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| Report to: | The Board |
| Meeting Date: | 21st March 2022 |
| Report Title | Performance Report |
| Report Category | For Information |
| Issue status: | Business as usual |

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| Written by: | Marie-Louise-Fox & Graeme Hill |
| Director responsible: | Marie-Louise Fox |
| Presented by: | Marie-Louise Fox |
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| Delivery of Strategic Objectives |
| Select the Strategic Objective(s) relevant to the issues  | 1. We deliver a high quality user focussed service
2. We embed ways of working across the organisation that enhance the quality, consistency and transparency of our decisions and delivery
3. We engage with users and delivery partners across the legal aid and justice system to inform good design of our system and services
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| The purpose of this paper is to report on operational performance as at 31st January 20221. It also seeks the Board’s **approval** to revise a small number of the performance benchmarks for 2022-23. |

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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 |
| Members should note that the figures reported are a three month average i.e. reflect the position for November, December 2021 and January 2022 as a whole. Applications – The performance across Applications was good and there are no particular concerns or issues to highlight.Accounts – Performance remains in line with our expectations. We have taken remedial action to address the areas where performance is being reported as ‘worse than’ the benchmark. However, it should be noted that it will take time before we see improvements stemming from these actions.We have reviewed the benchmarks for next year and the proposed changes are attached. |

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| Previous Consideration  |
| Meeting | Detail |
| 6th December 2021 | Applications – The performance across Applications was good and there are no particular concerns or issues to highlight.Accounts – Performance remains in line with our expectations and we remain confident that where the indicators are reported as “worse than” the benchmark we will see improvements before the end of the financial year. |

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| Report |

**Applications Performance**

1. Civil Applications

The overall performance in civil applications is very good with all civil benchmarks recorded as “better than”.

1. Criminal Applications

The overall performance in criminal applications is still good with all criminal benchmarks recorded as “better than” or “met”.

Overall satisfaction levels were maintained at 78% satisfied in January, although on a smaller number of responses from the last survey in October 2021. There was only one issue raised about problems with contacting us by telephone, so our new Teams phone system seems to have brought general improvements with our external communications.

1. Children’s Applications

The overall performance of children’s applications is good.

**Accounts Performance**

1. Civil Accounts

Since the last report we have continued to see performance for the initial assessment of both civil legal aid and civil A&A and ABWOR being reported as ‘worse than’ the benchmark. The teams continue to be impacted by the loss of several experienced staff to other teams within SLAB. However, a full review of the necessary staffing has now been undertaken and approved by the Executive Team and subsequently the new posts have been advertised. Civil have still a relatively high share of accounts coming through on the old system which creates an additional burden on staff and moves to put all accounts over onto the online system are now underway. Over time, it is anticipated that this approach, alongside the guidance produced by the GALA project, will improve the quality of accounts submitted and reduce the need for additional work.

1. Criminal Accounts

The overall performance in criminal accounts is good with performance against all indicators either ‘met’ or ‘better than’ the benchmark.

1. Children’s Accounts

The overall performance of children’s accounts is good with 4 out of 5 of the indicators being reported as ‘better than’ the benchmark. However, negotiations in children’s is being reported as ‘worse than’ the benchmark due to a small number of accounts where firms have been slow in responding to us.

1. Customer Satisfaction

Criminal satisfaction has increased from 71% to 75%, while children’s accounts increased from 56% to 71%. However, satisfaction in civil accounts dropped from 73% to 63%.

1. New Benchmarks for 2022-2023

We have reviewed the benchmarks for next year and the proposed changes are attached. Overall the environment we operate in is still uncertain. This includes uncertainty over the future volumes of cases and accounts and the impact of the court backlog; changes in the case mix; internal resourcing pressures; and incoming new directors. These are all relevant factors we’ve considered as reasons not to substantially change the benchmarks.

For applications and accounts, we have focussed, in particular, on areas where performance has consistently been well into the ‘Better Than’ category.

In applications we are therefore recommending changes to Civil Applications KPIs 3,4 and 5 (all Other non-Adults with incapacity category):

* Other average duration to move from 68 days to 67 days;
* Other percent granted to move from 70% to 72%;
* Other percent cases with further work to move from 14% to 12%.

In accounts we are recommending changes to KPIs 3, 6 & 18:

* Civil negotiations average duration to move from 42 to 30 days;
* Criminal A&A average duration to move from 9 to 8 days;
* Children’s percent paid in full to move from 41 to 55%.





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|  | **Governance Links**  |
| 1 | **Finance and Resources**Resources are key to the delivery of good performance. There are no resourcing issues to flag to the Board which have affected the performance reported. |
| 2 | **Risk** ApplicationsThis 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.AccountsThis 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 2: Proposed changes to benchmarks for 2022-23  |

**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.

In Civil we report 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

Benchmarks for performance reporting for financial year 2021-22 were presented to the Board in March 2021. The benchmarks proposed balanced the aim of being challenging but achievable but also the need to manage the risks and uncertainty around the coming year of 2021-22. They were based on performance during the pandemic in 2020/21 and also pre the pandemic in 2019/20.

The new benchmarks were introduced into the reporting from April 2021 onwards.

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.

**Appendix 2**

**Proposed Benchmarks for 2022-2023**

The **Current (2021-22)** **Performance** figure is presented as the Number of Periods (out of the previous 12) that have been Better or Met.

\*NB this is as of Feb-22 figures at time of writing.

**Civil Applications**

Four of the five KPIs saw more demanding benchmarks set for 2021-22. Performance remained high with all 12 reporting periods showing performance meeting or exceeding all of the five benchmarks.

It is suggested that the 3 benchmarks for non-AWI subject matters are improved slightly as highlighted below.

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|  |  | **2020-21** | **2021-22\*** | **2022-23** |
| **KPI** | **Measure** | **Benchmark** | **Performance** | **Benchmark** | **Performance** | **Suggested benchmark** |
|  | **Adults with incapacity** |  |  |  |  |  |
| 1 | Average Duration | 23 days | 12 | 17 days | 12 | Keep same |
| 2 | Percent Granted | 96% | 12 | Unchanged | 12 | Keep same |
|  | **Other subject matters** |  |  |  |  |  |
| 3 | Average Duration | 70 days | 12 | 68 days | 12 | 67 days |
| 4 | Percent Granted | 63% | 12 | 70% | 12 | 72% |
| 5 | Further Work | 18% | 12 | 14% | 12 | 12% |

**Criminal Applications**

All three solemn KPIs remained unchanged as we were faced with a continuing elevated level of solemn work to deal with. Performance remained high with all 12 reporting periods showing performance meeting or exceeding all of the three benchmarks.

In summary all three KPIs were set performance stretching benchmarks. Performance increased (compared with 2020/21) with all 12 reporting periods showing performance meeting or exceeding all of the three benchmarks.

No KPIs appear to require change for 22-23. None of the indicators are consistently a long way away from the benchmark.

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|  |  | **20/21**  | **21-22** | **22-23** |
| **KPI** | **Measure** | **Benchmark** | **Performance** | **Benchmark** | **Performance** | **Suggested benchmark** |
|  | **Solemn** |  |  |  |  |  |
| 6 | Average Duration  | 5.1 days | 12 | Unchanged | 12 | Keep same |
| 7 | Percent Granted  | 85% | 12 | Unchanged | 12 | Keep same |
| 8 | Further Work  | 9% | 12 | Unchanged | 12 | Keep same |
|  | **Summary** |  |  |  |  |  |
| 9 | Average Duration | 10 days | 12 | 9 days | 12 | Keep same |
| 10 | Percent Granted | 78% | 9 | 79% | 12 | Keep same |
| 11 | Further Work | 16% | 11 | 15% | 12 | Keep same |

**Children’s Applications**

Two of the three KPIs saw more demanding benchmarks set for 2021-22. Performance remained high with all 12 reporting periods showing performance meeting or exceeding all of the three benchmarks.

No KPIs appear to require change for 22-23. None of the indicators are consistently a long way away from the benchmark.

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|  |  | **20/21**  | **21-22** | **22-23** |
| **KPI** | **Measure** | **Benchmark** | **Performance** | **Benchmark** | **Performance** | **Suggested benchmark** |
| 12 | Average Duration  | 8.0 | 12 | 7.5 | 12 | Keep same |
| 13 | Percent Granted  | 80% | 12 | 81% | 12 | Keep same |
| 14 | Further Work  | 10% | 12 | Unchanged | 12 | Keep same |

## Civil Accounts

The three Durations KPIs (1,2,3) and the Paid in full KPI (4) were set more demanding benchmarks for 2021/22. The first two durations indicators - for A&A/ABWOR and legal aid[[2]](#footnote-2) met the new benchmarks in the first 6 months. However in the second half of the year the loss of experienced staff affected performance as described in the main paper.

We feel though that there is scope in Civil negotiations to reduce the benchmark from 42 days to 30 days. This retains some slack but given where we are in regards to staffing it seems prudent to retain some slack and review it again next year once we see how we have recruited & fully trained new staff.

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|  |  | **20/21**  |  | **21-22** |  | **22-23** |
| **KPI** | **Measure** | **Benchmark** | **Performance** | **Benchmark** | **Performance** | **Suggested benchmark** |
| 1 | Duration Civil A&A & ABWOR  | 22.1 | 12 | 19.0 | 6 | Keep same |
| 2 | Duration Civil legal aid  | 24.2 | 12 | 23.0 | 6 | Keep same |
| 3 | Duration Negotiations | 50.6 | 12 | 42.0 | 12 | 30 |
| 4 | Paid in full | 63.2% | 12 | 67.5% | 12 | Keep same |
| 5 | Further work | 14.1% | 8 | Keep same | 12 | Keep same |

**Criminal Accounts**

The benchmarks for three KPIs were advanced for 21-22. In one of them - Criminal A&A durations – we see some scope to reduce the benchmark further. If boycotts of police station duty continue then we might be looking at a shift in the % of A&A that go automatically through the system (i.e. a higher % of what remains will be assessed). As such it is felt better to be prudent and reduce the benchmark from 9 days to 8 days and to review again next year.

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|  |  | **20/21**  |  | **21-22** |  | **22-23** |
| **KPI** | **Measure** | **Benchmark** | **Performance** | **Benchmark** | **Performance** | **Suggested benchmark** |
| 6 | Duration Criminal A&A | 9.6 | 12 | 9.0 | 12 | 8 days |
| 7 | Duration Criminal ABWOR Auto | 6.4 | 12 | 6.2 | 12 | Keep same |
| 8 | Duration Criminal ABWOR Non auto | 12.3 | 9 | Keep same | 12 | Keep same |
| 9 | Duration Criminal Auto | 6.4 | 12 | Keep same | 12 | Keep same |
| 10 | Duration Criminal Non auto | 12.7 | 11 | Keep same | 12 | Keep same |
| 11 | Duration Solemn | 18.1 | 12 | Keep same | 11 | Keep same |
| 12 | Duration Negotiations | 39.9 | 10 | 32.5 | 10 | Keep same |
| 13 | Paid in full | 93.0% | 9 | Keep same | 12 | Keep same |
| 14 | Further work | 4.5% | 10 | Keep same | 12 | Keep same |

**Children’s Accounts**

Four out of the five benchmarks were moved for 2021-22. With KPI 18 - Children’s % Paid in full – issues regarding how the accounts were being sent in and claims made have been addressed due to the assessment team working with firms to make the necessary improvements. It makes sense to increase this benchmark but again to retain a little slack. Given the position over the last year increasing the benchmark from 41% to 55% should allow for a more realistic benchmark.

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|  |  | **20/21**  |  | **21-22** |  | **22-23** |
| **KPI** | **Measure** | **Benchmark** | **Performance** | **Benchmark** | **Performance** | **Suggested benchmark** |
| 15 | Duration Children’s A&A & ABWOR | 23.0 | 12 | 17.0 | 12 | Keep same |
| 16 | Duration Children’s legal aid | 23.0 | 10 | 20.0 | 12 | Keep same |
| 17 | Duration Negotiations | 31.4 | 8 | 29.0 | 8 | Keep same |
| 18 | Paid in full | 35.3% | 12 | 41% | 12 | 55% |
| 19 | Ratio of Negotiations to Initial Assessments | 35% | 11 | Keep same at 35% | 12 | Keep same |

1. For more information please see Board paper SLAB-2019-11 Benchmark Proposals for 2019-20. [↑](#footnote-ref-1)
2. Both of initial assessments [↑](#footnote-ref-2)