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| Report to: | The Board |
| Meeting Date: | 31 July 2023  |
| Report Title | Performance Report |
| Report Category | For Information |
| Issue status: | Business as usual |

**BOARD REPORT**

**AGENDA ITEM: 11
REPORT NUMBER: SLAB/2023/27**

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| Delivery of Strategic Objectives |
| Select the Strategic Objective(s) relevant to the issues  | 1. Our timely, clear and consistent decisions on legal aid applications and accounts deliver a positive customer experience
 |
| The purpose of this paper is to report on operational performance as at 30th June 2023. |

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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 April, May and June as a whole.Applications – The performance across Applications was good and there are no particular concerns or issues to highlight.Accounts – Strong improvements have been seen in the civil A&A Accounts durations performance. Overall the performance remains broadly in line with our expectations. |

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| Previous Consideration  |
| Meeting | Detail |
| May 2023 | Applications – The performance across Applications was good and there are no particular concerns or issues to highlight.Accounts – Overall the performance remains good and there remains no concerns to note. |
| Report |

## Applications Performance

1. **Civil Applications**

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

1. **Criminal Applications**

Performance in Criminal Applications is still good, and we are maintaining the improvements since January 2023.  In May, the Summary average durations dropped into Worse Than. It was still only just over though, 10 days compared to the 9 day benchmark.   This was probably caused by the 2 public holidays we had in May, where receipts did not really drop off, and it took us a few days to catch up with this. The Summary average durations improved in June and met the benchmark 9 days.

1. **Children’s Applications**

Overall performance in children’s applications remains good with all benchmarks either met or ‘better than’.

1. **Surveys and Quality**

There have been no customer surveys since October 2022 as we review our engagement process. Independent quality checks on applications remains high with 99% accuracy.

## Accounts Performance

**5. Civil Accounts**

The overall performance of civil accounts is generally good with two benchmarks reported as ‘better than’, two being ‘met’ and one reported as ‘worse than’ benchmark.

Although civil legal aid is reported as ‘worse than’ benchmark this stems, in part, from our clearing of older interim accounts where the solicitor firms had not responded to us, and likewise solicitor firms having a clear out of their own records.

**6. Criminal Accounts**

The overall performance in criminal accounts remains good with most benchmarks being reported as ‘met’ benchmark.

Of the two reported as ‘worse than’ benchmark solemn has been impacted due to resource being allocated to the testing required for fee reform and an increase in the volumes of accounts being received (as mentioned in the fund finance report); and criminal ratio of negotiations to initial assessment which has been impacted by solicitors responding to us on older cases.

We are also having to take additional calls and get use to the new tables of fees. In setting the benchmarks for this year it was always acknowledged that there would be an element of slowdown initially whilst both we and firms were on this learning curve before we could reap any potential benefits from the reformed fee structure.

**7. Children’s Accounts**

The overall performance of children’s accounts remains very good with four benchmarks reported as ‘better than’ benchmark and the other one being ‘met’.

**8. Surveys and Quality**

There have been no customer surveys since October 2022 as we review our engagement process. Long term sickness has negatively impacted on the independent quality checks. However, the team have implemented additional checking in the team to ensure consistency of decisions as an interim measure.





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|  | **Governance Links**  |
| 1 | **Finance and Resources**Resources are key to the delivery of good performance. There are no additional 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 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 2023-24 were presented to the Board in March 2023.

The new benchmarks (shown in yellow in the table above) were introduced into the reporting from April 2023 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-2).

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.

Solicitor surveys

We have trialled a new approach to surveying solicitors about their satisfaction with our service. Solicitors were asked to indicate their satisfaction using a 5-point scale.

The percent satisfied score reported here is the percent of solicitors who responded either Fairly Satisfied (4) or Very Satisfied (5) on the scale.

The satisfaction question was targeted separately on a three-month rolling basis at solicitors carrying out Civil work, Criminal work and Children’s work. Within each area one question was asked regarding the applications service and one question was asked regarding the accounts service. We also provided the option for solicitors to respond with open comments in a free-text box.

In the first month we asked the application question and the accounts question of solicitors who had made any civil applications in the past three months. In the second month we did the same for criminal and in the third month we did the same for children’s. Then in the fourth month we went back to civil and repeated the approach.

We developed this approach to minimise the level of repeat questioning any individual solicitor might receive in one month. Despite this, the number of responses dropped over time and so we switched to six-monthly rather than quarterly surveys. After a break during the covid period, response numbers have continued to be low. For this reason we decided to review our approach to gathering solicitor feedback and so did not undertake the last round of scheduled surveys. We will update members when the new process is in place.

Accuracy

This is being measured by the Independent Checking & Quality Unit (ICQU) team through sampling of cases in both the applications and accounts areas.

Scoring Accuracy has been given a range of 1 to 4.

1 = Fundamental error – an error caused an incorrect decision to be taken

2 = Non-fundamental error – an error was found but this did not result in an incorrect decision

3 = Issue – a correct decision was taken but some of the justification was inaccurate

4 = Correct decision taken with the correct justification

The percentage figure reported is the percent of measurements that are scored 4, i.e. Correct. This is a more discriminating figure compared with the previous implementation of Accuracy when only errors affecting decision, i.e. 1s, were reported as incorrect.

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