 Report No: **SLAB/2019/42**

Agenda Item: **12**

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| **Report to:** | The Board |
| **Meeting Date:** | 12th August 2019 |
| **Report Title** | Performance Report |
| **Report Category** | For Information |
| **Issue status:** | Business as usual |

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| **Written by:** | Marie-Louise-Fox & Graeme Hill |
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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 30th June 2019. | |

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| **Link to Board or Committee Remit** |
| To monitor the performance of the Operational Departments. |

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| **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. |

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| **Executive Summary** |
| Applications – The performance across the Applications Department is good.  Accounts – For the three months to June, overall there is an underlying improvement with the exception of Children’s legal aid. Most performances remained in the same band with two improving compared to the previous report. Looking at June there were 13 of the 15 durations which improved from May with only one marginally worse. |

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| **Previous Consideration** | | |
| **Meeting** | **Detail** | |
| 24th June 2019 | Applications – The overall departmental performance was good.  Accounts - The overall position remains mixed although there have been improvements in some areas. | |
| **Report** | |

**Civil Applications**

1. The overall performance in civil applications remains good with the benchmarks being met or exceeded
2. Our more stable performance reflects the benefits from having more fully trained staff able to cope with the demands placed on them.
3. As the durations for first decisions in AWI applications are consistently better than the benchmark we will consider whether there is any shift needed in the focus of the work of the team.
4. Other average durations are improved too and have met the benchmark for the past quarter. The grant rate is also increasingly better than its benchmark.

*Accuracy Results*

1. 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*

1. Satisfaction dropped in June to 67% compared to March 2019 when the satisfaction figure was 70%. The response rate itself also reduced to 4.2% from 6.4%. One of the more notable shifts in satisfaction was in relation to the percentage of respondents who described themselves as “very dissatisfied” which increased from 3% to 9% while the percentage of those who were “very satisfied” dropped from 29% to 24%.
2. It is difficult to establish the reasons for this shift from the comments which have been submitted as they are very disparate in their terms. There are very positive comments made about staff and their willingness to assist customers.  However there are also comments which suggest we are being obstructive which are hard to understand in light of the more routine positive comments we get.  It may be that the civil applications process which is more challenging than other application types creates tensions so we will continue with our various packages of support for any firm that wants to access such assistance while also seeking to find ways to streamline the existing process.

**Criminal Applications**

*Criminal – Summary*

1. The overall performance remains good with the average durations, and the ratio of further work cases all continuing to exceed the benchmarks.

Criminal – Solemn

1. First Decision Average Durations and Grants, and the ratio of further work cases all continue to meet the benchmarks, despite increases in applications received.

*Accuracy Results*

1. 99% of applications checked were marked as having a good level of accuracy, reflecting consistent performance.

*Customer Satisfaction Survey Results*

1. The 3 months to May were reported in the last performance paper (SLAB/2019/33).

**Children’s applications**

1. The overall performance continues to be good with strong results for the percentage of applications needing further work.

*Accuracy Results*

1. 97% of applications checked were marked as having a good level of accuracy. While this is a drop of 1% from the previous month it is still a steady performance giving no cause for concern.

*Customer Satisfaction Survey Results*

1. The 3 months to April were reported on in the last performance paper (SLAB/2019/33).

**Accounts**

Civil Accounts

1. The performance of Civil continues to the meet the benchmark with negotiations now better than the benchmark.
2. Civil A&A had been improving in recent months. However, the durations increased in April and May due to the impact of bank holidays and BACS non-processing days. The overall effect of this means that A&A remains marginally worse than the benchmark.
3. Whilst individually the month June improved it should be noted that this is against a background of resourcing issues and a member of staff on long term sick leave within the department that will mean going into the summer holiday period that it is likely that the performance may worsen slightly in the coming months.
4. The initial assessments percentage paid in full has remained consistent at 63%. However, as we had a large increase in the volume of initial accounts paid in March this has subsequently led to a large increase in the volume of negotiations in April and May. As a result this therefore distorts the ratio of negotiations to initial assessments and has led to the performance showing as ‘Worse than’.

*Accuracy Results*

1. Accuracy in the three months was good with 95% having been marked as a four. This is consistent with the previous report.

*Satisfaction Survey*

1. Satisfaction, at 61%, was significantly higher than in the two previous sweeps which were both 48%. The comments given have however remained consistent with the narratives showing a mixture of continued frustration with abatements of accounts set against many positive comments regarding staff attitudes, helpfulness and expertise.
2. From the comments it is therefore difficult to assess the reason for this apparent increase in satisfaction. There has been an 18% shift out of ‘neither satisfied nor dissatisfied’ primarily into ‘fairly’ or ‘very satisfied’. However, it should be noted that the response rate has dropped by 36% since the last sweep so the improvement may be simply those that complained or were neutral last time have chosen to not respond this time.

Criminal Accounts

1. 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.
2. For both the areas that are not meeting the benchmark, longer term absences within the department are the main cause. Two of the members of staff have now returned to work and this has helped to improve the performance in June.
3. The initial assessments percentage paid in full and the ratio of negotiations to initial assessments continue to meet benchmark. However, it should be noted that as we are anticipating increased volumes of detailed solemn accounts (where a higher percentage are likely to require abatements and subsequent negotiations) and reduced volumes of summary accounts (which often require no abatements) it is likely that this will bring pressures in trying to maintain this performance as the year progresses.

*Accuracy Results*

1. Accuracy has remained very good at 97%.

*Satisfaction Survey*

1. The 3 months to May were reported in the last performance paper (SLAB/2019/33).

Children’s Accounts

1. 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. Subsequently this change has also led to an increase in the number of negotiations received.
2. 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 Jun ‘19 is further impacted by the number of public holidays in this period and staff taking further days leave around these reducing available processing days. Individually the month of June is showing improvements with A&A and ABWOR meeting target and Children’s legal aid only marginally worse than benchmark.
3. We have successfully recruited a new start for this area from the beginning of August. Our member of staff who was on long term sick has returned on a phased return but should be back full time by August. We are anticipating that this will give us better and more consistent performance levels going forward.

*Accuracy Results*

1. Accuracy in the three months has improved slightly to a very good 99%.

*Satisfaction Survey*

1. The 3 months to April were reported on in the last performance paper (SLAB/2019/33).











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|  | **Governance Links** |
| 1 | Finance and Resources  *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.* |
| 2 | Risk  *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.*  *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.* |
| 3 | Legal and Compliance  *No issues of note.* |
| 4 | Performance  *No issues of note.* |
| 5 | Equalities Impact  *An impact assessment is not required for this paper.* |
| 6 | Privacy Impact and Data Protection  *No privacy or data protection issues identified.* |
| 7 | Communications and Engagement  This paper has been agreed for publication and we are also publishing separate information regarding our performance via our website. |

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| **Conclusion and next steps** |
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Members are asked to note the report.

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| **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:

1. Met (the benchmark)
2. Worse than (the benchmark)
3. 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%[[1]](#footnote-1).

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.

‘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:

1. the effectiveness with which SLAB is getting correct applications/accounts in the first instance;
2. that SLAB is making correct decisions;
3. 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.

1. For more information please see Board paper *SLAB-2019-11 Benchmark Proposals for 2019-20.* [↑](#footnote-ref-1)