

## 6. Scope

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- 6.1 A summary of the Services to be provided by the Supplier are set out below. All correspondence and notification templates used to undertake these activities will need to be approved by the Authority prior to use and the Authority may specify and provide a copy template letters in order to optimise recovery rates.
- 6.2 The Supplier must ensure that all correspondence meets plain English standards. Wherever possible, the Supplier should also provide information in a format that would meet the Defendant's specific communication needs. In doing so, the Supplier should seek to ensure that a Defendant's individual preferences or needs are documented and stored on internal systems in order that future notices can be issued in the Defendant's preferred or required format.
- 6.3 The Authority requires the Supplier to ensure that the Services are accessible to, and understandable by, Defendants whose language of choice is Welsh, in accordance with the Welsh Language Act 1993 (as amended) and Welsh Language (Wales) Measure 2011.
- 6.4 Some Defendants may also require communication in a foreign language. Any translation costs involved in contacting a Defendant in a foreign language are considered an overhead for the Supplier, but the costings must be transparent to the Authority.
- 6.5 The Supplier is required to trace and collect debt in relation to Defendants convicted in England and Wales, who reside both inside and outside England and Wales in the provision of these services.
- 6.6 The table below sets out the activities the Supplier is required to undertake.

Pre conviction	Post conviction
Creation of defendant account within 1 day of receipt of data file	Issue Contact letter within 5 days of conclusion of Trial/sentence date and every day 3 months thereafter, to remind that their final financial liability has not yet been confirmed and Supplier will contact them again when final bills from Solicitors and Advocates have been received.
Letter of introduction confirming payment options within 1 day of account set up	Balance final case costs against any monies collected to determine final liability
Collection of contributions from income	Refund Defendants who have either been acquitted or have overpaid through income contributions with 2% interest within 5 working days
Initial introduction letter sent to all Defendants who are required to make contributions	Complete capital and equity checking, requesting and chasing further evidence where defendant has declared insufficient capital and equity between £0 and £30k. Capital and equity is calculated by adding up all assets and savings and deducting any outstanding mortgage and a £30k allowance to come up with a final amount of capital and equity.
Chase /remind Defendants where payment not received a minimum of 5 days prior to due date and a minimum of 5 days after due date	Carry out capital and equity checks to determine ability to pay final balance within 20 days of conclusion of trial and Final Defence Costs being received.

Recovery and allocation of outstanding debts	Issuing of Capital Contribution Orders, upon receipt of defence costs by litigators and advocates and collection of final balance, including notification of final balance within 5 working days of completion of a capital and equity check.
Tracing debtors and investigating means where appropriate	Remind/chase Defendant where final balance not received
Recovery of outstanding payments from income using enforcement sanctions	Recovery of final balance using enforcement sanctions
Issue notification when all contributions made	Issue notification when costs repaid
Deal with Defendant queries within 5 days	If Enforcement by way of a charging order is successful, manage the ongoing liability once secured and transfer back to the Authority when appropriate
Identify when multiple contributions are due from either married, cohabiting partners and/or scenario's where the defendant has multiple cases that are live and collectable.	Make recommendations to Authority for approval to Write off debts in line with Authority policy and processes for Deceased, bankrupt and Untraceable cases
Administer varying debt liabilities due to changes in circumstances, hardship, new information, additional payments, judicial apportionments and issue revised notifications where liabilities change within 5 days of verification of information.	Supplier to review Capital Contribution Order and reissue CCOs where change of financial circumstances or new evidence comes to light or there is a variation due to hardship or judicial apportionment order within 5 days of verification of information.
Recalculate pre conviction liability and Issue letters confirming new liability following advice from the Authority on any changes in Income Contribution Order within 5 days	Recalculate post conviction liability and Issue letters confirming new liability.

6.7 **Creation of Defendant Account** - In order to start the contribution collection process, the Supplier will receive a data file from the Authority via secure transfer. A new collection account should then be set up, within 1 Working Day, based on the data provided.

6.8 Each account/Defendant profile that is created should be able to include the following data:

- \*LAA Unique ID – i.e. MAAT (Legal Aid Means Assessment & Appeals Tool) Reference Number (for each Charge)
- \*Defendant name, DOB, address, national insurance number
- \*Defendant contact details (including address, postcode, telephone number, mobile number, email)
- Defendant banking and payment details
- \*Type of offence
- \*Defendant Contribution amounts
- \*Defendant Capital level
- History of any payments made or missed
- History of enforcement/recovery actions and costs
- History of any amendments to a Defendant's contribution level
- History on interest applied
- Outcome of capital and equity check
- Post conviction debt
- Write-offs

\* this data will be supplied by the Authority as part of the data file

- 6.9 Updated data will be transferred from the Authority to the Supplier if the Defendant's details change after the information was originally passed over. This could be due to:
- Change in contact details
  - Change in the Defendant's financial circumstances
  - A Hardship Review has resulted in a revised monthly contribution level, additional evidence has been provided, or the equity/capital check has been completed
  - The equity/capital level has been established
  - The Defendant has provided additional evidence as requested, and the temporary sanction has been removed.
- 6.10 **Collection of contributions from income** – The contribution details will be supplied as part of the original data file from the Authority. Contributions should be collected for the life of the case, or six months, whichever is the lesser. Contributions will also be subject to a case type average cost cap, the details of which will be provided by the Authority to the Supplier. Defendants who make their first five payments each month on or before the due date will be exempt from the sixth and final payment<sup>6</sup>. In addition, there will be an option for the Defendant to make a one-off payment of five times the monthly contribution, prior to the date that the first monthly payment is due.
- 6.11 The Defendant may be subject to an Income Evidence Sanction (IES) if they have failed, without reasonable cause, to provide documentary evidence of income within 21 (14 and further 7) days. It may be judged that the Defendant is liable to pay six contributions of £900 or one twelfth of the Defendant's disposable annual income (if the Authority are able to determine this without documentary evidence provided), whichever is the higher. Details of such instances will be passed on to the Supplier by the Authority. Please note IES are considered chargeable under the ICO scheme – please note any indicative annual volumes for ICOs include cases subject to IES.
- 6.12 Further to the above, and in accordance with Regulation 23 of the Criminal Legal Aid (Contribution Orders) Regulations 2013, the Director may also determine that the Defendant is liable to make an additional payment following a reassessment of the Defendant's income.
- 6.13 The Defendant will pay either their full monthly pre-conviction contribution; make a partial payment, overpayment or nil payment. The amount paid should be balanced against their outstanding balance and the Defendant advised of the same including any arrears. The contribution amount could then be:
- The same as per the previous month, if they have made a full payment
  - Nil, if the Defendant has overpaid or is in credit
  - As per 6.12 issue additional payments as required
  - If an overpayment has been made, allowance should be made for this in future payments.
- 6.14 The Defendant will make the monthly contributions whilst the case/trial is in progress or until the maximum number of contributions has been reached. There will be instances where Defendants have more than one case in the system at the same time or could be asked to make an additional contribution.
- 6.15 Defendants who have multiple cases running may have to pay a contribution for each of the cases in which they have been granted a representation order, although payments will only be taken in respect of one case at a time. Monthly contributions should, therefore, still be collected from an acquitted Defendant if they are still receiving legally aided representation for other Crown Court cases (that are running concurrently and have not yet concluded).

For example:

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<sup>6</sup> Please refer to paragraph 14 of the Criminal Legal Aid (Contribution Orders) Regulations 2013.

Defendant is receiving legal aid for two cases – Case A and B

Defendant is paying £280 per month in contributions

Case A concludes and the Defendant is acquitted

Case B has not concluded

- Defendant is not liable for any defence costs for Case A
- Previous contributions received are not automatically refunded
- Previous contributions are rolled-over for consideration against Case B costs
- Defendant continues to pay £280 monthly contribution either until the 6-month cap is reached or conclusion of case B

6.16 The Supplier will be responsible for setting up a range of payment options, managing the accounts, monitoring the success or payment methods and sanctions, and collecting the monthly payments through the Defendant's preferred payment mechanism.

6.17 To maximise recovery rates, the Defendant should be provided with a variety of payment methods in order to make the payment of contributions as simple and convenient as possible.

This will include, but not be limited to, paying through the following channels:

- Direct Debit
- Standing Order
- Debit and Credit Card payments by telephone
- Cheque
- Giro
- Paypoint Card
- Online Payments<sup>7</sup>
- Mobile app

6.18 **Initial introduction letter** - Upon setting up the Defendant Account, the Supplier will send an initial contact letter to the Defendant. The letter will be sent within 1 Working Day of creating the Defendant Account and should as a minimum include:

- MAAT Ref No.
- The Supplier contact details
- Payment due date, including date first payment due
- Expected monthly contribution amount
- Total expected payment
- Details of the optional one-off payment of five monthly instalments
- Hardship details (options for the Defendant to challenge the amount the Defendant is expected to pay as a monthly contribution)
- Reminder of the Defendant's obligation to notify of any change in contact details and financial circumstances
- Available payment methods
- Details of consequences arising in relation to any overdue payment.
- Possible enforcement actions and any potential repercussions for non-payment or non-compliance
- Reminder that the Defendant is liable for any enforcement costs incurred
- Confirmation of preferred communication method

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<sup>7</sup> Should the supplier use payment methods which can be reversed by the client (e.g. World Pay), the onus will be on the supplier to reimburse the Authority.

- Inclusion of regulations which stipulate authority to act on behalf of Director of Legal Aid (Sec 3 Legal Aid, Sentencing and Punishment of Offenders Act 2012)
- Notification that the defendant's liability may increase post-conviction should further litigator and advocate bills be received.

6.19 **Chasing/reminding Defendants** - The responsibility will be on the Defendant to contact the Supplier to inform them of their preferred payment date and method if they have not already done so.

Defendants who do not comply should be contacted within a maximum of 5 Working Days of a missed payment and asked to provide the following:

- Preferred method of payment
- Preferred payment date (e.g. 1<sup>st</sup> of the month)
- Banking details (account number, name, sort code) if they choose to pay by direct debit
- Credit card information
- Preferred communication method
- Notification that the defendant's liability may increase post-conviction should further litigator and advocate bills be received.

6.20 To ensure that Defendants are aware of how much they are expected to contribute, when they are expected to pay, and the consequences of non-payment, a range of tailored messages, reminders and chase letters should be made available.

This may include communication to Defendants through one of the following preferred methods:

- SMS text
- Telephone
- Text-to-voice message
- Letter
- Face-to-face engagement

6.21 The Defendant's preferred communication method should be ascertained and stored on internal systems for future reference. This may include providing communication in the Welsh language, foreign languages, or making reasonable adjustments for Defendants with disabilities (e.g. providing information in large font).

6.22 A maximum of 5 Working Days before a contribution is due to be paid, the collection system will send a reminder, using a suitable communication channel, to the Defendant. As a minimum, this will include:

- Date the payment is due
- Amount due to be paid
- Any supporting information needed to make the payment – e.g. MAAT Ref No.
- Information on possible sanctions for non-payment
- Contact and payment details
- Notification that the defendant's liability may increase post-conviction should further litigator and advocate bills be received.

6.23 **Recovery and allocation of outstanding debts** - Accounts should be updated to monitor the contributions made by Defendants, and their case balanced accordingly. This includes recording:

- Date of payment
- Amount of payment
- Method of payment
- Total contributions made to date (specifying funds which have cleared and are pending clearance)

- Update an Ongoing Payment History
- Contribution balance

There should also be an ability to provide a Defendant with a 'statement', either on a regular basis or on demand of their payments made to date. This includes an end of payment statement.

- 6.24 Balancing the contributions made by a Defendant for active/open case(s) against the expected monthly contribution would result in:
- Defendant being in credit if they have overpaid
  - Defendant being in debit if they have either underpaid or missed payments
  - Defendant having zero balance if they have paid exactly the monthly contribution level or upfront payment
  - Applying the cost for any enforcement actions taken (due to non-payment) onto the Defendant's balance

The payment balance will then define the amount of the next monthly payment due from the Defendant, and may act as a trigger for either supported or enforced recovery.

- 6.25 There is also a requirement to enable a Defendant's contribution level to be backdated, for example following a Hardship Review by the Authority, and therefore to recalculate a current balance. This will result in all monthly contributions being set at the new recalculated level.
- 6.26 If the Defendant pays an upfront contribution before the first payment date, or pays all sums due, the Supplier will send a notification to the Defendant informing them that no further monthly contributions will be required through the course of the case. The notification will need to confirm that a capital or equity contribution might still be required if the Defendant is convicted and has capital or equity above the threshold and their Final Defence Costs are greater than the amount already paid to date.
- 6.27 If the Defendant fails to make a payment on the designated date, the Supplier will record the non-payment and a second reminder will be issued giving the Defendant the opportunity to make the payment or to contact the Supplier for advice. The second reminder will be sent 5 days prior to any payment due date and will also contain information on how to make an application for a Hardship Review, to ensure that the Defendant is aware of the support available to them.
- 6.28 **Tracing debtors where appropriate** – If it becomes known, e.g. a letter is returned by the post office, that the Defendant has left the address that is held for them the Supplier will undertake activities to trace them. This is likely to include, but is not limited to, electoral roll checks and tracing tools. The prisoner locator service should also be utilised.
- 6.29 **Issue notification when all contributions made/costs repaid** - The Supplier must be able to automatically suspend contributions and reminder notices at the conclusion of the case, in the event that the Defendant does not have any outstanding contribution orders in other proceedings running concurrently.
- 6.30 In order to stop collecting/expecting contributions from Defendants the Supplier needs to be made aware that the trial has concluded. This information will be included in the daily data file:

#### Trials

- MAAT Ref No.
- Defendant Name (Forename and Surname)
- Defendant Date of Birth
- Address
- Postcode
- Case Number

- Arrest Summons Number (ASN)
- Date of Sentence or Order
- Bench Warrant Issued? Yes/No
- Convicted? – Yes/No
- Imprisoned – Yes/No

#### Appeals to the Crown Court

The Appeal Type field is mandatory for all Appeals; data will be required when it contains one of the following values:

- Appeal against Conviction
- Appeal against Sentence

The following data items are required for Appeals:

- MAAT Ref No.
- Defendant Name (Forename and Surname)
- Defendant Date of Birth
- Address
- Postcode
- Case Number
- Arrest Summons Number (ASN)
- Date of Sentence or Order
- Dismissed? – Yes/No/Partially
- Imprisoned – Yes/No
- Appeal Type

- 6.31 The Case Verdict data file will be sent to the Supplier via a secure transfer mechanism on a daily basis.
- 6.32 The population of the Sentence/Order Date will inform the Supplier to suspend the collection of any further payments, or the distribution of any payment reminders. However, in these instances where the Defendant is involved in multiple cases, contributions will continue to be required for the remaining cases. The Supplier will also need to calculate that the correct number of contributions have been collected.
- 6.33 The Trial Ruling data will be based on the rulings within each of the counts on the indictment and will be categorised as Guilty, Not Guilty or Plea. The ruling, the contributions made up to that point, and the Defendant's Capital and Equity position, would inform the Reconciliation process and whether the Defendant is expected to make a further contribution from capital or equity.
- 6.34 **Determination of final liability** – If a Defendant either pleads guilty or is found guilty on any charge within a case, they may be liable to meet their legal aid costs. This includes Defendants who had multiple charges and were found guilty on some charges and not guilty on other charges.
- 6.35 At the point of the case/trial concluding the Defendant Account will need to be reconciled to determine accurately whether the Defendant is:
- Eligible for a refund (i.e. contributions exceed defence costs)
  - Still has a financial liability (i.e. arrears exceed contributions made)
  - Did/did not require enforcement activities/enforced compliance to recover any missed payments

Defendants who still have a liability will then have this added to any balance of case costs, which will then be compared against their capital assets, in order to, define outstanding debt. Any arrears should continue to be pursued.

6.36 The Final Defence Cost<sup>8</sup> for the case will be added to a new Final Defence Cost data file on a daily basis and transferred from the Authority to the Collection and Enforcement System. The file will contain records of all Defendant's that have had a Final Defence Cost calculated that day, and will contain the following data –

- Defendant Name
- Case Number
- Final Defence Cost Amount
- Arrest Summons Number

6.37 This file will exclude acquitted Defendants, as they will have a nil financial liability.

6.38 However, the Authority retains the right to instruct the Supplier to enforce on partial liabilities<sup>9</sup>

6.39 It is expected that the Supplier will already have been updated with the verdict/ruling of the case. When it receives the Final Defence Costs for a Defendant, therefore, it will already know if the Defendant was acquitted or found guilty and therefore whether the Final Defence Costs need to be used for Case Reconciliation (calculating whether there is an outstanding debt or a refund due to the Defendant). There can be a delay of up to six months between the end of the case and notification of final defence costs. In exceptional circumstances this could extend beyond that period.

6.40 The Supplier will use the following information to determine the balance on the Defendant's Account:

$$\text{Outstanding Defendant Liability} = (\text{Defendant's defence costs} + \text{enforcement costs}) - (\text{Contributions made so far})$$

6.41 If this calculation results in the Defendant being "in credit", the Defendant will be refunded the credit amount plus 2% interest, minus any recovery costs incurred, and the Defendant Account will be closed, however, the Supplier must have the ability to re-open contribution accounts to taken into account further costs relating to the case

$$\text{Refund amount} = (\text{Contributions made}) - (\text{Defendant's defence costs} + \text{enforcement costs}) + 2\%$$

6.42 Interest will be added to any debt owed to the Authority by the Defendant. This would be calculated after:

- All cases are concluded
- Final defence costs for all convicted cases are received
- Final liability is calculated (i.e. contribution vs. costs)
- Final debt is calculated (i.e. liability vs. capital and/or equity)
- A Defendant requires a refund

Interest will start to be calculated from the date that the Supplier notifies the defendant that their case has been passed for enforcement action. Interest is calculated on the contribution amount only, and not on any associated enforcement costs. For debts passed for recovery by enforcement, the interest rate will be 6% compound per annum, with rests annually.

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<sup>8</sup> The calculation of final costs will be recovered on receipt of litigators' and/or advocates' final bills by the Authority. These are usually received within 6 months of the conclusion of a trial, but may take longer.

<sup>9</sup> Partial liabilities are where one element (either advocate or litigator bill) has been submitted but the other remains outstanding over 9 months from Sentence Order date.

6.43 **Refunding Defendants** - Once the case has been closed, reconciled and a final balance established, Defendants who are acquitted will have their contributions refunded (with interest but less any recovery costs incurred) unless the judge rules that the Defendant is still liable for all, or a portion of, their cost due to their conduct. This refund must be sent within 5 Working Days of notice from Authority that a Defendant has been acquitted.

When the Case Outcome data is updated and the contribution collection stopped, the total amount that the Defendant has contributed to that point will be calculated.

6.44 If the Defendant's Account, during the course of their trial, has incurred additional costs at the enforced compliance stage, these will be deducted from the final refund amount. Additional costs can include things such as bank charges paid by the Supplier for the non-payment of direct debits etc. Interest will be added to the total contributions the Defendant will be refunded, i.e. total contribution amount plus interest earned less any enforcement costs incurred.

6.45 As part of the refund process some cases will need authorisation from the Authority before a refund is issued. These include but are not exclusive to cases where there has been a change in the Final Defence Costs.

6.46 As a minimum, refunds should be made available through the following channels:

- Cheque
- BACS transfer
- Debit / Credit cards

6.47 It should be recorded where a Defendant receives and banks any outstanding refund from the Authority. This includes closing the Defendant's contribution case on the Collection and Enforcement System.

6.48 Upon the conclusion of the Defendant's case in the Crown Court, the Authority will provide to the Supplier a status update by transmitting a data file with the case outcome and the final case costs. The Supplier will reconcile this data file against their case management system to determine the Defendant's final liability. Where the Defendant's payments have exceeded the cost of the case or the Defendant has been found not guilty a refund including interest will be due.

6.49 Where refunds are due the Supplier will off-set the value of any refund against monies collected from Defendants contributions and provide to the Authority a case breakdown to support the invoice.

6.50 Where the value of any refund due exceeds those monies collected from Defendants contributions and where the value of the refund is such that it would be unreasonable to expect the Supplier to make payment of such sums, the Supplier will submit an invoice to the Authority for value of the refund.

6.51 For refunds and overpayments, the interest rate will be 2% compound per annum, with rests annually. Where applicable the cost of any Enforcement action taken against the Defendant will be deducted from the refund value.

6.52 Interest on refunds should be calculated at the point of receipt of the final monthly payment. If there has been a break in the payment cycle, and interest on the debt has been notified by the Supplier, interest will be calculated on the debt period first, and that figure will be deducted from any refund. Only then would a calculation be made to establish the amount of the refund due.

6.53 After processing the refund the Contribution Account will be updated to show a zero balance and the account will be closed<sup>10</sup>.

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<sup>10</sup> The Contractor must have the ability to re-open contribution accounts to taken into account further costs relating to the case.

#### 6.54 Exceptions – Multiple Cases

Defendants who have multiple cases will not receive a refund until all their cases have concluded.

- If the Defendant is acquitted on all cases they will receive a refund (minus any recovery costs incurred) plus interest
- If the Defendant is acquitted on some cases they may receive a partial refund – dependant on case balancing
- If the Defendant is acquitted on some cases their account may be in debt – dependant on case balancing.

#### 6.55 Exceptions – judicial apportionment on costs

Defendants who are partially convicted<sup>11</sup> may also be liable to partially contribute toward the cost of their defence if the Judge recommends it. In this event, the ruling will be passed to the Supplier who will need to update the Defendant Account. The cost should be treated as a fee/penalty charge and must be deducted from any refund or added to the Defendant debt.

6.56 As a minimum, capital and equity checks will need to be done within 20 days of Data file receipt of both Convicted/partially convicted status and Final Defence Costs

6.57 There are 3 exceptions where the Supplier will not need to conduct capital and equity checks on cases where insufficient capital between £0 and £30,000 has been declared.

- If the declared insufficient amount covers the outstanding debt, then no further capital and equity checks are needed.
- If equity covers the outstanding debt, then no further capital and equity checks are needed.
- If Income Contributions paid at pre conviction covers the debt, then no further capital and equity checks are needed.

6.58 Once final Capital and Equity means have been identified, and calculations recorded and explained, then the Supplier will add this to the Collection System and the confirmed amount can be used to calculate the outstanding debt/liability and to issue Capital Contribution Order notifications.

6.59 The amount of any outstanding contribution for those Defendants that exceed the equity and capital threshold is dependent upon how much they exceed the threshold by.

To accurately calculate the outstanding debt that the Defendant is liable for, the liability needs to be compared against the amount of capital and/or equity that the Defendant has above their allowable threshold.

For example:

Convicted Defendant has Final Defence Cost of £10,000  
Defendant has capital of £137, 000  
Defendant has mortgage of 100,000  
Defendant equity in capital is £37, 000  
Defendant has capital allowance/threshold of £30, 000  
Final capital and equity is £7,000  
Capital Contribution Order is £7,000

#### Exceptions – Capital Evidence Sanction

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<sup>11</sup> Where the defendant is charged with more than one offence, and convicted of one or more, but not all.

The applicable capital and equity threshold is a combined £30,000. If a Defendant has failed to provide their capital evidence within 21 days following their conviction, their allowable threshold of £30,000 may be removed and the Supplier would be entitled to recover any assets they were able to locate.

6.60 Where it is proved that Defendants have falsely represented their capital or equity position, full details should be reported to the National Crime Team (NCT).

Where there is a change in circumstances or new evidence comes to light, the Supplier will be required to review, reassess and reissue the Capital Contribution Order. If the value of the debt is reduced, notification to the Authority should be provided.

6.61 In any scenario where the applicant's liability over a certain financial threshold as stipulated by Contract manager is reduced or ceases the Supplier should notify the Contract Manager by email in advance.

6.62 **Collection of final balance, including notification of final balance** - Those Defendants who at the conclusion of a case have been convicted; have capital or equity above the threshold; and have an outstanding debt; will be expected to pay the balance of the cost of their case. Once the final amount has been calculated the Defendant will need to be informed of:

- Breakdown of how the final contribution has been calculated
- The amount of the debt
- Payment options available
- The Authority's enforcement and recovery rights in the event of non-payment
- Level of compound interest that will added on a monthly basis
- Ability to appeal against final contribution (i.e. appeal against level of capital required to pay)
- Contact details of the Supplier.
- A notification that liability may increase if further bills are received

6.63 **Notifications to be sent whilst awaiting defence costs** – After the Sentence order and conviction any defendant that still has a potential outstanding liability will require a reminder letter at this stage and every 3 months thereafter until the final defence costs have been received from solicitor and/or advocates and final financial liability can be calculated.

6.64 The Defendant will need to be contacted and informed of their outstanding debt and that interest will be applied to the debt on a monthly basis. This must be sent within 5 Working Days of receipt of the final case cost information from the Authority. The Defendant must be encouraged to make a one-off payment but a facility should be in place for an instalment arrangement to be agreed which will enable the Defendant to pay the debt over an agreed period of time, or a combination of both options.

6.65 If the Defendant can demonstrate that they can only afford to pay monthly instalments, the Collection System will calculate the amount due based on the Defendant clearing the debt over an agreed period of time at an agreed rate. The Supplier can agree to instalment plans which would enable the liability including any interest accrued to be cleared within 12 months, and will refer to the Authority if the suggested payment plan would not achieve this.

6.66 Similarly to the collection of contributions during the course of the case, the Defendant will have a range of payment channels available to them, including:

- Direct Debit
- Standing Order
- Debit and Credit Card payments by telephone
- Cheque
- Giro
- Paypoint Card

- Online Payments
- Mobile app

6.67 **Remind and chase Defendants where final balance not received** - the Defendant will receive notifications and reminders through one of the following preferred methods:

- SMS text
- Email
- Text to Voice message
- Letter
- Telephone
- Face-to-face engagement

6.68 **Existing Debt** – The Supplier must demonstrate innovative and proactive expertise in reducing and collecting the existing debt accrued to date. Further information on Aged Debt can be found in the Supporting Documents folder in the e-sourcing portal (Bravo).

6.69 **Handling Defendant enquiries** – the Supplier must provide facilities to respond to Defendant’s enquiries regarding their account. If these queries are challenging the contribution level or capital determination they may need to be referred back to the Authority. Correspondence must be responded to within 5 Working Days from receipt by the Supplier.

6.70 If the Defendant fails to respond, or does not make a payment, an initial chasing/reminder notification will be sent to them informing them of their responsibility to pay and the enforcement routes open to the Authority /Supplier for non-payment. This could take the form of a letter before action when enforcement is considered a practical, commercial option.

6.71 Any enforcement activity undertaken by the Supplier will take place in the County Court and/or the High Court

**Enforcement**

6.72 **Application of enforcement sanctions (contributions and final balance)** – All applications issued to the Courts should name the applicant as the “Service provider name on behalf of the Lord Chancellor and Legal Aid Agency”. It is expected that Defendants will fall into the following categories when recovering monies:

- Voluntary – pay with little or no intervention
- Supported – need some assistance before paying
- Enforced – require the use of enforcement sanctions before payment is received

6.72 The emphasis should be on targeting the right activities at the right stage to optimise recoveries in the most cost effective manner. The following table shows expectations at each stage of the process:

Stage of Compliance	Pre Conviction	Post Conviction
<b>Voluntary</b>	Initial Notification Letter  Initial Reminder (5 working days before payment due)	Final Contribution Notification Letter  Initial reminder (5 working days before payment due)  Need to issue reminder letter at sentence date and every 3 months thereafter, to remind that their financial liability has not yet been received.

<b>Supported</b>	Reminder letter (5 working days after payment due date) Telephone call SMS Text message E-mail Voice to text message Advice regarding Hardship Route	Reminder letter (5 working days after payment due date) Telephone call SMS Text message E-mail Voice to text message Advice regarding Appeal route
<b>Enforced</b>	Attachment of Earnings Order Distress Warrant Warrant of Execution Motor Vehicle Clamping Order or Motor Vehicle Sales Order Face-to-face engagement	Attachment of Earnings Order Charging Order, including obtaining an Order for Sale Third Party Debt Order Removal of capital threshold – sanction for non-compliance with evidence provision Motor Vehicle Clamping Order or Motor Vehicle Sales Order Face-to-face engagement

6.73 Sanctions available in the enforced compliance stage would be:

<b>Pre- Conviction</b>	<b>Post-Conviction</b>
Attachment of Earnings Order	Third Party Debt Order
Distress Warrant/Warrants of Execution	Charging Order, including obtaining an Order for Sale
Motor Vehicle Clamping Order and Motor Vehicle Sales Order	Attachment of Earnings Order
	Motor Vehicle Clamping Order and Motor Vehicle Sales Order
	6% Interest on money owed
	High Court Order

6.74 The Supplier should have the necessary personnel and legal expertise to ensure the official undertaking of all enforcement options. They will also need to consider if incurring additional costs for any type enforcement will be cost effective and result in the successful collection of outstanding debt.

6.75 If any enforcement costs are incurred while trying to collect the contribution, during the enforced compliance stage, they will need to be recorded as a Defendant cost. The amount incurred in relation to enforcement costs will be added to the Defendant's Account and will increase the total outstanding payment balance. These additional charges are non-refundable in the event of a not

guilty verdict or the case being abandoned. If however, incorrect or unreasonable enforcement costs are incurred by the Supplier then this will be charged back to the Supplier.

- 6.76 **Tracing debtors** – If it becomes known, e.g. a letter is returned by the post office, that the Defendant has left the address that is held for them the Supplier will undertake activities to trace them. This is likely to include, but is not restricted to, electoral roll checks and tracing tools.
- 6.77 **Manage the on-going charge if successfully applied to a property** - If no payment is made, the Supplier will check the Collection System to see if the Defendant has any equity. If the Defendant has more than £30k in equity, a Land Charge could be applied to the Defendant's property and the Defendant will be informed. Costs and land registry fees will be added to the debt and interest will accrue. Once the Land Charge is lodged in on behalf of the Authority, the debt should be managed by the Supplier from that point forward.
- 6.78 **Motor Vehicle Clamping Order and Motor Vehicle Sales Order** – The Criminal Legal Aid (Motor Vehicle Order) Regulations 2013 came into force 30<sup>th</sup> July 2013. As part of the enforcement activities available to the Authority, these regulations provide the ability for the Authority to apply to the magistrate's court for a Motor Vehicle Clamping Order and a Motor Vehicle Sales Order against monies owed by a Defendant. Applicable charges for the undertaking of these activities are outlined in Schedule 1 of the Regulations.

Operational guidance in relation to Motor Vehicle Clamping Orders and Motor Vehicle Sales Orders was issued by the Authority 30<sup>th</sup> July 2013:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366552/motor-vehicle-order-scheme-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366552/motor-vehicle-order-scheme-guidance.pdf)

- 6.79 **Assessment in respect of the LAA write off policy** – There may be instances when after undertaking an assessment the Supplier concludes that the effort and/or expense involved in recovering the debt exceeds the probable amount that will be recovered. The Supplier will be able to recommend that the Authority writes off Debts within the Authority's parameters for Deceased, Bankrupt and Untraceable cases. It will be for the Authority to agree based upon the evidence provided by the Supplier
- 6.80 If the assessment is that the debt warrants additional recovery action (for example - a large debt or the knowledge that the Defendant has liquid capital) the Supplier will use the sanctions available to them. In all other instances a referral back to the Authority will be made to enable a decision to be made as to whether the debt should be written off or not for deceased, bankrupt and untraceable cases.

#### Varying debt balances

- 6.81 Pre conviction Income Contribution Orders can be changed as a result of an action carried out by the Authority such as due new information, changes in circumstances and hardship reviews. In all pre conviction cases the Authority will reassess means and notify the Supplier who will be required to calculate the new debt and provide the defendant with a refund or requesting an additional payment. If the Supplier is supplied information relate to the reassessment of an Income Contribution Order they will send this onto the Authority.
- 6.82 Post Conviction Capital Contribution Orders can be changed due to new information, changes in circumstances, hardship reviews and judicial apportionments. The Authority will reassess and advise Supplier of any revised liabilities where the defendant has approached them direct with new information and will reassess all post conviction judicial apportionment requests or hardship reviews. The Authority will notify the Supplier of all revised liabilities for them to re issue a revised Capital Contribution Order

- 6.83 In post conviction cases where the defendant advises the Supplier directly of any changes in circumstances or new information, the Supplier will be required to verify the new information and reassess and re issue any revised Capital Contribution Orders

## 7. Contract Management

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- 7.1 The Authority will nominate a person who will act as a Contracts Manager (Authority CM). They will be the main contact for the Supplier and responsible for ongoing delivery of the service and overall contract performance.
- 7.2 The Supplier shall nominate a Contract Manager (Supplier CM) who shall be the single point of contact, shall take overall responsibility for the Contract and shall not be replaced without the Authority's prior agreement. The Authority places a high value on Contract Management therefore the time spent by the Supplier CM shall be as agreed with the Authority CM.
- 7.3 The Supplier shall be responsible for ensuring that the provision of Services is carried out with reasonable skill, care and diligence in accordance with the contract and to the satisfaction of the Authority CM.
- 7.4 The Supplier shall be responsible for ensuring that all processes and procedures used in the delivery of the service are supported by work instructions or standard operating procedures and that the latest versions are lodged with the Authority for reference and audit purposes
- 7.5 The Supplier shall be responsible for ensuring that all processes and procedures are subject to quality control, with quarterly reviews. The results of any quality control must be shared with the Authority and where room for improvement is identified that agreed action plans are implemented.
- 7.6 Both parties will endeavour to act, at all times, in the best interests of the objectives of the contract. The Authority CM will, where necessary, undertake to apply the exercise of discretion and reasonableness where any issues may arise.
- 7.7 The Supplier shall provide the Authority CM with reports on the provision of Services and attend any meetings concerning the Services, on an as agreed basis, as a minimum as detailed within the Contract.
- 7.8 The Supplier CM shall meet with the Authority CM at least once a month.
- 7.9 If or when, for whatever reason, the Supplier CM identifies any potential problems in meeting the requirements of the Contract, these should be brought to the Authority CM's attention without delay.
- 7.10 Prior to the Supplier meeting, a separate 'MI Meeting' shall take place between Supplier CM, Authority CM and nominated representatives to agree & finalise the month's Management & Performance Information

## 8. Management Information

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- 8.1 The Supplier will be required to produce a weekly report on first working day following week end on collections performance month to date.
- 8.2 The Supplier will be required to produce a comprehensive monthly Management Information (MI) report prior to monthly Contract Meetings. The report should contain the following monthly or quarterly or ad hoc information as a minimum:

### Monthly

- Gross Collections due by month case loaded, at pre conviction, scheme and summary indicating overall collection recovery rate
- Outstanding final total liability/Debt by pre and post conviction with opening balance and closing balance
- Gross Cash and Secure Debt collected against Total Debt (split into ICO and CCO, ) monthly and YTD
- Breakdown of collected funds held on behalf of client (i.e. still awaiting outcome of Trial, awaiting Final Defence Costs) before it can be remitted and turned into net income
- Gross collections % Performance; in the form of a matrix showing volume and values of cases by month by scheme for all stages of the life of the cases
- Monthly and YTD Collections Value Target & Actual
- Cash/Secure Debt ratio of collections monthly and YTD
- Remittances Value Monthly & YTD by scheme
- Total remittances opening and closing balance each month by scheme by volume and value against outstanding finalised debt
- Remittance History: Monthly/ Cumulative
- Actual Weekly Remitted Contributions broken down by day
- LAA Accruals Income Report: Monthly/Summary/All
- Case Volume History by Scheme: Monthly/ YTD/ Total
- Numbers and % Analysis of Collectable cases from case volumes and numbers/% not usable and returned to client
- Case Current Debt Value by Scheme: Monthly/ YTD/ Total
- Case status Volume by Scheme
- Case status by Current Debt Value by Scheme
- Net cash collections History: Monthly/ Cumulative /YTD
- Volume of Capital Contribution Orders (CCOs) issued: Monthly/ YTD/ Prior/ All – by stage
- Volume of Charging Orders issued: Monthly/ YTD/ Prior/ All – by stage
- Volume of Attachment of Earnings (AOE's) issued: Monthly/ YTD/ Prior/ All – by stage
- Enforcement costs – volume and value created and shown as a % of Debt book
- Enforcement fees debt outstanding and Enforcement fees debt collected as % of Collections by Enforcement category (Attachment of earnings, Writs, Charging Orders, Third Party Debt Orders and Other)
- Enforcement costs – success rates. Volume and value of enforcement costs by scheme (pre conviction and post conviction) and enforcement category that result in successful payment in full, partial payment or arrangement on main primary debt.
- Exception reporting on case non- progression
- Supplier in-house housekeeping exceptions by case stage
- Top 40 payers and Top 40 debtors
- Payments Due (in coming month) reporting
- Summary report on the activity of the Payments Due report – How much of the payments due were realised, by Scheme.

- Volume of post conviction Capital and Equity cases received, returned to Authority as Nil and checked:
- Volume of Capital and Equity checks by scheme monthly and YTD
- Value of cases received by case scheme monthly
- Server Log
- Post Log
- Monthly IT availability stats (i.e. telephony and website)
- Monthly and YTD total Debt breakdown by Scheme and Stage of total debt
- Monthly Outstanding Finalised Debts (following receipt of Final Defence Costs at conclusion of Trial) YTD broken down as follows
- Total Finalised Debts for a) ICOs and b) CCOs c) Potential Write Offs
- Total Opening balance and closing balance each month
- Cash collected against finalised Debt split between ICO and CCO and opening and closing balance
- Split of unsecured/secured Debt
- Cash collected against Gross secured/unsecured Debt and opening closing balance
- Age profile for final debt split into ICO, CCO and potential write off
- Breakdown of secured debt and how it is secured (i.e. secured against main property, additional property, vehicle or other)
- Breakdown of cases by volume and value that have undergone enforcement which has been successful/unsuccessful.

#### Quarterly

- Complaints – Volumes, numbers and % justified, partially justified, unfounded and reasons for
- Enforcement Costs & Revenue Monthly and YTD
- Enforcement debt created
- Enforcement fees debt outstanding
- Enforcement fees debt collected
- Split of Payee Behaviour on Finalised Debt (fully paid, partially paid, not paid by scheme)
- Appeals Monthly and YTD
- Appeals debt created
- Appeals cash recovered
- Appeals debt outstanding

#### Annual or adhoc

- Case Volumes by Offence Type: Monthly YTD & by Scheme
- Gross Collection Amounts by Offence Type: Monthly & by Scheme
- Total case volumes by offence type (pareto) from the start of the scheme
- Total gross collections by offence type (pareto) from the start of the scheme
- Gross Recovery % by offence

8.3 As a minimum, the following MI should be collected by the Supplier and used both for the above report; and be made available at case level, through standard weekly and monthly reporting, in the format specified by the Authority CM.

#### Acknowledgement of successful receipt of Defendant cases by Supplier (by LAA case reference)

- Number and value of contribution orders received
- Number and value of contributions collected
- Method of payment
- Number and value of Defendants on payment plans
- Aged analysis of Defendants on payment plans

- Number of reminders sent
- A hold action list for any cases pending information
- Which stage of compliance Defendant paid
- Amount written off and number of cases written off
- Number of cases closed where debts fully collected
- Number of cases closed where debts partially collected
- Age of outstanding orders, both overall and by debtor
- Number of accounts reconciled
- Number/percentage of payments from Defendants in custody and their value
- Performance of post conviction capital and equity checks
- Time taken
- Proportion of debts collected in full / in part / no payment received
- Success of collection broken down by payment method e.g. debit / credit card, standing order / direct debit etc.
- Success of collection broken down by asset type (e.g. income, capital - what type e.g. bank account/ premium bond/ equity
- Success of collection from applicants in custody and again from what asset did we collect payment
- Payment plans, when the last payment was received and / or the last contact made
- For accounts where no payment has been received when was last contact made and what was done - letter/phone call visit etc.

8.4 A weekly report will also be required, detailing collections value by scheme. There will also be a requirement for a raw data extract to be provided to the Authority CM at least once a month, which can be used to conduct ad hoc reporting.

8.5 Monthly reports will be required in order to support the Service Level Agreements implemented.

8.6 The Supplier will need to provide the following monthly financial transactional reports to support assurance and audit checking processes:

- Accruals reporting for secured debt acquisition
- Transitional Monies
- Bank Finances
- Returned Cases
- Remittance
- Actual Remitted Contributions
- Income Recognition
- Collection Fees

8.7 As a minimum, these reports will require the following information:

Contribution / Payment data

- MAAT Ref No
- Supplier's unique ID
- Payment Amount
- Date payment received by Supplier
- Method of Payment to Supplier
- Supplier receipt number
- Debt type monies received against e.g.: Income, Capital, Equity
- Minimum payee details as allowed for under data protections e.g.: Name, NI

Refunds of Contributions / Payments

- MAAT Ref No
- Collection Supplier unique ID
- Refund Amount
- Date refund processed by Supplier
- Refund date
- Refund method
- Supplier receipt number for refund
- Debt type monies refunded e.g.: Income, Interest
- Minimum payee details as allowed for under data protections e.g.: Name, NI

#### Write-off

- MAAT Ref No
- Supplier's unique ID
- Write-off
- Amount
- Type – Write-off reason (deceased, bankrupt, untraceable),
- Supporting evidence
- Date of agreement from Authority for Write-off

8.8 The MI provided will be used by the Authority for the following purposes:

- Audit
- Contract compliance
- Performance management
- Fund control and Financial Stewardship
- Defendant profiling
- Inform any future tender process

8.9 The Authority CM may reasonably request ad hoc reporting as and when necessary for the management of the contract. The requested report must be provided to the Authority CM no later than  
7 working days from the date of the request and in the format requested.

## 9 Contract Performance

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9.1 The Authority expect to see a continuous improvement upon current performance throughout the duration of the contract period. For reference, the Service Level Agreements made for the financial year 2018/19 are listed below. SLAs 1-6 refer to 'Collection' targets, SLAs 7-22 refer to 'Admin' targets.

1	Collection rate against total debt book value
2	Performance against monthly collection target
3	Cash collection performance against YTD collection target
4	Performance against annual gross collection target
5	Performance against annual secured debt conversion target
6	Performance against annual 'Aged Debt' target
7	Initial notification letter within 1 working day of account set up
8	Defendant reminder within 5 days following a convicted conclusion at Trial
9	Defendant reminder – 5 days prior to payment due date
10	Defendant reminder – 5 days after overdue payment
11	Dealing with enquiries from the Authority within 5 days
12	Dealing with Defendant enquiries within 5 days
13	Processing of refunds due to the acquitted defendant within 5 days of notification of acquittal/ change
14	Management Information within 7 days of month/quarter end and weekly data on next working day.
15	Ad Hoc Reporting within 7 days of request
16	Complaints responded within a minimum of 5 days

17	Completion of Capital and Equity checks
18	Issue of Capital Contribution Order within 5 days of completion of Capital and Equity Check
19	Defendant Account setup within 1 day of receipt of Data file
20	Transfer of 100% Collected Contributions to the Authority
21	100% Remittance data provided to Authority
22	Provider Website availability

9.2 Service Credits and Debits for Collection and Admin SLAs are outlined in the below tables:

Scoring Key – Collection SLAs (1-6)		
Lower	Upper	Service Credit/Debit
-12	-12	-8.00%
-11	-11	-7.33%
-10	-10	-6.67%
-9	-9	-6.00%
-8	-8	-5.33%
-7	-7	-4.67%
-6	-6	-4.00%
-5	-5	-3.33%
-4	-4	-2.67%
-3	-3	-2.00%
-2	-2	-1.33%
-1	-1	-0.67%
0	0	0.00%
1	1	0.67%
2	2	1.33%
3	3	2.00%