



# Legal Assistance Update

12 October 2012

To All Civil and Criminal Practitioners

## LEGAL AID ACCOUNTS PERFORMANCE MEASUREMENT

Following discussions with the Law Society's Civil and Criminal Teams about accounts payments service standards and targets, we undertook to issue a mailshot to solicitors to further explain the targets and service standards which we publish each year in the Board's Corporate Plan.

### INTRODUCTION

In 2001-02, we conducted a fundamental review of performance indicators and targets. The resulting changes to performance measurement allowed the Board to track all cases in a way that had not been possible before. We put in place new timeliness targets to help improve the control, monitoring and reporting of cases.

The performance framework was based on 'Headline indicators' for each legal aid type, combining, in equal measure, timeliness and accuracy of processing. It is important to note that these timeliness and accuracy indicators are, in turn the sum of two elements:

- a performance standard - expressed, in the case of timeliness, as a number of days and, in the case of accuracy, is set in all cases as "error free" and
- a target performance - expressed as a percentage of those expected to meet the performance standard.

For example, our expectation is that 98% of criminal detail accounts will be error free and will be paid within 30 working days in 97%.

The Board's performance standards and targets for applications and accounts are published each year, following their agreement by Scottish Ministers, as part of our Corporate Plan. You can read the 2012-15 Corporate Plan at -

<http://www.slab.org.uk/about-us/what-we-do/corporate-plans/>

Our performance against these standards and targets is reported in our Annual Report. The Board's Annual Report 2011-12 will be published in October 2012. We plan a major review of our performance framework which will conclude in 2013. This will include further engagement with solicitors and our other justice sector partners; and with regard to the new and different ways of working driven by the Scottish Government's Making Justice Work programme.

In 2010 we changed from calendar days to working days which we considered was a more practical and realistic measure of service standards, and had the advantage of consistency with other similar measures, such as the time limits governing requests for information under the Freedom of Information (Scotland) Act.

More significantly in terms of accounts payment, at the same time we also made significant changes to accounts assessment service standards to better reflect the time elapsed between submission of an account and the receipt of payment. Previously the standard had been one related simply to the “first action” on an account, whereas the new service standard made a commitment in terms of actually making payment. Over time we have also increased the range of accounts that we pay ‘on offer’. Where remaining amounts are subject to negotiation we introduced a new service standard of payment within 20 days.

Where we have significant concerns over the way a firm is conducting its business, in order to allow sufficient time for comprehensive assessment and cross-checking, we reserve the right to exclude firms’ accounts from our payment targets.

### **PRACTICALITIES OF MEASUREMENT**

In terms of the measurement of timeliness performance of account payments:

- The performance standards for timeliness of payment, in common with that for applications, are based on working days - this excludes weekends and the public holidays when we are closed.
- We only count the time in our hands. It does not include the time where matters have been raised with the solicitor where we await a response.
- For Advice and Assistance Accounts and ABWOR, it excludes the time when the account is on hold waiting for information on financial verification. We cannot process an account when the application had outstanding issues about the applicant’s eligibility for legal assistance.
- The main payment on offer is measured separately from the negotiations.
- We count days from the day after receipt to the date that we process to BACS, the banks electronic transfer system. We have no control over the time for transmission through the banking system.
- Our 97% target is for the profession as whole, not necessarily a commitment to each firm; and is one for the year as a whole, not for any given month or period within the year. A firm with a sizeable volume of business would be likely to find that their profile of payments was consistent with the target.
- We generally instruct BACS processes on a Friday, Monday and Wednesday. These will generally reach solicitors’ firms’ bank accounts on a Tuesday, Wednesday and Friday, respectively. These days may change to take account of public holidays and ensure that firms receive a steady level of payments due.

### **PERFORMANCE IMPROVEMENT**

Over time we have used both the timeliness and accuracy elements of the performance indicator to drive improvements in performance in applications and accounts. For example, following feedback about the timescales for processing negotiations, we have reduced the target for negotiations from 30 days to 20 working days in 93% of cases. This recognises that there are larger cases which take longer to negotiate so the target is set at this level.

While, for accounts payment, we set a given service standard of 15 or 30 working days, we seek, on average to pay well within these targets. Typically, we would expect accounts to be paid around 13 days and 27 working days respectively. Although we try to minimise the impact of fluctuations, there will be periods where there may be some variation in these figures, typically around periods of heavy annual leave. If you want to check the progress of an account, we would encourage you to use the online “search case” for accounts that are within their normal service standard, reserving telephone enquiries for cases which are genuinely outwith 30 working days in our hands, thus minimising disruption to the process of assessing accounts.

We often find that when we receive enquiries about an individual firm’s payments that consideration has not been given to other factors that may have impacted cash flow such as drop in volume of work, a reduction in the numbers of accounts being sent in, the impact of fee changes or a reduction in the number of prosecutions. There are also instances where assessment of accounts cannot progress until the Board receives a response to an enquiry. We see significant numbers of cases where there are delayed or no responses, which has inevitable consequences for cash flow.

Although it could be possible for the Board to pay legal aid accounts faster, one of the difficulties in adjusting payment targets generally is that speeding up payment has a cash flow impact in the year that any change is made. In the current environment of constrained public expenditure, and one in which forecasts of legal aid fund expenditure are higher than the Scottish Government’s provision for legal aid expenditure, a major change to payment speeds is a cost that the Scottish Government would find difficult to meet without making savings in addition to those already identified. We estimate that the cost of reducing the timeliness targets across all account types by one day would cost around £600,000.

We have identified that there is good justification for more closely aligning the criminal ABWOR fixed fee payments, currently 30 working days, with the target for payment of criminal fixed fees of 15 days. The Scottish Government have agreed in principle that the Board should move towards quicker payment of criminal ABWOR fixed fees. However, the pace at which this can be achieved will be determined by the costs involved and subject to Scottish Government approval. It is hoped that substantial progress can be made in aligning payment timescales of these two types of account over the next two years.

**ACTUAL PERFORMANCE**

In 2011-12, we met our targets for timeliness, accuracy and overall:

Full Year 2011-12	Timeliness		Accuracy		Headline indicator		Met Target
	Target	Actual	Target	Actual	Target	Actual	
Civil Accounts	97%	97%	98%	98%	97%	98%	✓
Criminal Accounts	97%	97%	98%	99%	97%	98%	✓
A&A Accounts	97%	97%	97%	98%	97%	98%	✓
Children’s Accounts	97%	97%	98%	99%	97%	98%	✓

For the year to date, we continue to meet those targets in 2012/13. For information, the following table sets out the average payment periods for the profession as a whole, by

account type; for June, July and August 2012 and for the year to date:

Profession as a whole	Target days	Actual April 2012	Actual May 2012	Actual June 2012 days	Actual July 2012 days	Actual August 2012 Days	5 Month Average days
A&A Children	30	23.2	26.5	24.9	25.8	26.3	25.4
A&A Civil	30	24.4	25.5	25.0	25.2	26.0	25.2
A&A Criminal	30	27.8	28.5	27.7	24.1	24.5	26.5
Children	30	28.8	27.1	27.3	27.7	27.5	27.7
Civil	30	22.1	24.9	24.1	25.4	24.5	24.4
Criminal Fixed	15	14.0	13.5	13.3	13.8	13.4	13.6
Criminal Time in Line	30	24.9	24.4	24.5	25.4	24.9	24.8
Judicial Expenses	15	14.3	14.2	13.2	11.9	12.4	13.4
<b>Grand Total</b>		<b>22.7</b>	<b>23.3</b>	<b>23.0</b>	<b>22.6</b>	<b>22.9</b>	<b>22.9</b>

The following tables set out the Accounts Assessment performance targets for 2012-13. The full list of service standards and targets for applications is available in the Board's Corporate Plan.

#### Criminal legal aid Accounts

	2011-2012		2012-2013	
	Service standard (working days)	Target	Service standard (working days)	Target
<b>Timeliness</b>				
Fixed Fee account types	15 days	97%	15 days	97%
Negotiated payments	30 days	97%	20 days	93%
Detailed accounts	30 days	97%	30 days	97%
<b>Accuracy</b>				
All accounts	Error free	98%	Error free	98%
<b>Headline Indicator</b>		<b>97%</b>		<b>97%</b>

#### Civil legal aid Accounts

	2011-2012		2012-2013	
	Service standard (working days)	Target	Service standard (working days)	Target
<b>Timeliness</b>				
Judicial Expenses Accounts	15 days	97%	15 days	97%
Negotiated payments	30 days	97%	20 days	93%
All other civil account types	30 days	97%	30 days	97%
<b>Accuracy - All accounts</b>				
All accounts	Error free	98%	Error free	98%
<b>Headline Indicator</b>		<b>97%</b>		<b>97%</b>

### Children's legal aid Accounts

	2011-2012		2012-2013	
	Service standard (working days)	Target	Service standard (working days)	Target
<b>Timeliness</b>				
Negotiated payments	30 days	97%	20 days	93%
All other children's accounts	30 days	97%	30 days	97%
<b>Accuracy - All accounts</b>	Error free	98%	Error free	98%
<b>Headline Indicator</b>		<b>97%</b>		<b>97%</b>

### Advice & Assistance Accounts

	2011-2012		2012-2013	
	Service standard (working days)	Target	Service standard (working days)	Target
<b>Timeliness</b>				
Negotiated payments	30 days	97%	20 days	93%
All other advice and assistance accounts	30 days	97%	30 days	97%
<b>Accuracy - All accounts</b>	Error free	97%	Error free	97%
<b>Headline Indicator</b>		<b>97%</b>		<b>97%</b>