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Legal Aid Statistics quarterly, England and Wales

October to December 2021

1. Main points

Overall Crown Court expenditure increased this quarter; up by 59% compared with the same period of the previous year.

In the magistrates' court the volume of completed work decreased by 4% and associated expenditure increased by 7% when compared to the same post-covid-19 period last year.

When compared to the post-covid-19 October to December 2020 period representation orders granted in magistrates' court decreased by 23% while Crown Court decreased by 25%.

Civil legal aid closed case expenditure increased this quarter; up by 14% compared to October to December 2020.

Mediation Information and Assessment Meeting volumes were 17% lower than in the same quarter of 2020.

Applications for civil representation supported by evidence of domestic violence or child abuse decreased by 13%.

846 applications for Exceptional Case Funding were received in the last quarter.







The comparisons to the pre-covid-19 period show a 23% decrease and a 19% decrease respectively.



This increase is driven by family civil representation expenditure increasing by 19% over the same period.



Mediation starts were 20% lower and outcomes also were 13% lower.



The volume of these granted decreased by 15% compared to the same period of 2020.



This is a 5% decrease from the same guarter last year.

This edition comprises the first release of official statistics for the three-month period from October to December 2021 and the latest statement of all figures for previous periods. For more detailed commentary, and statistics on providers of legal aid, Central Funds and legal aid in the higher courts, please refer to the annual publication. For technical detail, please refer to the User guide to legal aid statistics.

For feedback related to the content of this publication, please let us know at statistics@justice.gov.uk

2. Statistician's Comment

This publication shows that completed workload and the associated expenditure has increased year on year and has also increased more over the recent quarters, due to recovery from covid-19, across both the criminal legal aid and civil legal aid schemes – total civil expenditure is at its highest level since 2014-15. Some areas have seen large increases and this is mainly due to comparisons against low volumes of workload in the early stages of the pandemic and in some instances within the report comparisons are also given against pre-covid-19 volumes, in order to provide a comparison against earlier levels of activity.

Criminal legal aid expenditure increased compared to the same quarter last year in schemes that support the court system, including the magistrates' and Crown Court. The incoming workload for representation at the courts had returned to levels seen in the period pre-covid-19 but in the most recent period we've seen falls in both courts. There are increases in expenditure this quarter compared to the post-covid-19 quarter from last year, however when compared to pre-covid-19 and two years previously, expenditure has still not fully recovered.

Civil legal aid volumes and expenditure show a mixed picture compared to the same quarter last year. Overall civil expenditure is returning to pre-pandemic levels driven by family law expenditure higher than the same quarter in the pre-covid-19 period. Other non-family workload has not recovered to the same extent and this is driven by the slow recovery of housing work following the impact of covid-19. Overall civil legal aid workload still remains below pre-pandemic levels.

It was expected that criminal and civil legal aid volumes would return to, and even temporarily exceed, historic trend levels and more recent falls could be due to this return to normal levels or impact from further lockdowns.

3. Things you need to know

These symbols are used throughout this release to navigate to other documents of interest:



Data visualisation: Click for tool allowing user-defined charts and tables.



User Guide: Click for document giving definitions and explanations.



Tables: Click for access to tables of figures.

To understand trends in legal aid as a whole, it is best to begin by looking at annual expenditure figures and then look at trends in both workload and expenditure for each category of legal aid. Summarising workload activity across the whole legal aid system meaningfully within a single number is difficult because of the diversity of services included and different stages in delivery. For example, legal aid work can be measured at the point when an order for legal aid is granted, or after all the legal aid work is completed and the provider has been paid. Expenditure on legal aid is measured differently for different purposes. The three most often-used measures, shown in Figure 1, are:

• Closed-case expenditure is the measure used for expenditure figures throughout these legal aid statistics. It represents the total value of payments made to legal aid providers in relation to pieces of work that are completed in the period. This basis is comparable to volumes of completed work to which it relates, and to the same fine level of detail. This does not include income received or expenditure in relation to debt write-offs.

Resource Departmental Expenditure Limits (RDEL):

- **RDEL nominal** is the main budgeting measure used by government to control current spending, both to set budgets for future years and report on how much has been spent. It represents the value of work carried out in the period better than the closed-case measure but cannot be broken down to such a fine level of detail. This measure does incorporate income and expenditure in relation to debt. 'Nominal' here means not adjusted for inflation.
- **RDEL real** is the RDEL measure adjusted for inflation to make the value of spending in previous years directly comparable with the specified year.

These measures show a large reduction in legal aid expenditure from around 2010-11, mostly due to changes to the scope of civil legal aid introduced by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act from 2013-14, reductions in criminal legal aid workloads and reductions in the fees payable to legal aid providers.



Figure 1: Overall annual legal aid expenditure, by closed-case and RDEL nominal and real terms measures (£m), 2005-06 to 2020-21 (see interactive breakdown here)



4. Criminal legal aid

Overall Crown Court expenditure increased this quarter; up by 59% in October to December 2021 compared with the same period of the previous year.

When compared against the pre-covid-19 period from October to December 2019 they have fallen by 5% so while the Crown Court is showing recovery signs overall workload and expenditure is still below previous levels and this is mainly within the long running and more complex trials

Criminal legal aid can be categorised into Crime Lower and Crime Higher. Crime Lower includes police station advice, magistrates' court and prison law. Crime Higher covers work in the Crown and Higher Courts.

Figure 2: Crime overview, closed case volumes and expenditure for October to December 2021, and comparison with October to December 2020

| | | Category | Workload | Expenditure |
|--|---|----------------------------------|----------------------|------------------------|
| | 6,994(2% \) | Police Station Advice | 138,908(4% 🔪) | £28.5m(1% \) |
| | | Magistrates' courts | 64,243(4% \) | £28.3m(7% 🗸) |
| Crime | | Advice & assistance on appeals | 249(31% 🗸) | £466.4k(10% 🖍) |
| Workload | | Prison Law | 3,974(0%↔) | £4.4m(3%🖍) |
| 246,994(2% \) Expenditure £196.5m (36% ✔) | | Civil work associated with crime | 18(38%7) | £6.2k(20% ∖) |
| | Crown Court 39,602(9% ✔) £134.8m(59% ✔) | Solicitor fee scheme | 20,193(5% 🖍) | £80.3m(56% /) |
| | | Advocate fee scheme | 19,408(14% 🗸) | £54.3m(65%🖍) |
| | | High Cost crime cases | 1(0%↔) | £228.2k(53% \) |

Although Crown Court work comprises a relatively small portion of criminal legal aid in terms of volume, it accounts for around two-thirds of all criminal legal aid expenditure. Conversely, advice relating to the police station makes up the largest portion of workload, but a much smaller proportion of expenditure.



Figure 3a: Workload in criminal legal aid, April to June 2011 to October to December 2021 (see interactive breakdown of crime lower and crown court)

Figure 3b: Expenditure in criminal legal aid, April to June 2011 to October to December 2021 (see interactive breakdown of crime lower and crown court)



Note: Advice and assistance on appeals and civil work associated with crime are excluded from these figures.



Police station advice

This category made up two thirds of the Crime Lower workload between October and December 2021 but less than half of the expenditure. The workload in this period has decreased by 4% compared to the previous year, with expenditure decreasing by 1% (£337k). This continues the general downward trend seen over the last three years. The decrease in police station advice workload since 2013-14 is also seen in arrest statistics for England and Wales ¹, which has had a similar decline historically.

The majority of the police station advice workload (89% in October and December 2021) consists of suspects receiving legal help with a solicitor in attendance at the police station, with the rest mainly consisting of legal advice over the telephone.

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Applications and grants for representation in the criminal courts

While figures should be interpreted with caution as they may be revised in subsequent quarters as cases move into the Crown court, the number of orders granted for legally-aided representation in the **magistrates' court** decreased by 23% this quarter when compared to the same quarter of the previous year. This is attributed to the lockdown and in comparison with October to December 2019, the number of orders granted decreased by 26%. This continues the downward trend of the last 3 years, which has been largely driven by Summary Only cases. The proportion of these applications that are granted remains stable at around 95%.

Orders granted for legally-aided representation in the Crown Court also decreased by a similar amount; 25% this quarter compared to last year, compared to a 19% decrease in Crown Court receipts². Within the legal aid figure, orders relating to either-way offences decreased by 30%, while those relating to indictable offences decreased by 19%. The proportion of Crown Court applications granted remains at almost 100%.

Magistrates' court completed work



Tables

2.1 and 2.2

¹ www.gov.uk/government/collections/police-powers-and-procedures-england-and-wales

² www.gov.uk/government/collections/criminal-court-statistics, Table C1



Crown Court completed work

Completed work volumes within the **litigator (solicitor) fee scheme** increased by 5% in October to December 2021 compared to the same period of the previous year, driven mainly by a 73% increase in trial claims. This recovery in workload is from extra resource within the HMCTS estate and completion of trials from the outstanding backlogs. When compared to the pre-covid-19 quarter in 2019 the current workload decreased by 5% with a 13% decrease in trial claims.

In the **advocate fee scheme**, completed claims increased by 14% compared to the same period last year. When compared to the pre-covid-19 quarter in 2019 the current workload decreased by 7%.

Figure 4a: Workload in the Crown Court, April to June 2011 to October to December 2021 (see interactive breakdown here)



In the litigator fee scheme, expenditure increased by 56% in October to December 2021 compared to the same period of the previous year (although a 9% decrease against the pre-covid-19 period). In the advocate fee scheme, the value of payments increased by 65% compared to the same period of the previous year. This increase though should be seen in the context of a 5% increase against the pre-pandemic period from 2019. Figures for expenditure on work completed in the Crown Court should be interpreted with caution as they may be revised in subsequent quarters as claims are assessed further on appeal and further payments added to the value of some completed claims.

The **Very High-Cost Case** (VHCC) scheme covers those Crown Court cases which, if the case were to proceed to trial, would likely last more than 60 days. These cases can span several years and,

while they may involve small numbers of defendants, the associated expenditure is high in comparison.

There was 1 defendant represented in the VHCC contracts that concluded in the October to December 2021 quarter. Expenditure on this work over the duration of the contracts (i.e. on the closed-case basis) was £228.2k. While workload comprises a tiny proportion of legal aid in the Crown Court overall, the VHCC scheme represents less than 1% of the cost, although down from over 15% ten years ago.





The large falls in completed expenditure are a consequence of the large fall in the number of jury trials completing in the Crown Court, as all expenditure across the case will be in the final main bill. Figure 4c below, looking at the litigator fee scheme in isolation but equally applicable to both schemes, shows the impact of falling trials on expenditure – these types of cases are more likely to be impacted as they need more courtroom space and distancing measures and are likely to include witnesses and members of the public in the jury pool. Trial completed expenditure has been more adversely affected than guilty pleas and cracked trials, where a defendant changes their plea before the trial, with litigator fee expenditure much lower. Previously it was more than £60m and it is still only just over half of this. A lack of available resources has led to fewer jury trials with a subsequent increase in trials awaiting completion.



Figure 4c: Litigator Fee Scheme Crown Court expenditure by claim type, October to December 2018 to October to December 2021 (see interactive breakdown here)

Workload this quarter stayed constant compared with the same period in the previous year, although categories did see falls with advocacy assistance at parole board hearings decreasing by 3% compared to last year (see figure 5). Advocacy at parole board hearings currently makes up just over two-fifths of prison law workload, but a much larger proportion of costs (77%), with expenditure on prison law overall increasing by 3% over this period.

Since April to June 2020, the workload and expenditure for advocacy assistance at prison discipline hearings has remained low. Year-to-year comparisons show that workload decreased by 21% and expenditure decreased by 15% this quarter compared to last year. This continues the downward trend of this prison law category.

Figure 5a: Prison Law completed workload, April to June 2011 to October to December 2021 (see interactive breakdown here)



Figure 5b: Prison Law completed expenditure, April to June 2011 to October to December 2021 (see interactive breakdown here)



*New categories not shown: 'advocacy assistance at sentence reviews' and 'advocacy assistance at Parole Board reconsideration hearings'



5. Civil legal aid

Civil legal aid closed case expenditure increased this quarter; up by 14% compared to October to December 2020. This increase is driven by family civil representation expenditure increasing by 19% over the same period.

Civil legal aid expenditure exceeds pre-covid-19 levels; up 10% compared to October to December 2019. In the current quarter, civil legal aid workload remained lower than pre-pandemic figures (down 9%). Total Civil Expenditure is the highest it has been since 2014-15.

Civil legal aid can be categorized by area of law into family and non-family. The category of family legal aid covers all work on both private and public family law and includes work associated with the Children Act, domestic abuse, financial provision and family mediation. Non-family legal aid encompasses all work related to immigration, mental health, housing and other non-family law.

Figure 6: Civil overview, closed case volumes and expenditure for October to December 2021, and comparison with October to December 2020

| | | Category | Workload | Expenditure |
|---|--|---------------------|----------------|----------------------|
| | Family 28,551(11% ✔) £172.4m(18% ✔) | Family Public | 17,799(7% 🖍) | £137.6m(16% 🖍) |
| Civil Workload 61,134(7%) Expenditure £208.4m(14%) | | Family Private | 10,752(20% 🗸) | £34.8m(31% 🖍) |
| | | Mediation and MIAMs | 4,673(15%\) | £1.4m(14% \) |
| | Non-Family 27,910(8% ✔) £34.6m(3% ∖) | Immigration | 10,119(13% 🗸) | £9m(4% \) |
| | | Mental Health | 8,319(6% 🔪) | £10.4m(5% \) |
| | | Housing | 6,259(28% 🗸) | £4.8m(8% \) |
| | | Other Non-Family | 3,213(1% 🖊) | £10.4m(1% 🖊) |

Although workload for family and non-family law cases are similar, Non-family comprises a relatively small proportion of civil legal aid expenditure. Public family legal aid makes up around two thirds of family legal aid work and 80% of expenditure.

Legal help and controlled legal representation

In the latest quarter, legal help new matter starts remained unchanged compared to the same period of 2020. The volume of completed claims increased by 6% while expenditure decreased by 3% in October to December 2021 compared to the same period in 2020 (figure 7).

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Overall, the recovery of legal help has been slow following the initial impact of covid-19. Although positive, legal help workload and expenditure has not returned to the levels seen pre-pandemic. In the current quarter, new matter starts remained down by 12% from the same period of 2019. The volume of completed claims has fallen by 16% and expenditure has decreased by 23% over the same period.

The implementation of the LASPO Act in April 2013 resulted in large reductions in legal help workload, with the decline in the overall trend being further exacerbated by the effects of covid-19, workload now sits at less than one-quarter of pre-LASPO levels.







Figure 7b: Completed workload expenditure in legal help and controlled legal representation, April to June 2011 to October to December 2021 (see interactive breakdown here)

Family legal help

From 1 September 2021, callers to the Civil Legal Advice (CLA) helpline with family issues are no longer referred to specialist telephone advice.

In October to December 2021, family legal help starts decreased by 22% compared to the same quarter last year. Completed claims also decreased by 3% and expenditure decreased by 4%. Compared to the same period of 2019 (pre-covid-19), family legal help starts are down by 28%, completed claims have decreased by 20% and expenditure has fallen by 15%. There was a steep decline immediately following the implementation of LASPO Act in April 2013, with a more gradual decline to family legal help over the last 6 years.

Family mediation involves an independent and impartial professionally-accredited mediator discussing problems with a divorcing or separating couple. A Mediation Information and Assessment Meeting (MIAMs) is an initial meeting between one or both parties and a mediator to see if family mediation could be used to reach agreement without using the courts. MIAMs decreased by 17% in the last quarter compared to the previous year and currently stand at around a third of pre-LASPO levels. Family mediation starts decreased by 20% and total outcomes decreased by 13%, of which 61% were successful agreements, and are now sitting at over half of pre-LASPO levels.

MIAMs, family mediation starts, and outcomes decreased significantly following the covid-19 restrictions in March 2020. Since, volumes and expenditure had rapidly increased to levels temporarily exceeding 2019 figures. However, in the latest quarter, MIAMs have dropped by 4% compared to

October to December 2019. Family mediation starts decreased by 11% while outcomes continue to exceed pre-pandemic figures (up 2%).





Non-family legal help and controlled legal representation

Controlled legal representation relates to representation at tribunal, but unlike civil representation, the decision on whether to grant legal aid is delegated to providers. Legal help and controlled legal representation make up over 95% of both immigration and mental health legal aid cases.

The LASPO Act 2013 made changes to the scope of legal aid for immigration law, but some areas remained in scope. Workload that remains in the immigration category consists largely of asylum-related work. Having fallen by over 45% in April to June 2020, new matter starts in immigration increased by 19% in October to December 2021 compared to the same quarter of the previous year. Completed claims in immigration increased by 12% in the latest quarter compared to the previous year and expenditure increased by 2%. In the current quarter, the number of immigration matters started mirrors pre-pandemic numbers. The volume of claims completed and expenditure is still slowly recovering, however is yet to return to pre-pandemic levels (down 18% and 27% respectively).

Within mental health, most funding is spent on providing assistance to sectioned clients appealing the terms of their detention before a mental health tribunal. Mental health new matter starts decreased by 8% compared to the respective quarter of the previous year. Completed claims also decreased by 6% and expenditure decreased by 8% over the same period. Compared to respective pre-pandemic period of 2019, mental health new matter starts, completed claims and expenditure have fallen (by 11%, 13% and 18% respectively)

Over 80% of legal aid housing work volume is made up of legal help. The volume of legally aided housing work halved between July to September 2012 and July to September 2013. The trend then fluctuated for around 18 months but since 2014 it has been falling. Housing legal aid was particularly affected by covid-19 with starts and completed claims nearly halving again between January to March 2020 and April to June 2020. In October to December 2021, there was a 24% increase in housing work starts compared to the same quarter the previous year. There was also a large increase in completed claims (36%) and decrease in expenditure (6%). Despite recent quarters displaying a gradual recovery following the initial impact of covid-19, housing legal help has not returned to levels seen pre-pandemic. When compared to the same period of 2019, housing legal aid starts is down by 16%, completed claims by 13% and expenditure remained 15% below comparative pre-pandemic figures.



Civil representation

The number of civil representation certificates granted in the latest quarter decreased by 6% compared to the same period of the previous year. However, the number of certificates completed increased by 14%, and the associated expenditure increased by 17% over the same period.

Compared to the respective period of 2019 (pre-covid-19), certificates granted in the last quarter remain slightly lower (9%) than pre-pandemic levels. The number of certificates completed has decreased by 2% while the associated expenditure exceeds 2019 figures by 16%.



Figure 9a: Completed workload in civil representation, April to June 2011 to October to December 2021 (see interactive breakdown here)





Non-Family Civil Representation

Non-family certificates completed make up 11% of the total civil representation workload and 8% of the expenditure. There are only a small number of immigration and mental health cases in civil representation as most work in these areas consists of controlled legal representation. Housing work represents a large proportion of non-family certificates completed. There has been a gradual decline in housing certificates completed and expenditure since 2014. In the latest period, completed certificates remained unchanged compared to the same period of the previous year and sits 46% lower than the same pre-pandemic period of 2019.

Family civil representation

While civil representation for public family law remains available, the LASPO Act removed legal aid for most private family law including issues such as contact or divorce. However, legal aid remains available for such cases where there is a risk of domestic violence or child abuse. Certificates granted for family work decreased by 8% in October to December 2021 compared to the previous year. Whereas, certificates completed increased by 15% and associated expenditure has increased by 19% compared to the same quarter the previous year. Compared to the respective pre-covid-19 quarter of 2019, family certificates completed remain unchanged and closed case expenditure for family civil representation exceeds pre-pandemic levels (up 18%). Although, certificates granted in October to December 2021 have fallen by 6%. The volume and expenditure for closed case domestic violence civil representation increased rapidly following covid-19 and continues to exceed pre-covid-19 levels

substantially (50% and 53% higher respectively – compared to October to December 2019). At 5,397 certificates issued in October to December, this is the highest level seen in our series.

In October to December 2021, applications for civil representation supported by evidence of domestic violence or child abuse decreased by 13% compared to the same period of the previous year. The number of these granted decreased by 15% over the same period. The proportion of applications granted remained steady at around 70% from the inception of this type of application until the end of 2015, before increasing to around 80%. The provisional figure for the latest quarter is 83%.

Figure 10: Applications received and total certificates granted via the domestic violence and child abuse gateway, April to June 2013 to October to December 2021 (see interactive breakdown applications received and certificates granted)



Judicial reviews

Of all civil representation applications granted, around 3,000 a year relate to judicial review; 738 in the last quarter. The number granted in October to December 2021 increased by 1% compared with the same quarter in 2020. Over a half of judicial reviews were for public law. Judicial review data is available in the detailed csv accompanying this bulletin.

Exceptional Case Funding (ECF)



The Exceptional Case Funding (ECF) scheme was introduced as part of LASPO. An ECF application for civil legal services is made where a case falls outside the scope of civil legal aid but the client or

conducting solicitor believes failure to provide funding would be a breach of the Human Rights Act 1998

There were 846 applications for ECF received from October to December 2021. This is a 5% decrease from the same quarter last year and a 12% decrease from the same period of 2019. 781 (92%) of these were new applications.

Of the 846 ECF applications received between October and December 2021, 95% (804) had been determined by the LAA as of 01 March 2022. 76% (609) of these were granted, 14% (109) were refused and 8% (63) rejected (see figure 11).

Figure 11: Volume of ECF applications received, October to December 2018 to October to December 2021 (see interactive breakdown here)



Among the ECF applications received between October and December 2021, immigration (69%), inquest (10%), and family (12%) remained the most requested categories of law. The increase in ECF applications over the last four years is driven by an increase in immigration applications.



Figure 12: Proportion of ECF determinations by outcome, April to June 2015 to October to December 2021 (see interactive breakdown here)

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6. Further information

This publication presents quarterly data trends. For figures published annually, including those on providers of legal aid, appealing legal aid decisions, Central Funds and legal aid in the higher courts, please refer to our annual publication.



- **Tables**: A set of tables, which give further detail and full time-series for each area.
- **More detailed data** and **Civil detail data**: Detailed files to enable independent analysis, provided in .ods (OpenDocument Spreadsheet) format.



Accompanying files

• 'Data visualisation tool' A web-based tool allowing the user to view and customize charts and tables based on the published statistics.

Help and Documentation

• 'User Guide to legal aid statistics': This provides comprehensive information about data sources and quality as well as key legislative changes.

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- Index of data in Legal aid statistics: An index to the more detailed data published in the .ods files, lists of available data from Legal Aid systems and guidance on how to work with the more detailed data using pivot tables.
- Quality Statement: This provides detail on how legal aid statistics meet user needs

National Statistics status

National Statistics status means that official statistics meet the highest standards of trustworthiness, quality and public value. All official statistics should comply with all aspects of the Code of Practice for Official Statistics.

They are awarded National Statistics status following an assessment by the Authority's regulatory arm. The Authority considers whether the statistics meet the highest standards of Code compliance, including the value they add to public decisions and debate.

It is the Ministry of Justice's responsibility to maintain compliance with the standards expected for National Statistics. If we become concerned about whether these statistics are still meeting the appropriate standards, we will discuss any concerns with the Authority promptly. National Statistics status can be removed at any point when the highest standards are not maintained, and reinstated when standards are restored.

Contact

Press enquiries should be directed to the Ministry of Justice press office: Tel: 020 3334 3536 Email: newsdesk@justice.gsi.gov.uk

Other enquiries about these statistics should be directed to the Data and Evidence as a Service (DES) division of the Ministry of Justice: Carly Gray, Ministry of Justice Email: statistics@justice.gov.uk Tel: +447784 275495

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