

LSA Circular 25/19

31 December 2019

Dear Practitioner,

- (i) Exceptionally urgent Rep Higher matters which cannot be submitted on LAMS**
- (ii) Rep Higher matters submitted on LAMS which become urgent while awaiting a decision**

This circular will be of interest to all suppliers as it sets out a new pilot process for matters where an application request cannot be made on LAMS before the court appearance due to the exceptional urgency of the matter (i.e. matter in court that day or the next day).

It further sets out a process by which a request which has been submitted on LAMS but becomes urgent while awaiting a decision can be escalated/expedited.

Use of the email facility

Please note that the rephigheremergencies@lsani.gov.uk email facility should **only** be used for one of the two purposes set out herein. It must not be used for any other correspondence. All emails to this address which are not sanctioned by the circular will not be actioned as suppliers have been advised not to use the facility inappropriately.

- (i) Exceptionally urgent Rep Higher matters which cannot be submitted on LAMS:**

The Agency expects that all new emergency requests will be submitted on LAMS in the usual way. However, we recognise that, very occasionally, there will be exceptional circumstances where suppliers are unable to submit an emergency request on LAMS in advance of a hearing which is taking place on the same day or the next working day. For example, but not limited to, matters which arise while the supplier is in court and an urgent hearing is required or where matters crystallise overnight and the supplier requires to take steps the next day before an application can be lodged.

The Agency is implementing an emergency e-mail notification process for a trial period of 3 months which will commence on 2 January 2020 and will be reviewed and confirmation of the cessation or extension of the process will be communicated

to the profession by the end of March 2020. The Agency however reserve the right to withdraw this trial at any stage subject to a communication issuing to the profession to confirm this.

It should be noted that the issuing of a grant in these circumstances does not constitute the granting of an emergency legal aid certificate, as such a certificate will only issue after a full application request has been made and subsequently granted on LAMS. The only function of the grant is to preserve the date of the certificate. Therefore, even if a grant is made and either a completed application is not made in compliance with this Circular or the full application request is refused then no claim for payment will be accepted.

Where a situation such as the above pertains the following process should be followed:

1. Form '[RHE 1](#)' which is available on the LSANI website and can be located on the '[LAMS legal aid supporting documents](#)' page, should be completed in full and sent to: rephigheremergencies@lsani.gov.uk
2. If the Agency accepts the supplier's reasons for not being able to submit a LAMS application, considers that the applicant is likely to qualify financially and that the case is meritorious on the basis of the information in the RHE 1 then a response will issue to confirm that cover will commence from the date of the grant subject to a complete emergency application request being made and granted on LAMS within **5 working days**.
3. Where a grant is made, no certificate of legal aid will be generated on foot of such a grant until the fully completed application request is made and granted on LAMS. Nothing in this process will bind the Agency to grant an emergency certificate when the substantive application request is made on LAMS.
4. If the Agency accepts that it was appropriate to submit the application via the email facility but refuses the application on the legal merit, the supplier can request a review through the email facility. Should the supplier wish to lodge an appeal they should, as a matter of urgency, submit their substantive application request on LAMS, which will be refused to enable them to lodge such an appeal.
5. If the Agency does not accept that the application should be processed through the email facility there is no appeal against this determination. However, suppliers are at liberty to submit the application request on LAMS as an emergency (if appropriate in the nature/matter of the case).
6. Both the RHE 1 and the Grant **must** be uploaded (along with any other email interaction between the supplier and the Agency) when the full application request is made on LAMS. The supplier must also indicate (in the Solicitor's

Comments section of the application request) that a grant was made and confirm the date of same.

7. Should the supplier fail to upload a complete application request (including the documents at 6 above) within the timescales set out above then the cover granted in the email will be lost and any certificate will be dated the date the emergency certificate is granted on the LAMS application request. Similarly, should the full application request be refused then the grant shall lapse. No claim for payment will be accepted for work done from the date of the grant in these circumstances.
8. Suppliers should note that if any further steps are required, for example an authority for an expert, that authority cannot be submitted until the application request is submitted on LAMS by the supplier.
9. The above process should **not** be used for matters which arise after normal office hours (9am-5pm on weekdays), weekends or Bank Holidays as our office will not be staffed to allow confirmation of grant emails to issue. In these circumstances, suppliers should continue to submit their application requests to LAMS in the usual way with an indication as to when the matters arose and they will be looked at, on a case by case basis, in relation to the dating of any certificate.
10. For the avoidance of doubt, the Agency would not expect to receive first time High Court Bail applications or transferred Children Order matters via the email facility as these matters are already transacted through LAMS.

(ii) Matters submitted on LAMS which become urgent while awaiting a decision

Where a supplier has submitted an application or a request on an existing case on LAMS and while awaiting a decision the matter becomes urgent due to:

- (a) case has a hearing or review date before the court within the next 5 working days;
- (b) the matter will be statute barred within the next 5 working days; or
- (c) a significant milestone being imminent, within 5 working days

then the following process should be followed to escalate the matter:

1. An email should be sent to rephigheremergencies@lsani.gov.uk setting out the following details:
 - The subject matter of the email should contain the LSA case reference
 - Specific details of urgency in the matter, to include the initial date the supplier first became aware of the urgency arising e.g. court date being set
 - Confirmation that all information originally submitted on LAMS remains current and is complete to allow an adjudicator to make a decision on an urgent basis.
2. The supplier should not send any further messages on the messaging facility in LAMS in relation to the escalation.
3. If the Agency accepts the urgency in the matter then the email will be acknowledged and the matter tasked to an adjudicator for a decision which will take place on a same day/next day basis. All further interaction in relation to the request will then be transacted via LAMS.
4. If the Agency does not accept the urgency of the matter then a response will issue via LAMS setting out our reasons and the matter will remain in the queue awaiting adjudication in the usual way. There is no appeal against this determination.