



Ministry  
of Justice

# Review of Civil Legal Aid

## Call for evidence

This call for evidence begins on 10 January 2024

This call for evidence ends on 21 February 2024

**A call for evidence produced by the Ministry of Justice.  
It is also available at <https://consult.justice.gov.uk/>**

# About this call for evidence

<b>To:</b>	All interested parties
<b>Duration:</b>	From 10/01/2024 to 21/02/2024
<b>Enquiries (including requests for the paper in an alternative format) to:</b>	Review of Civil Legal Aid Email: <a href="mailto:rocla@justice.gov.uk">rocla@justice.gov.uk</a>
<b>How to respond:</b>	Please send your response by 21/02/2024 Responses can be submitted online via Consult Justice or sent to the Review of Civil Legal Aid email above.

**If you would like a paper copy or would prefer to mail a hard copy of your submission, please get in contact using the Review of Civil Legal Aid email address above.**

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# Introduction

## Vision for the future of the civil, family and tribunal justice system

Our justice system is there to protect people's rights. For example, when businesses do not get paid, when couples face separation, or when employees face discrimination or unfair treatment at work. But we know that when people are facing complicated problems, the system can seem difficult to understand and access. We want to transform that experience. We will ensure relevant and useful early information and support are available. This will allow people to tackle problems before they become worse, reach agreements between themselves and, when needed, access judicial decision-making through the courts and tribunals. The systems provided will make best use of advances in technology.

Our full vision for the future of the civil, family and tribunal justice system, as set out by the Lord Chancellor and the senior judiciary on 20 November, can be found in [Annex A](#). The Review of Civil Legal Aid sits within the wider context of this work on the future of the civil, family and tribunal justice system, and the policy proposals that emerge from the Review will align with and support this vision.

## Review of Civil Legal Aid

The Ministry of Justice (MoJ) launched the Review of Civil Legal Aid (RoCLA) in January 2023. As set out in the [Review's Terms of Reference](#), the purpose of the Review is to identify options which will improve the sustainability of the civil legal aid system, ensuring it is capable of delivering access to justice over the long term. We would like to thank stakeholders for their ongoing constructive engagement in the Review and would welcome their input to this call for evidence.

The Review will comprehensively analyse eleven contract categories of law under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The eleven categories are: Claims Against Public Authorities, Clinical Negligence Category, Community Care, Discrimination, Education, Family, Housing & Debt, Immigration and Asylum, Mental Health, Public Law, and Welfare Benefits. To provide some context on the current civil legal aid system, in [Annex C](#) we have included data covering the period from 2018–2023 on i) civil legal aid provider income, ii) the number of matters or cases completed (volumes), and iii) the number of contracted providers in each of the categories of law.

The Review will examine the entirety of the system, drawing together multiple evidence sources, to determine how to improve the **efficiency** and **effectiveness** of civil legal aid, **ensuring long-term sustainability**.

To expand on what we mean by this, the Review aims to ensure the civil legal aid system is:

**Efficient:** optimal use of resources to deliver quality civil legal aid services in response to customer demand, paid at a fair rate for work done.

**Effective:** measurement of how well the civil legal aid system achieves its objective of ensuring that publicly funded legal advice is accessible where necessary.

**Sustainable:** a system that is able to attract and retain providers of sufficient number, quality and experience to provide effective legal advice, assistance and representation to all those eligible, ensuring provision to meet demand over the long term.

The Review includes four analytical workstreams to adopt a comprehensive data gathering approach, with the intention of identifying a range of options for enhancing the long-term sustainability of the civil legal aid market. The four workstreams aim to conclude by March 2024.

- i. The **Economic Analysis** workstream will focus on reviewing and assessing the structure of the civil legal aid market. The analysis has two aims: 1) to assess how the market is currently functioning and identify the root causes of its problems, and 2) to propose structural changes that will enhance efficiency, effectiveness, and sustainability.
- ii. The **International Comparator** workstream will conduct a comparative analysis of civil legal aid systems in six countries. The goal is to identify promising approaches to improve the efficiency and effectiveness of delivering civil legal aid and access to justice in England and Wales.
- iii. The **Data Publication** workstream will produce a series of documents summarising key descriptive information about the provision of civil legal aid services, with a focus on changes over time.
- iv. The **User Journey Social Research** workstream will conduct end-user research with people who have previously received civil legal aid. The research aims to explore their experiences with the civil legal aid process, identify issues from a user perspective, and provide options to improve the process.

In gathering evidence to examine the legal aid system in relation to the above criteria, the Review will consider (but is not limited to) the following topics:

- a. the ability for users to access appropriate advice in a timely way (including on complex and cross-cutting issues)
- b. the downstream benefits of legal aid
- c. administrative burdens on all key parties
- d. the procurement and flexibility of contracts, including the requirements, tendering, and management of contracts
- e. the accessibility of legal aid across England and Wales
- f. the user experience and 'pinch points' in the system
- g. fee structures, and
- h. the diversity of legal aid providers

The responses obtained through this call for evidence will further inform the Review, strengthening its evidence base and adding to the information gathered via the Review's four workstreams.

Following the completion of all RoCLA workstreams, policy development will continue in preparation for a public consultation on the proposed options later in the year. The proposed options will apply to England and Wales and, alongside the evidence gathered in the Review, will take into consideration a range of further factors such as value for taxpayer's money and wider budgetary constraints.

# Questions

The aim of this call for evidence is to obtain more information to further inform the Review of Civil Legal Aid and feed into policy development work.

The Review welcomes evidence under the Terms of Reference (see [Annex B](#)) and seeks comments and evidence against the questions below. We are particularly interested in responses which will increase the evidence we have to inform the Review and future policy development. Please provide any specific evidence or data you have that supports your response to the below questions.

## Civil legal aid

Legal aid is the publicly-funded provision of legal advice and assistance, family mediation and representation in a court or tribunal. Civil legal aid encompasses legal representation, which is primarily certificated work (that is, provided via a legal aid certificate issued by the Legal Aid Agency to the legal aid provider), and controlled work, for which means and merits decisions are delegated to providers. Controlled work includes legal help (for example, early advice and assistance before court proceedings), family mediation, and controlled legal representation (for certain immigration and mental health matters).<sup>1</sup>

To receive legal aid, an applicant's case must be in scope of legal aid or meet the requirements for Exceptional Case Funding (ECF). Where an issue falls outside the scope of legal aid, funding may still be available through the ECF Scheme, where it would breach or risk a breach of human rights or retained enforceable EU law if funding is not provided, subject to the statutory means and merits tests. The scope of civil legal aid is set out in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.<sup>2</sup> In order to receive legal aid, an applicant must generally pass a merits test and a means test. The merits test differs between different types of cases and assesses the merits of the case. This could include, for example, the likelihood of success of the claim and the benefit to the client. The means test assesses the applicant's financial eligibility. MoJ recently carried out a Review of Legal Aid Means Testing.<sup>3</sup> Some cases are not subject to the means test, and these are known as being 'non-means tested'.

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<sup>1</sup> <https://www.gov.uk/government/consultations/legal-aid-means-test-review/legal-aid-means-test-review#chapter-1-the-current-legal-aid-means-tests>, paragraph 49

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2012/10/schedule/1/enacted>

<sup>3</sup> [https://www.gov.uk/government/consultations/legal-aid-means-test-review/legal-aid-means-test-review#:~:text=16\)%20The%20Means%20Test%20Review,capital%20contributions%20potentially%20payable%20towards](https://www.gov.uk/government/consultations/legal-aid-means-test-review/legal-aid-means-test-review#:~:text=16)%20The%20Means%20Test%20Review,capital%20contributions%20potentially%20payable%20towards)

## Overarching questions

These questions seek views on broad, cross-cutting areas related to civil legal aid such as suggestions for improvements, future risks and opportunities, and the wider benefits of civil legal aid.

1. Do you have any suggestions of changes that could improve civil legal aid – both short-term and longer-term changes?
  - 1.1. Do you have any suggestions of changes – both short-term and longer-term changes – that could improve each of the following categories of law?
    - a. Family
    - b. Community Care
    - c. Housing & Debt
    - d. Immigration and Asylum
    - e. Mental Health
    - f. Discrimination
    - g. Education
    - h. Public Law
    - i. Claims Against Public Authorities
    - j. Clinical Negligence
    - k. Welfare Benefits
    - l. Miscellaneous

Please provide any specific evidence or data you have that supports your suggestions.

2. What are the civil legal aid issues that are specific to your local area? Please provide any specific evidence or data you have that supports your response.
3. What do you think are the changes in the administration of civil legal aid that would be most beneficial to providers? Please provide any specific evidence or data you have that supports your response.
4. What potential risks and opportunities do you foresee in the future for civil legal aid: i) in general; and ii) if no changes are made to the current system? Please provide any specific evidence or data you have that supports your response.
5. What do you think are the possible downstream benefits of civil legal aid? The term ‘downstream benefits’ is used to describe the cost savings, other benefits to government and wider societal benefits when eligible individuals have access to legally aided advice and representation. Please provide any specific evidence or data you have that supports your response.



## **Fees**

The Review aims to ensure that civil legal aid offers a financially viable business option for legal aid providers (both private and not-for-profit) and is an attractive career option. This question seeks views on the incentives created by the structure of the current fee system.

6. What are your views on the incentives created by the structure of the current fee system?
  - 6.1. Do you think these support the effective resolution of problems at the earliest point?
  - 6.2. How could the system be structured better?

Please provide any specific evidence or data you have that supports your response and any views or ideas you may have on other ways of payment or incentives.

## **Career development and diversity**

These questions seek views on career development and how diversity of the profession could be increased. It is important for the sector to reflect the society it serves and make use of the best talent in society, so that members of the public can be confident in the legal services they receive. A more diverse sector also means a more diverse pipeline to the judiciary. The MoJ is eager to understand what more it can do to improve diversity in the context of civil legal aid practitioners.

7. Is there anything in particular in civil legal aid that prevents practitioners with protected characteristics from starting and continuing their careers? If yes, how could this be addressed? Please provide any specific evidence or data you have that supports your response.
8. How can the diversity of the profession be increased in legal aid practice, including ethnicity, disability, sex, age and socio-economic background? Please provide any specific evidence or data you have that supports your response.

## **User needs**

The Review aims to ensure that the civil legal aid system is accessible to people eligible for legal aid, and that these individuals can successfully apply for and receive legal aid. These questions seek views on the experience and needs of those seeking and receiving civil legal aid and how these needs can be best met.

9. What barriers/obstacles do you think individuals encounter when attempting to access civil legal aid? Please provide any specific evidence or data you have that supports your response.

10. What could be done to improve client choice such that it is easier for clients to find civil legal aid providers and make informed decisions about which one best meets their needs? Please provide any specific evidence or data you have that supports your response.
11. Do you think that some people who are eligible for civil legal aid may not know that it is available and/or how to access it? If so, how do you suggest that this is addressed? Please provide any specific evidence or data you have that supports your response.
12. How do you think that people receiving civil legal aid can be supported in cases where they have multiple or ‘clustered’ legal issues and some of these are outside of the scope of civil legal aid? Please provide any specific evidence or data you have that supports your response.
13. How do you think that the Exceptional Case Funding scheme is currently working, and are there any ways in which it could be improved? Please provide any specific evidence or data you have that supports your response.

## **Use of technology**

The Review aims to feed into MoJ’s wider strategic objectives on the use of technology. Technology should enable users to engage with the legal process and support the smooth running of the civil justice system. These questions seek views on how the use of technology could improve civil legal aid, including through where appropriate, remote advice.

14. What are the ways in which technology could be used to improve the delivery of civil legal aid and the sustainability of civil legal aid providers? We are interested in hearing about potential improvements from the perspective of legal aid providers and people that access civil legal aid. Please provide any specific evidence or data you have that supports your response.
15. Remote legal advice, for example advice given over the telephone or video call, can be beneficial for delivering civil legal aid advice. Please provide any specific evidence and thoughts on how the system could make the most effective use of remote advice services and the implications for services of this.
16. What do you think are the barriers with regards to using technology, for both providers and users of civil legal aid?
  - 16.1. Do you think there are any categories of law where the use of technology could be particularly helpful?

- 16.2. Do you think there are any categories of law where the use of technology would be particularly challenging?

Please provide any specific evidence or data you have that supports your response.

## **Early resolution**

The Review aims to feed into MoJ's wider strategic objective to encourage, where appropriate, the early resolution of disputes, providing swift access to justice through early engagement where appropriate. This question seeks views on what could be done to encourage early resolution of disputes.

17. What do you think could be done to encourage early resolution of and/or prevention of disputes through the civil legal aid system? Please provide any specific evidence or data you have that supports your response.

## **Other areas for consideration**

18. Is there anything else you wish to submit to the Review for consideration? Please provide any supporting details you feel appropriate.

**Thank you for participating in this call for evidence exercise.**

# About you

Please use this section to tell us about yourself.

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this call for evidence exercise (e.g. member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## How to respond

Please send your response online via Consult Justice or to the Review of Civil Legal Aid email: [rocla@justice.gov.uk](mailto:rocla@justice.gov.uk).

## Complaints or comments

If you have any complaints or comments about the call for evidence process, you should contact the Ministry of Justice at the following address:

Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

As well as this, you can also send your complaint and/or comments to [rocla@justice.gov.uk](mailto:rocla@justice.gov.uk).

## Publication of response

The responses to this call for evidence will inform the Review and will feed into policy development work. We intend to publish the responses to the call for evidence and this would be in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the UK General Data Protection Regulation, and the Environmental Information Regulations 2004).

## Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## Confidentiality

Information provided in response to this call for evidence, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the UK General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities

must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## **Annex A: Vision for the future of the civil, family and tribunal justice system**

People rely on our civil, family and tribunals justice system to protect and enforce their rights. This applies to individuals with complex needs grappling with debt and housing issues, and to business owners who need to navigate complicated contractual disputes.

We want to make it easier for people experiencing legal problems to access high quality information and support at the right time and in the right way. This will allow them to understand their options and to take the right steps to prevent their problems from escalating. We will use advances in technology to support delivery of this, including exploring safe and appropriate uses of AI.

We want to enable people to resolve their problems earlier and at less cost, for example through mediation or online dispute resolution. They should be safe in the knowledge that if this is not successful, it will be straightforward to take the next step of seeking judicial determination through the courts or tribunals. We will encourage and build online and offline connections between different parts of the system to achieve solutions.

Providing a joined-up process will require the effective and safe transfer of people's data. We have established the Online Procedure Rule Committee (OPRC) to provide governance and develop data standards for the system. We will support the OPRC to embed these standards with the third and private sector organisations that deliver information, support and dispute resolution services.

This is a broad and ambitious vision for the future of civil, family and tribunals justice. And we will only deliver it working together with stakeholders across the system. With this collaboration, we will ensure that our justice system supports people from the earliest point they begin to experience a legal problem. It will provide people with the right information and support to understand all their options. It will empower them to resolve their problem in a way that meets their needs and is proportionate to the matter in dispute. A judicial determination provided through our courts and tribunals will always available where necessary.

This is our vision for the future of the civil, family and tribunal justice system, as set out by the Lord Chancellor and the senior judiciary on 20 November.

# Annex B: Terms of Reference

Please read the [Terms of Reference](#) on gov.uk.



## Annex C: Civil Legal Aid Data

The following tables are derived from the legal aid statistics: April to June 2023 release.<sup>4</sup> They show civil legal aid provider income, the number of matters or cases completed (volumes) and the numbers of contracted providers across categories of law over the last five years. Please note:

- Housing includes the in-court duty scheme.
- The volumes and provider income shown are allocated to the time period in which the matter/case finished, as this is when the Legal Aid Agency (LAA) receives full case information.
- The provider income includes all payments that providers (both solicitors and advocates) receive for doing civil legal aid work, including fees disbursements, and VAT whether paid by the LAA or paid by the opponent.

### Civil legal aid provider income

	2018–19	2019–20	2020–21	2021–22	2022–23
<b>Family</b>					
Mediation	£5m	£6m	£6m	£6m	£6m
Private family	£87m	£94m	£99m	£130m	£160m
Public family	£470m	£510m	£480m	£530m	£620m
<b>Other civil</b>					
Claims against public authorities	£20m	£23m	£22m	£33m	£32m
Clinical negligence	£90m	£100m	£57m	£79m	£68m
Community care	£13m	£18m	£22m	£23m	£25m
Consumer	£0.3m	£0.2m	£0.2m	£0.1m	£0.1m
Debt	£0.5m	£0.5m	£0.2m	£0.1m	£0.1m
Discrimination	£0.9m	£1m	£1m	£2m	£2m
Education	£2m	£3m	£2m	£3m	£3m
Employment	£0.04m	£0.04m	£0.01m	£0.04m	£0.01m
Housing	£43m	£41m	£31m	£30m	£33m
Immigration	£51m	£54m	£42m	£47m	£54m
Mental health	£44m	£46m	£41m	£44m	£47m

<sup>4</sup> <https://www.gov.uk/government/statistics/legal-aid-statistics-april-to-june-2023>

	2018–19	2019–20	2020–21	2021–22	2022–23
Miscellaneous	£4m	£4m	£3m	£4m	£6m
Personal injury	£1m	£2m	£1m	£0.7m	£0.5m
Public law	£13m	£13m	£13m	£20m	£23m
Welfare benefits	£0.3m	£0.1m	£0.3m	£0.1m	£0.09m
<b>Total</b>	<b>£850m</b>	<b>£920m</b>	<b>£830m</b>	<b>£950m</b>	<b>£1,080m</b>

Rounded to one significant figure below £1m, nearest £1m up to £100m, and nearest £10m above £100m

## Civil legal aid volumes

**Controlled work claims submitted:** controlled work is where authorisation to start work is given to providers and includes legal help (for example, early advice and assistance before court proceedings), family mediation, and controlled legal representation (for certain immigration and mental health matters).

	2018–19	2019–20	2020–21	2021–22	2022–23
<b>Family</b>					
Mediation assessments	26,295	30,305	30,892	30,247	28,533
Mediation outcomes	6,377	7,405	7,720	8,055	7,213
Private family	8,394	8,875	6,716	7,102	6,237
Public family	18,009	16,590	13,963	14,696	14,401
<b>Other civil</b>					
Claims against public authorities	1,466	1,523	1,400	1,389	1,161
Clinical negligence	4	7	2	1	2
Community care	1,664	1,736	1,377	1,308	1,655
Consumer	0	0	0	0	0
Debt	445	427	66	273	449
Discrimination	1,999	1,530	1,388	1,942	1,712
Education	1,815	2,121	1,368	1,256	1,179
Employment	0	1	0	0	0
Housing	69,172	59,813	19,724	37,719	48,850
Immigration	38,853	44,444	33,338	38,795	47,423
Mental health	35,365	36,892	33,546	33,331	33,122
Miscellaneous	56	46	38	70	61

	2018–19	2019–20	2020–21	2021–22	2022–23
Personal injury	4	6	3	0	0
Public law	1,146	1,488	1,742	2,107	2,543
Welfare benefits	350	224	135	138	76
<b>Total</b>	<b>211,414</b>	<b>213,433</b>	<b>153,418</b>	<b>178,429</b>	<b>194,617</b>

Figures for ‘mediation assessments’ include those with both parties in attendance (assessment meeting – together) and half of the attendance volume where both parties appear separately (assessment meeting – separate). Assessments where only one party agreed to mediation (assessment meeting – alone) are not included in the total.

**Licensed work certificates completed:** licensed work is where providers have to obtain a legal aid certificate usually issued by the Legal Aid Agency to get permission to start work (for instance, legal representation).

	2018–19	2019–20	2020–21	2021–22	2022–23
<b>Family</b>					
Private family	25,187	27,326	28,435	33,684	36,602
Public family	69,205	66,882	54,615	55,997	57,948
<b>Other civil</b>					
Claims against public authorities	703	923	772	1,064	1,081
Clinical negligence	754	640	289	412	368
Community care	1,246	1,450	1,641	1,528	1,648
Consumer	12	11	7	13	8
Debt	62	67	49	23	17
Discrimination	9	7	10	35	36
Education	34	31	30	72	69
Employment	6	1	2	4	1
Housing	7,466	7,727	5,200	3,789	4,285
Immigration	1,409	1,025	936	1,049	990
Mental health	1,040	1,105	1,198	1,215	1,574
Miscellaneous	530	548	497	532	513
Personal injury	28	39	5	14	12
Public law	852	853	929	1,200	1,282
Welfare benefits	6	10	9	7	8
<b>Total</b>	<b>108,549</b>	<b>108,645</b>	<b>94,624</b>	<b>100,638</b>	<b>106,442</b>

## Civil legal aid contracted provider numbers

The following table shows the number of contracted providers for each category at the end of each financial year shown. For each category, both providers and the number of offices those providers have are shown.

		2018–19	2019–20	2020–21	2021–22	2022–23
<b>Family</b>	Providers	1,032	994	967	906	862
	Offices	1,722	1,660	1,587	1,494	1,436
<b>Claims against public authorities</b>	Providers	80	75	71	66	62
	Offices	119	114	105	95	90
<b>Clinical negligence</b>	Providers	100	99	96	92	86
	Offices	175	172	165	158	153
<b>Community care</b>	Providers	94	89	83	77	71
	Offices	146	138	129	121	107
<b>Debt</b>	Providers	297	267	247	223	208
	Offices	482	438	410	374	343
<b>Discrimination</b>	Providers	0	17	16	18	16
	Offices	0	23	20	22	19
<b>Education</b>	Providers	0	8	8	12	11
	Offices	0	18	17	20	18
<b>Housing</b>	Providers	296	267	247	223	208
	Offices	481	438	410	374	343
<b>Immigration</b>	Providers	204	189	176	167	153
	Offices	305	282	264	249	224
<b>Mental health</b>	Providers	156	148	136	130	124
	Offices	181	176	160	153	143
<b>Public law</b>	Providers	110	99	94	87	81
	Offices	155	141	130	122	114
<b>Welfare benefits</b>	Providers	52	43	39	34	29
	Offices	71	58	53	47	37

Note that as providers and offices can have contracts in more than one category then the total number of providers and offices working in multiple categories is not the sum of the values shown here.



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