This adjustment is because of the differences in application and account types and processes which produce different distributions for the different measures - some are more variable than others. This is especially so in relation to the size of the measure value. For example plus or minus 5% covers a wider range of values at 90% than it does at 20%<sup>1</sup>.

The benchmark approach has facilitated the re-inclusion of AWI within civil and a more detailed breakdown of accounts to be presented.

All measures are calculated for the most recent 3 month period and the 11 previous results are also shown so that trends over 1 year can be seen.

## DESCRIPTION OF MEASURES IN THE SOPOR

### Duration

The key duration shown for applications is the average time, in calendar days, from receipt of a main legal aid application by SLAB, to when we take the first official decision on it. This duration includes all weekends and holidays. It also includes any period where we are asking the solicitor, or applicant, for more information to help us take the decision.

This indicator measures both the workflow performance of SLAB but also the degree to which solicitors and applicants are managing to provide all necessary information. Simply put lower is better.

In accounts the first instance duration is a very similar measure - it is from registration of the account to the date payment is received into the solicitor's bank account. It is in calendar days and again includes any period where we are asking the solicitor for more information to help us assess the account.

The negotiation duration is the same measure but for accounts that are follow-up accounts to negotiate sums that we have abated from initial accounts.

### Grant / paid in full rate

The first official decision on a legal aid application can be one of 3 main types: grant; refuse; or not consider due to lack of information. The percent granted measure is the number of grants divided by (i.e. indexed) by the total number of first decisions in the period and expressed as a percentage.

This indicator measures the effectiveness with which SLAB and the profession are facilitating solicitors to make appropriate and complete applications. Simply put higher is better.

In accounts the equivalent measure is the percent of accounts that we are able to pay all that solicitors are claiming, i.e. without abating them.

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<sup>1</sup> For more information please see Board paper *SLAB-2019-11 Benchmark Proposals for 2019-20*.

‘Abatement’ describes the process by which the amount paid by SLAB includes one or more deductions from the amount claimed by a solicitor. This can occur for many different reasons. Subsequent negotiations with firms can result in part or all of the sum abated being reinstated, often because we are provided with further information that allows us to be satisfied that a claim is valid or reasonable. This can be additional information (such as vouching) to support a claim, or an explanation to justify a particular activity which had appeared to us on the face of it to be unnecessary, unreasonable or uneconomical.

SLAB needs to protect the Legal Aid Fund from unjustified expenditure; however this needs to be undertaken in a manner that is seen to be fair, transparent and done in a consistent and efficient manner.

Ultimately we will be using the information on what we finally pay against, the original lodged amount and the initial payment to understand how we can ensure more could be paid at the first instance.

### **Ratio of Further Work (Negotiation) to First Decision (First Instance)**

In applications this indicator is the number of cases requiring further work divided by the total number of first decisions in the period and expressed as a percentage. In accounts it is the number of negotiation accounts paid compared with the number of first instance accounts.

This indicator measures a number of different key elements of the process:

- a) the effectiveness with which SLAB is getting correct applications/accounts in the first instance;
- b) that SLAB is making correct decisions;
- c) the effectiveness with which SLAB is communicating those decisions.

Poor performance in any of those areas could result in an increase in this ratio. Simply put lower is better.