



Market Research Report: Civil Legal Aid

Economic Analysis Workstream

Bringing Ingenuity to Life

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1. Executive summary

1.1 Background to this report

The Ministry of Justice (MoJ) has commissioned PA Consulting (PA) to conduct market research of the civil legal aid market as part of the Economic Analysis workstream of Review of Civil Legal Aid (RoCLA). This report brings together evidence and analysis to assess the current functioning of the civil legal aid market (with specific regard to its efficiency and effectiveness) and its long-term sustainability. This assessment has been based on evidence gathered through a literature review, data analysis, workshops and wide-reaching stakeholder discussions, including two barrister roundtables, and a survey of civil legal aid providers, conducted by PA, which attracted responses from nearly 20% of the overall market (228 providers). The results of this survey are available as a separate report published on the GOV.UK website.¹ The report covered providers' views on what incentivises them to provide civil legal aid services; the current state of the sector; and priorities for improving the operation of the sector. We draw heavily on this analysis in this report.

The findings in this report benefitted from regular dialogue and constructive feedback from the MoJ and the Legal Aid Agency (LAA).

1.2 Limitations and caveats to our analysis

The civil legal aid market is highly complex, covering eleven separate categories of civil law across very different service areas, and involving the interaction of public sector bodies, regulatory authorities and for-profit (FP) and not-for-profit (NFP) provider organisations. Where possible and relevant we have sought to draw out insights for the different categories of law, types of service and regions that make up the market. However, the constraints of the study mean that it is not possible to examine every nuance and our starting point has generally been aggregate-level analysis.

The analysis does not distinguish between private and public family cases due to the quantity of data within the sector creating significant analytical complexity. However, it is recognised that there are some key differences between the nature of work within the family contract which impact on volumes, length of cases and legal aid spend. Private Law generally governs interactions between individuals, and legal aid is generally only available for victims of domestic abuse or where the child is at risk of abuse from the other party. Some other types of proceedings are also considered to be private law proceedings, as set out in legal aid regulations. Legal aid is available on a means and merits tested basis for the majority of private law cases. Public Law generally means that a local authority is involved, and is available on a non-means tested basis for certain matters, including proceedings related to whether a child should be taken into care.

The primary limitation of our analysis was gaps in the availability of some data. This included very limited robust quantitative evidence on the profitability of providers operating in the civil legal aid market – which limited our analysis in the area of equalities, social and distributional analysis. In the context of these evidence gaps, we have drawn our conclusions based on carefully weighing up the relative robustness of the evidence that is available. Whilst our Provider Survey methodology was designed to control as much as possible for bias, the nature of a survey means bias cannot be fully excluded.

¹ Survey of civil legal aid providers in England and Wales: Informing the Review of Civil Legal Aid. PA Consulting, January 2024. <https://www.gov.uk/government/publications/review-of-civil-legal-aid-provider-survey-report>

Where limitations exist for our analysis, we flag this clearly, including pointing out areas for further research. It should also be noted that there are several pieces of outstanding evidence that are in production but were not available to be analysed in this report. For instance, our analysis has drawn on an interim assessment from the Law Society on the profitability of providers within the Housing area of law, but this data is subject to change in the final study. Similarly, whilst some initial insights have been referenced from User Journey Social Research and Comparative Analysis workstreams of RoCLA, the final studies will provide additional evidence to inform the wider review.

1.3 Structure of the report

The remainder of this report is structured as follows:

- **Section 2 – Background, Scope and Policy Context:** summarises the civil legal aid context
- **Section 3 – Defining and mapping the market:** defines the service and geographic dimensions of the civil legal aid market ecosystem
- **Section 4 – Patterns of demand for civil legal aid:** assesses the evolution of demand in the civil legal aid market, explaining the factors driving demand and the future outlook
- **Section 5 – The supply of civil legal aid provision:** assesses the scope and scale of providers in the civil legal aid market, the level of capacity available amongst providers and their geographic distribution
- **Section 6 – Civil legal aid practitioners:** explores the labour market for civil legal aid in the context of the broader market for legal services
- **Section 7 – Pricing, payments and incentives:** explains price mechanisms and non-financial incentives playing out in the civil legal aid market
- **Section 8 – Market profitability and competitiveness:** establishes an economic framework for provider output decisions, assessing profits in the market, the competitive structure of the market, and entry and exit conditions
- **Section 9 – Efficiency and effectiveness:** establishes the dimensions of market efficiency and effectiveness and explores the extent to which the civil legal aid market is efficient and effective
- **Section 10 – Long-term sustainability of the market:** considers the medium to long-term outlook for the civil legal aid market in terms of the balance between demand and supply, the incentives and profitability of providers, and attractiveness for legal practitioners. It also identifies key priorities to improve the market's sustainability.

This report is accompanied by two annexes which cover the methodology we used in our accelerated evidence review and a list of sources.

1.4 Key findings

Ultimately, our findings provide support for a widely held view that supply in the civil legal aid market may not be fulfilling current demand from end-users in the system, and that there are structural barriers that limit the market's overall capacity and its health. Without policy reform and targeted funding increases, the civil legal aid market's sustainability will worsen over the medium to long term. Given that the effects

of policy measures often take time to appear, and replacing experienced staff who are likely to leave the profession also takes time, there is an urgent need to address the challenges that the sector is facing.

More specifically our review has drawn out the following key findings:

Some areas of the market show signs of decline over the last decade – with both demand and supply contracting.

Since the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) in 2012-13, because of changes to scope, the number of civil representation certificates granted has fallen by 29%, mediation starts have fallen 46% and legal help starts have fallen by 77%. To some extent, this fulfilled the purpose of the Act, to target access to civil legal aid to those who need it most and reduce the legal aid budget. However, the continued fall in demand in some categories (e.g. Claims Against Public Authorities and Community Care) suggests additional factors beyond LASPO have had an impact.

Meanwhile, the number of civil legal aid providers (as bases for service delivery) have fallen by around 40% since 2011-12, and by 15% between the last two procurement rounds for which data is available (2013-14 and 2018-19). Section 5 analyses how the change in number of providers compares across different categories of law. New providers have been willing to enter the market in those procurement rounds (for example, the total number of providers holding a contract increased by 4% in 2018-19), but those increases were soon eroded away by market exit within one to two years. Whilst LASPO and the drop in case volumes is a key driver of this decline in provider numbers, the continued contraction of providers in the post-LASPO period points to lack of incentives and some disincentives in the market. For example, between 2018/19 and 2023/24, 761 provider offices withdrew from offering civil legal aid services – equivalent to 30% of the civil legal aid provider office base in 2018/19. The most common reasons for giving up a contract, as reported by providers to the LAA, were commercial viability (43%), loss of key fee earners/supervisors (18%) and consolidation (17%).

It should be noted that, although provider and office numbers are a key indicator of the market's supply, they alone do not paint a complete picture of supply. A complete picture must account for the caseloads that providers deliver, their size and the proportion of their practitioners that do legal aid work (rather than private work). Some of these additional metrics are assessed in Section 5.

Of the 18% of Civil Legal Aid contract holders who completed our survey, the majority of providers reported that they are experiencing market capacity issues. The frequency of this reported challenge suggests the MoJ should prioritise measuring the capacity of the sector and its ability to meet end-user demand on an ongoing basis.

This decline in provider and office numbers feeds through to reported capacity challenges. Responses to our Provider Survey show that providers are experiencing high levels of demand (50% report experiencing 'Very High' or 'Overwhelming' demand). The pressure is more pronounced for providers serving clients in Immigration and Housing & Debt, where 83% and 65% respectively report 'Very high' or 'Overwhelming' demand. Differences are also seen for provider type and size, where 67% of NFP providers reported 'Very high' or 'Overwhelming demand', compared to 45% for FP providers, and 55% of smaller providers (1-30 employees) compared to 45% of larger providers (30+ employees). Recent LAA Capacity Reviews have found over a quarter of 'inactive' providers of legal aid in the housing area of law cited firm capacity issues or difficulties in recruiting staff as reasons for their inactivity.

Our Provider Survey also found that the providers reporting excessive demand turned away an average of 26 cases in the month before the survey² (when asked specifically about eligible cases, although eligibility likely will not have been confirmed) – with NFP providers struggling in particular (turning away

² Participants were asked about the number of cases turned away in the last month, the survey was conducted in September-October 2023, so the last month refers to August-September 2023.

39 cases on average). Providers highlighted the seriousness of this issue – for example, one respondent to our Survey noted that:

“We currently turn away over 90% of the people who seek our help due to a lack of capacity.”
Private practice organisation, West Midlands

However, an evidence gap is we do not know what happens to these end-users who are turned away, i.e. whether they are able to secure support from another civil legal aid provider. The Review’s User Research workstream does shed some light on this, reporting user experiences who sometimes take multiple attempts to secure support from a provider, with some not succeeding and resorting to representing themselves as a litigant in person or even resorting to unregulated legal provision.

There is also some evidence of variations in the availability of civil legal aid services across England and Wales, notably rural areas such as Devon, Sussex and Norfolk, where there are clusters of local authority areas with no or few provider offices starting cases, which is making it harder for end-users to access civil legal aid services. This may also exacerbate the problem of latent demand, discussed further in Section 4, where users find themselves unable to access civil legal aid due to a lack of provision.

Fee levels and structures are a high priority issue for providers.

There is reported high levels of dissatisfaction among providers in the market, with fees being the most pressing concern among providers surveyed. 88% of providers we surveyed are dissatisfied with the commercial framework for civil legal aid. This includes fee levels and fee structures.

Fees have not risen in most areas of the market since 1996 and many were cut by 10% following the implementation of LASPO, and this has led to a widening divergence against rates in the private sector and provider challenges relating to their financial viability.

Challenges with fee structures includes: the coverage of fees, the lack of which can contribute to civil legal aid work that is unbillable – Denvir et al.’s (2022) Legal Aid Census found that, for an average Fixed Fee case, for every 106 minutes invested by practitioners, only 60 minutes is financially remunerated, and a similar trend was observed for hourly rates; and the impacts of fee structures on administrative burdens for providers – fee are complex, consisting of 288 different fees and rates.

33% of providers surveyed reported making a loss, and the majority remain in the market for reasons other than profit.

Whilst it has not been possible to robustly assess profitability levels of civil legal aid providers, responses to our Provider Survey give an anecdotal insight. Among providers who reported their profitability levels, 45% reported that their civil legal aid work makes a profit, 22% break-even, and 33% are loss-making. When looking at the comparison of Family and non-Family areas of law, a lower proportion of providers doing Family work reported making a loss (25%), compared to non-Family (49%). Of the 45% of providers reporting positive profitability, the average profit margin stated was between 7-10%. This finding is reinforced by interim research commissioned by The Law Society which showed that in the Housing area of law, the majority of providers engaged were loss-making, whereas in Public Family Law the majority were profit making. Whilst this evidence should be treated with caution (explained further in Section 8), it does indicate the financial pressures that providers are likely facing, and it’s likely that challenges with profitability and in turn financial viability are a key driver of providers leaving the civil legal aid market and/or reducing their provision.

Over 1,200 providers of civil legal aid remain in the market and we understand from the Provider Survey that they are motivated by broader reasons other than profit. This includes social purpose and moral

consciousness, habitual factors and the role civil legal aid can play in financial management of firms (such as reliability of income and consistency of caseload). Of the reasons providers reported in the Provider Survey for operating in civil legal aid, moral consciousness was the most prevalent, at 79%.

Alongside fees being the headline pain point experienced by providers, recruitment, retention and administrative burdens are also high priority challenges for providers.

There is evidence that it is difficult to grow a career specialising in legal aid and the 2021 Legal Aid Census reported a declining practice in some specialised areas, such as private and public family law. For practitioners remaining in the market, a significant portion may be reaching the latter parts of their careers, which could pose a risk to the market's sustainability if these experienced practitioners retire without being replaced. Providers reported in our Provider Survey that it is difficult to attract graduates into civil legal aid, who are instead attracted by higher salaries and more structured career pathways within corporate and commercial law. This is supported by evidence from Denvir *et al.* (2022) and the Westminster Commission on Legal Aid (2021). At the same time, providers report high administrative burdens, including through payments and billing, interacting with LAA IT systems and certain challenges of working with end-users – such as completing eligibility checks and supporting end-users to gather the necessary documentation.

Government spending on legal aid has increased in recent years, with the average spend per case increasing in some categories of law. As a potential driver of this, evidence shows the complexity of individual cases has increased for providers.

Average funding costs for civil legal aid cases have increased over the last few years, which has gone hand-in-hand with the longer timeframes it is taking to resolve civil legal aid cases. Whilst there are particular concerns within specific categories of law (such as Immigration & Asylum, which has seen among the highest rates of provider exit and excess demand levels), these issues may point to wider issues within the civil justice system.

In summary, we conclude there are challenges around the market's efficiency and market effectiveness. The delivery of legal aid cases is often complicated for providers and for end-users to navigate, providers report high levels of bureaucracy, and subsequently administrative burdens may be contributing to poor financial viability of delivering civil legal aid services for providers.

1.5 The sustainability of the civil legal aid market

In Section 10 we consider a range of scenarios relating to the sustainability of the civil legal aid sector, having regard to the high-level of complexity at play. Based on the evidence presented in this report, we believe that continuing legal aid provision may not be viable for some of the providers we surveyed over the medium to long term. Our core scenario is for a continued erosion of the civil legal aid provider base that makes it increasingly difficult to meet demand. In 7 of the 9 scenarios of future sustainability of the market, we consider that **it is unlikely that future supply will be sufficient to meet future demand**. This will have substantial impacts on the efficiency and effectiveness of the future civil legal aid market, where remaining providers will be even more burdened, and more individuals would face challenges in securing support from a civil legal aid provider. This stark picture is supported by provider expectations - in our Provider Survey, **40% of providers stated that they will leave the market over the next five years if it remains unchanged**.

Based on our research and Provider Survey findings we have identified the following issues as priorities to address to help make the civil legal aid market more sustainable:

- **Fees have not increased in most areas of the market since 1996 and many were reduced by up to 10% following the implementation of LASPO.** The commercial / regulatory framework needs to

have more regard for the sustainability of the market and preserving the financial viability of providers. Alongside fee levels, which are unlikely to be covering provider costs in most categories of law, policy development should examine increasing the opportunity to recover costs at inter-partes rates, fee structures, and the coverage of fees (with providers reporting a sizeable proportion of their civil legal aid work is unbillable).

- **Providers struggle to recruit and retain skilled practitioners.** Government should shape a market and work-environment that is more conducive to building a high-quality civil legal aid workforce, which is progressively becoming a less attractive career option compared with other legal services, despite the motivation of tackling disadvantage and extending access to justice that applies to many prospective and current practitioners. This will require a sustained approach covering attraction, qualification, retention and progression, as well as strategies for mitigating the impending loss of experienced practitioners through retirement.
- **Providers and offices are exiting the market at higher rates than entry.** There is a need for Government to increase their understanding of the market's overall capacity to meet end-user demand, including individual provider-level capacity, and the MoJ should prioritise collecting this evidence on an ongoing basis. A more dynamic approach to commissioning could also boost supply in priority areas, alongside improvements in the commercial framework to attract new providers and retain existing ones.
- **What happens to individuals that try to engage a provider but get turned away?** Improving the understanding of this would help gain a better insight into the scale of latent demand and the degree to which end-users are underserved – albeit with the potential trade-off of higher administrative burdens on providers to inform it.
- **There are opportunities to reduce the disincentives being experienced by providers.** Administrative burdens are considered to be high by practitioners, with complex arrangements to satisfy in order to get paid, such as the 288 different fee types and rates applicable across civil legal aid. This is exacerbated by reported frustrations in interacting with LAA IT systems and decision-making. The LAA should consider the impact of administrative processes on providers to identify opportunities for streamlining, for example, through new digital interfaces, while maintaining proportionate controls and assurance of quality.

2. Background, Scope and Context

2.1 Background to RoCLA and the Economic Analysis workstream

On 5 January 2023, the Ministry of Justice (MoJ) launched the Review of Civil Legal Aid (RoCLA) to explore options for improving the long-term sustainability of the civil legal aid system.³ The Review is considering the operation of the system in its entirety, including how services are procured, how well the current system works for end-users and how civil legal aid impacts the wider justice system.

To support the work of the Review, there are four analytical workstreams covering:

1. Economic market research on the functioning of the civil legal aid market
2. Comparative analysis of systems in other countries
3. A series of data publications providing key descriptive information about the provision of civil legal aid services, including its current state and how it has changed over time. This includes data shared by The Law Society and Bar Council
4. Social research of user journeys

The MoJ commissioned PA Consulting (PA) to conduct the economic market research of the civil legal aid market. There were two main aims for this analysis:

- to assess how the civil legal aid market is currently working and identify its underlying problem areas
- to assess the long-term sustainability of civil legal aid across England and Wales.

2.2 Scope of the analysis

In this report we address both of the aims set out above. The report includes an assessment of the key market drivers which act as the foundations of our analysis: the structure of demand and supply, pricing, fees, incentives and barriers to entry/exit. We then build on this foundational analysis to assess the efficiency and effectiveness of the market as it operates today, as well as considering the outlook for the market in the future and its long-term sustainability.

Our assessment has been based on evidence gathered through: a survey of providers of civil legal aid, a literature review, analysis of key existing data (from MoJ, the Legal Aid Agency (LAA) and other sources), and extensive discussions with stakeholders inside and outside Government, including barrister roundtables. We have also benefitted from a series of workshop sessions with the MoJ to refine our analysis and test conclusions.

³ For more information on the Review of Civil Legal Aid, see the MoJ's webpage: <https://www.gov.uk/guidance/civil-legal-aid-review>

Provider Survey

We conducted an online survey with civil legal aid providers between 26th September 2023 and 18th October 2023.⁴ This survey sought to understand their experiences of operating in the sector, including their motivations for providing civil legal aid services and any challenges they may be facing.

All 1,246 civil legal aid providers on the LAA's database (as of 18th September 2023) were invited to complete the survey through direct email contact. Wider marketing strategies were also used to maximise survey completion, such as including the survey in relevant newsletters (including those of the LAA, The Law Society, Resolution Foundation and the Legal Aid Practitioners Group) and social media.

In total, 228 providers completed the survey, representing 18% of the LAA's database of civil legal aid providers at the point of initiating the survey. Coverage was achieved in all listed geographic regions, across a range of organisation sizes and across both for-profit and not-for-profit organisations. There was representation of all civil legal aid categories, and sufficient sample sizes to enable sub-segment analysis in Family, Housing & Debt, Public Law and Immigration & Asylum.

We employed robust quantitative research best practices to minimise any potential bias in the survey and all responses were quality checked and cleaned prior to analysis to ensure that the final report did not suffer from any illegitimate or duplicate responses (i.e. ensuring one survey response per provider organisation). We asked for the survey to be completed by a 'senior decision-maker who could reflect the views and experiences of their organisation', to help ensure the validity of results.

Literature Review

The literature review for our study was conducted in line with the principles of the Rapid Evidence Assessment (REA) methodology. This approach allowed us to systematically and efficiently evaluate the existing research and literature within a limited timeframe. Diverse information sources were then identified and utilised, including policy documents, academic research, institutional publications, and UK government data. The selected studies underwent a quality assessment based on their credibility, methodology, and relevance to the research questions. The full methodology and outputs can be found in Annexes 1 and 2.

Data analysis

Our report involved analysis of a variety of data from the MoJ, LAA and public datasets, including those derived from the Office for National Statistics (ONS). Our analysis has been limited to descriptive statistics and excel-based trend analysis, examining the relationships between variables using various statistical techniques. The findings were carefully reviewed to draw conclusions relevant to our study, while considering the limitations and scope of the data used.

MoJ workshops

A series of workshops were held with MoJ stakeholders to capture existing MoJ research on the civil legal aid market, to agree on the key research questions, analytical priorities and methods, and to share knowledge on evidence gaps.

Stakeholder discussions

We held extensive stakeholder discussions with key groups operating in the civil legal aid market and representative bodies, including the LAA, the Bar Council, the Legal Aid Practitioners Group (LAPG) and Young Legal Aid Lawyers (YLAL). We engaged with both for-profit and non-profit practitioners. These

⁴ GOV.UK. (2024). *Review of Civil Legal Aid: Provider Survey Report*. [online] Available at: <https://www.gov.uk/government/publications/review-of-civil-legal-aid-provider-survey-report>.

sessions were designed to foster dialogue and the exchange of ideas, ensuring that our data captured qualitative views of market participants.

To gain direct practitioner perspectives, we hosted two roundtables with barristers operating in England and Wales respectively (featuring 12 barristers). The discussions covered three overarching themes, including (1) incentives / appeal of civil legal aid work; (2) constraints and pain points; and (3) outlook and solutions.

Ethical consideration

The Provider Survey was subject to multiple rounds of review and refinement in collaboration with the MoJ, The Law Society, LAPG and the LAA. In advance of fieldwork, pilot testing was conducted with five provider organisations. Providers who took part in the pilot were asked to provide written feedback on the survey's questions and answer options, the relevance of language used, the contents of the survey email invitation, and the amount of time it took to complete. Providers completed the survey independently and subsequently provided detailed feedback by email. The providers who volunteered to take part in the pilot test included both not-for-profits and for-profit practices and held a range of civil legal aid contracts. As a result of the pilot, question phrasing was refined, additional survey functionality was incorporated, and messaging surrounding the survey was changed to better reflect the respondents' actual experiences.

All providers were invited to complete the survey through direct email contact. The entire list of 1,246 providers was contacted (rather than stratifying the sample) in order to increase the chance of a larger total sample size, which in turn increased the reliability of the findings from which to draw insight and conclusions. Three sets of reminder emails were sent to providers who had not yet completed the survey over the three-week fieldwork period. Wider marketing strategies were also used to maximise outreach and survey completion. The survey was included in relevant newsletters, bulletins and on social media (through the LAA, The Law Society, LAPG and Resolution).

The majority of providers (66%) completed the survey through the link emailed directly to them, and the remaining 34% completed the survey via the wider marketing strategies outlined above. All responses were quality checked and cleaned prior to analysis to ensure that the findings did not suffer from any responses of sub-standard quality. To ensure providers did not duplicate responses at the start of the survey providers were asked to give their organisation name and provider number. If an organisation was found to have responded to the survey more than once after comparing this data, then the survey in response to the direct email invitation was included. This is because the response to the direct email invitation could be more accurately attributed to an individual organisation (via the LAA database) whilst survey response's via the wider marketing strategies relied on the participant accurately recording their provider name/number. Taken together, these quality assurance checks resulted in 15 responses being removed from the total survey sample.

2.3 Limitations of the analysis

It is important to recognise the limitations of the analysis. The civil legal aid market is complex, covering eleven separate categories of law across distinct legal aid services (for example legal representation, legal help and family mediation), and involving the interaction of public sector bodies, regulatory authorities and for-profit and not-for-profit 'provider' organisations, operating as an integral element of the wider civil justice system. Whilst we have sought to draw out insights for different categories of law and services, the constraints of the study mean that it is not possible to examine every nuance.

As described earlier, our primary research has been limited to our Provider Survey and this has been complemented with secondary analysis of a wide range of other sources. There are significant evidence

gaps in the academic literature relating to the civil legal aid system in England and Wales: many aspects of the market have not been examined at all; some studies are now dated; and there are other studies that have researched small segments of the market but which may not be replicated across the market as a whole. In the context of these evidence gaps, we have drawn our conclusions based on carefully weighing up the relative robustness of the evidence that is available. Whilst our Provider Survey methodology has been designed to control as much as possible for bias, the nature of a survey means bias cannot be fully excluded and we seek to triangulate findings with broader evidence whenever this is possible within the remit of the study.

It should also be noted that there are several pieces of outstanding evidence that could not be provided to be analysed in this report:

- There is limited robust quantitative evidence available on the profitability of the civil legal aid market. Our analysis has drawn on an interim assessment from The Law Society on the profitability of providers within the Housing area of law, but this data is subject to change in the final study. This analysis is currently being finalised and extended to other categories of law. We also draw in perceptual evidence of profitability from our Provider Survey but this should be treated with significant caution. Our Provider Survey also highlights how provider experiences differs across categories of law, so we cannot read directly across from the Housing findings to different categories of law.
- Outputs from the MoJ's Data Sharing Agreement with The Law Society – which is designed to enable matching of MoJ civil legal aid billing and contract data with Law Society data – is not yet available and therefore our analysis is limited in the area of equalities, social and distributional analysis.
- Final outputs from the User Journey Social Research workstream are not currently available and therefore, findings cannot be fully triangulated against the experience of end-users in the market.

Finally, Section 3 sets out some of the key definitions, assumptions and exclusions underpinning our analysis.

3. Defining the market

3.1 Introduction

This section provides an overview of the civil legal aid market in England and Wales, how it functions today and the scope and boundaries of the market. It will underpin the analysis of the civil legal aid market in the following sections.

3.2 Overview of the civil legal aid market

The civil legal aid market in England and Wales provides publicly-funded legal advice, assistance, representation and mediation for eligible individuals in 11 areas of civil law.⁵

Before 1949, there was no uniform way to assist those who could not afford to access the courts or pay for advice from a lawyer. The Legal Aid and Advice Act 1949 aimed to make legal services accessible to those with limited financial means. Following this, there have been multiple reforms to the arrangements for delivering legal aid services, culminating in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), which frames the current operation of the market.⁶ LASPO introduced significant changes to reduce the Legal Aid budget and target public resources to support those most in need. LASPO reduced the scope of legal aid to matters listed in Schedule 1 of the Act, and areas of law removed from scope include:

- Most private family cases (such as divorce and child contact).
- All employment matters (with the exception of employment-related discrimination). Cases concerning victims of trafficking and modern slavery remain in scope under 'Miscellaneous Work'.
- All Welfare benefits except for legal help for Appeals to the Upper Tribunal and Higher Court if the case involves a point of law, and civil representation relating to council tax reduction schemes.
- All proceedings related to consumer matters.
- Most Housing cases which do not involve homelessness, disrepair or possession.
- Most areas of debt law (with three main exceptions: mortgage arrears resulting in immediate risk of possession; proceedings regarding orders for the sale of the home; and bankruptcy proceedings initiated by creditors where the estate includes a family home).
- Education matters not related to Special Educational Needs (SEN) or discrimination.
- Most clinical negligence claims (except where a child has suffered a severe neurological injury).
- Most non-asylum immigration matters.

⁵ The 11 categories of law are: Claims Against Public Authorities, Clinical Negligence, Community Care, Discrimination, Education, Family, Housing and Debt, Immigration and Asylum, Mental Health, Public Law, Welfare Benefits

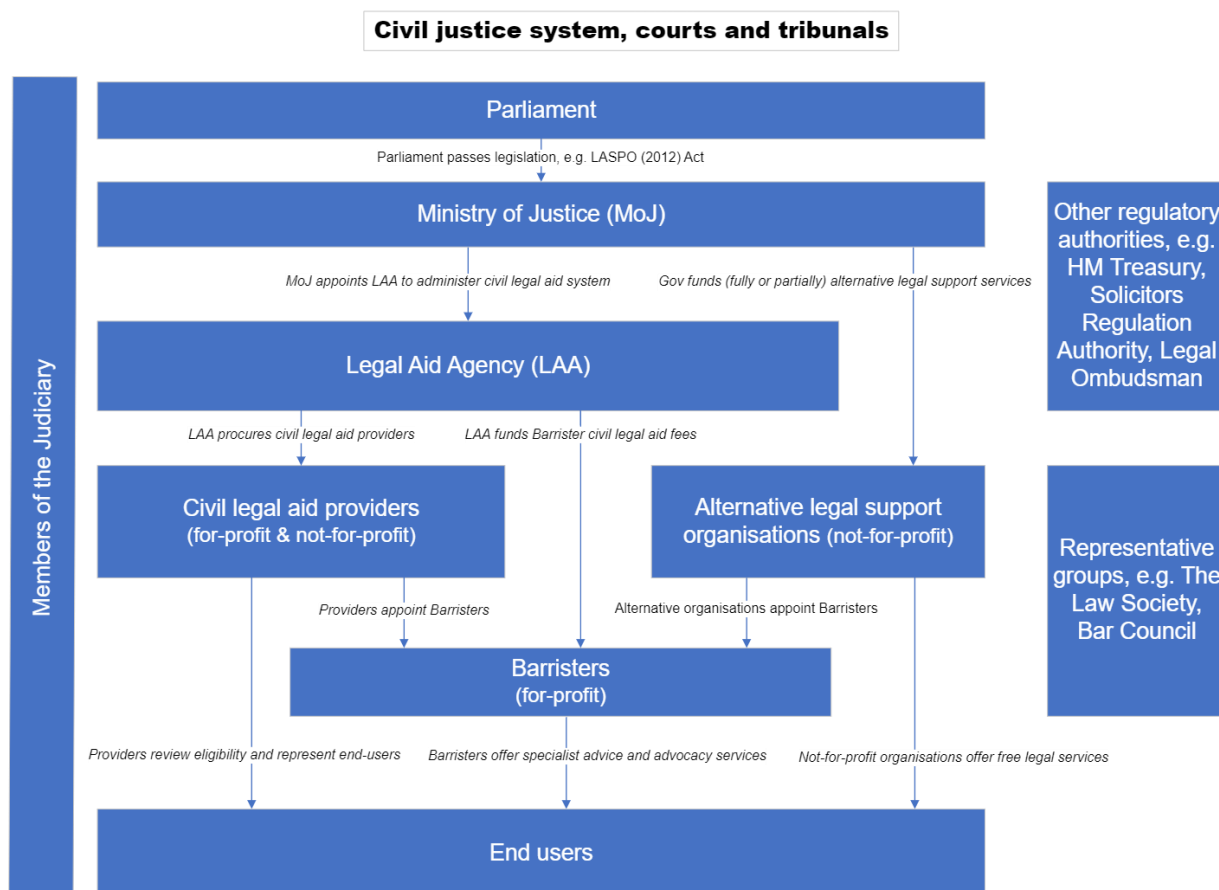
⁶ Legislation.gov.uk. (2023). Legal Aid, Sentencing and Punishment of Offenders Act 2012. [online] Available at: <https://www.legislation.gov.uk/ukpga/2012/10/part/1/crossheading/civil-legal-aid/enacted>.

LASPO introduced exceptional case funding (ECF) to provide legal aid for cases that do not fall within the scope of Part 1 of Schedule 1 of LASPO, but where the case poses a risk of breach to an individual's human rights under the Human Rights Act 1998 or retained EU law.

Main stakeholders in the market

The civil legal aid market is made up of the key participants shown in Figure 1 below.

Figure 1: Simplified representation of the main participants in the civil legal aid market



Source: PA analysis of HMG and MOJ publicly available information

Types of service

Work conducted by providers in the market is categorised either as **Controlled work** – where responsibility for determining eligibility is delegated to providers (see below) – or **Licensed work** – where the LAA assesses eligibility and authorises representation by granting a certificate to the provider. The two categories of work include the following services:

Controlled work

- **Legal help** (for example, early advice and assistance before court proceedings and help at court).
- **Family help lower** (to help negotiate a family dispute before the issue of proceedings or help in issuing proceedings to obtain a consent order once a family dispute has been settled).
- **Family mediation** (to help family members in a dispute reach agreement in relation to children and/or financial issues without going to court). **Help with mediation** is an additional service to provide advice and assistance in relation to family mediation.
- **Controlled legal representation** (legal advice and support from a solicitor in preparing a case plus representation from a barrister at tribunal for certain specified immigration and mental health matters).

Licensed (or Certificated) work

- **Family help higher** (in family cases for preparing the case and representing the applicant at court other than at a final hearing).
- **Legal representation** (for preparing the case and representing the applicant at court or tribunal).
- **Investigative representation** (legal representation limited to the investigation of the strength of the contemplated proceedings).
- **Other legal services** (exceptional cases).

Eligibility requirements

Generally, to be eligible for legal aid, applicants must satisfy the following tests:

- Have a legal matter that is **in scope** (listed within Schedule 1 of Part 1 of LASPO)
- Meet any relevant **merits test** (an assessment of the merits of a case, such as the likelihood of success and the benefit to the client)
- Meet any relevant **means criteria** (an assessment of financial eligibility, including income and capital means testing, or ‘passporting’ whereby certain individuals automatically qualify if, for example, they are in receipt of certain welfare benefits)⁷
- Meet any **evidentiary requirements** e.g. for private family cases, there are prescribed forms of evidence that indicate someone may be a victim of domestic abuse.

Decisions on eligibility may also require an applicant to pay some of the costs upfront, or pay back some of the costs if a successful outcome results in the applicant winning money or property through the case.

Our analysis relates only to the outcomes that may be experienced by *eligible* end users in the market. We do not consider the appropriateness of eligibility criteria, or assess the extent to which the civil legal aid system may address underlying legal need in England and Wales for those who may struggle to pay for legal advice and support.

The MoJ recently carried out a review of means testing for legal aid, which will lead to a significant expansion of the eligible population.⁸ This will be further explored in Section 4.

Legal problems that do not fall within the scope of LASPO can be funded by civil legal aid through the **Exceptional Case Funding** scheme – whereby a failure to provide legal aid would risk a breach of an individual’s human rights, under the European Convention on Human Rights or retained enforceable EU law. Under this scheme, applicants typically must still pass the relevant means and merits tests – although there are some exceptions, such as for inquests.

Process of applying for civil legal aid

The process of applying for civil legal aid is set out in Figure 2 below, using the example of Licensed Work. It illustrates the journey to access support from the perspective of an end user and highlights the multiple steps that users and providers navigate to secure civil legal aid funding.⁹ The Controlled Work process is more straightforward than the one for Licensed Work, reflecting the lower costs and simpler merits test usually applicable to these cases. The decision on whether to grant legal aid is delegated to

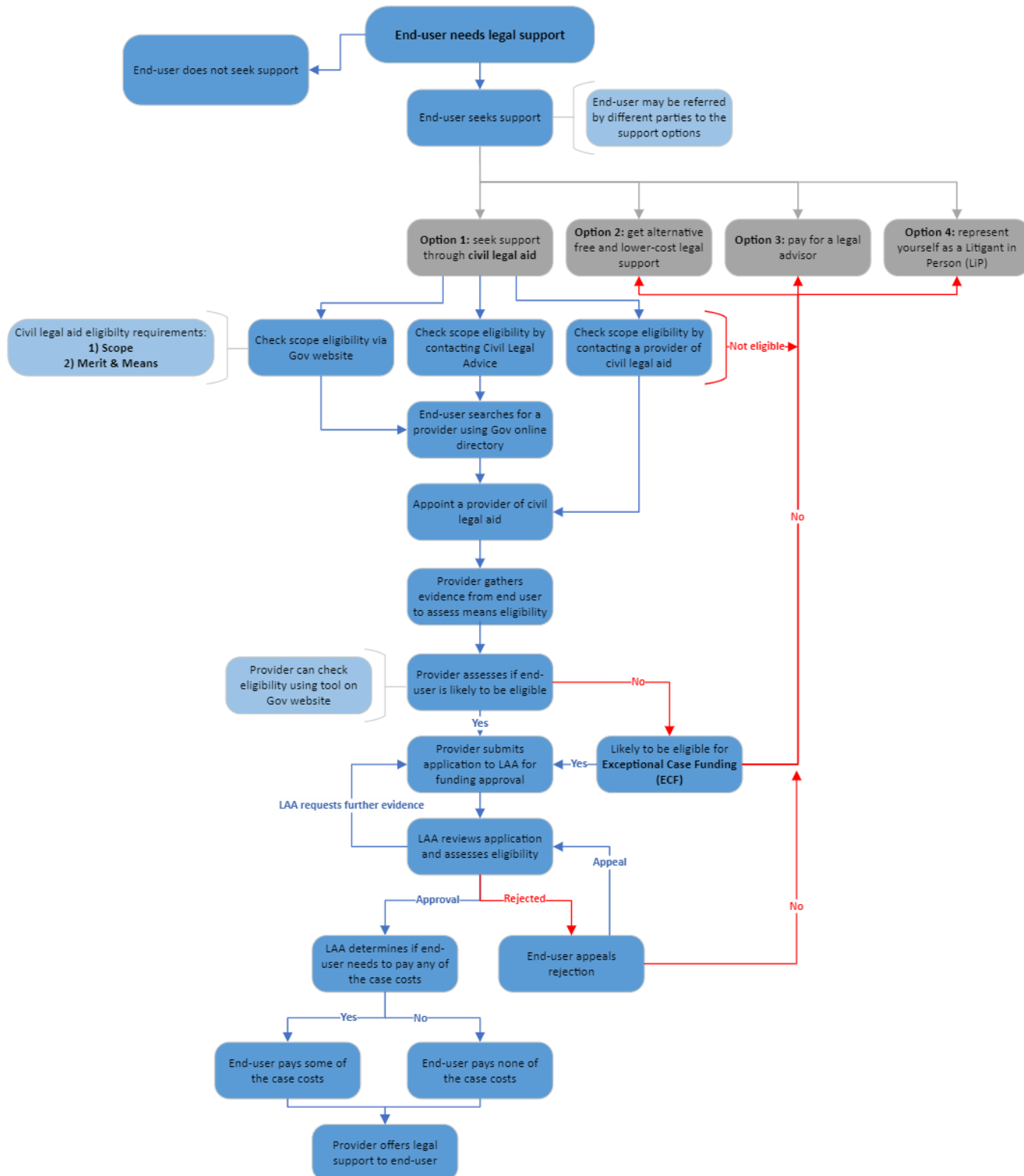
⁷ GOV.UK. (2023). *Civil legal aid: means testing*. [online] Available at: <https://www.gov.uk/guidance/civil-legal-aid-means-testing#:~:text=lf%20a%20client%20receives%20certain>.

⁸ For more information, see the MoJ webpage: <https://www.gov.uk/government/consultations/legal-aid-means-test-review>

⁹ GOV.UK / Legal aid [online]. Available at: <https://www.gov.uk/legal-aid>.

the provider instead of the LAA. Where a client is eligible for legal aid they will complete and sign an application form, which is retained on file by the provider. At the end of the case, the provider will submit a claim to the LAA for payment, usually without the need to send in accompanying documentary evidence. These claims are audited and assessed on a risk-based approach, rather than every individual claim being assessed by the LAA.

Figure 2: Flowchart explaining the end-user journey of applying for civil legal aid



Source: PA analysis of HMG and MOJ publicly available information. Note: This is an illustrative example based on Licenced Work. Providers assess eligibility directly for Legal Help services.

4. Patterns of demand for civil legal aid

4.1 Introduction

In this section, we establish how to define and measure demand in the civil legal aid context; assess the overall pattern of demand and how that has changed over time; and analyse the factors that influence demand. We use MoJ/LAA data on case volumes to understand the key trends, both in the immediate aftermath of the implementation of the LASPO Act, and subsequently. We also analyse this data across different civil legal aid services and categories of law, and draw on a wide range of literature to identify the factors that might explain these trends. We conclude by considering how these factors might evolve in the future and shape the outlook for case volumes in the civil legal aid market. We draw out a range of key findings and implications for the health and sustainability of the market from our analysis, for further triangulation with the “supply-side” analysis presented in Section 5.

4.2 Defining demand for civil legal aid

Key findings and implications:

- The best available measure of demand in the civil legal aid market is through analysing case volumes funded by the Legal Aid Agency.
- Funded cases have satisfied eligibility rules designed to target civil legal aid to those most in need, although those rules have not always kept pace with changing patterns of need.
- But, even within the eligibility rules, there is potentially a significant amount of additional demand for civil legal aid, which is not captured through these measures – referred to as ‘latent demand’.

Conceptual model for demand

‘Demand’ is a challenging concept to define in the civil legal aid context. It relies on individuals having both a qualifying legal need and satisfying financial eligibility. Various surveys seek to estimate the extent of need for legal aid. According to the 2014-15 Legal Problem and Resolution Survey (LPRS), 27% of adults reported experiencing one or more civil legal problems in the 18 months before the survey.¹⁰ More recently, the 2019-20 Legal Needs survey reported that 11% of adults had experienced a legal issue in a category of Family-related issues (including domestic violence, family break-up, adoption, education and child protection) in the previous four years.¹¹ The equivalent figures were 8% for a debt-related issue and 7% for a mental health-related issue.

These surveys indicate a substantial underlying ‘demand’ for civil legal advice, but not all of these individuals would be eligible for legal aid. International comparisons of civil legal aid frameworks indicate that governments typically attempt to limit civil legal aid to those in greatest need, to maintain control of the budget, and in this sense engage in a form of demand targeting. In general, therefore, we constrain our analysis of demand to in-scope and eligible demand in line with current legislation.

¹⁰ Franklyn, R., Budd, T., Verrill, R. and Willoughby, M. (2017). *Findings from the Legal Problem and Resolution Survey, 2014–15*. [online] Ministry of Justice, pp.9–11. Available at: <https://www.gov.uk/government/publications/legal-problem-and-resolution-survey-2014-to-2015>. Note that although this survey was published in 2014-15, the next survey is due to be published this year. People may have experienced more than one problem and be counted more than once in the percentages.

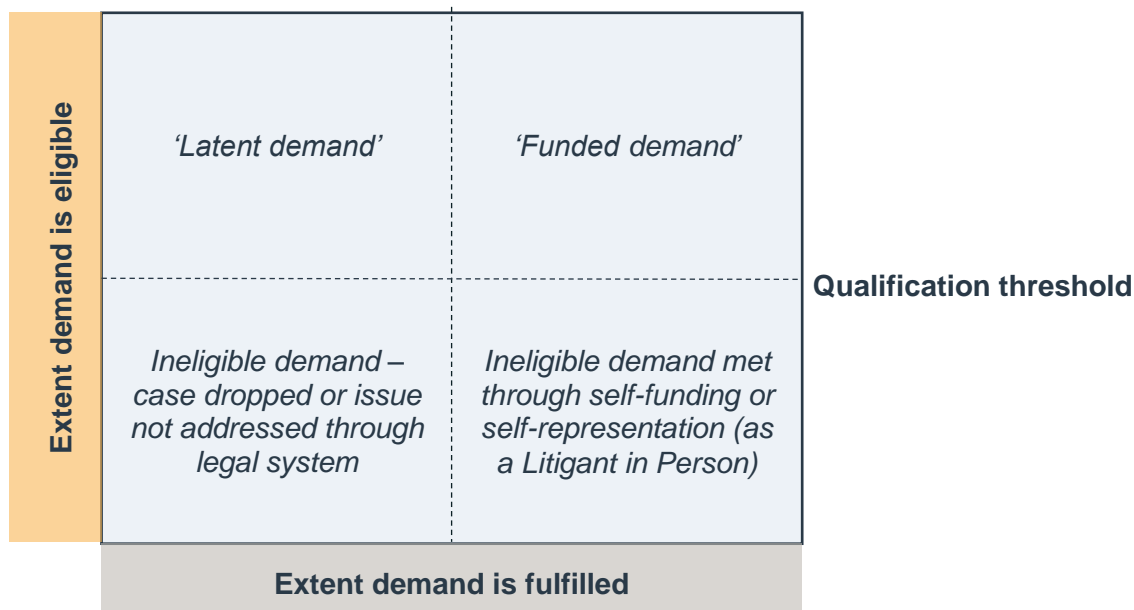
¹¹ *Legal needs of Individuals in England and Wales (Technical Report 2019/20)*, YouGov on behalf of The Law Society and The Legal Services Board.

However, we recognise that the operation of eligibility criteria could exclude otherwise legitimate demand. The 2022 Means Test Review (MTR) was an exercise to review and refine the eligibility criteria ensuring ‘*that those most in need receive help with paying their legal costs, and that those who can afford to contribute towards their legal cost do so.*’¹² As an example, the MTR sought to address the impact of increases in cost of living and inflation in defining the thresholds for affordability, which is expected to bring at least 2 million people into potential eligibility, highlighting the need to keep eligibility criteria under regular review to respond to changing economic circumstances.

Within that framework, the simplest way of measuring in-scope and eligible demand is through **case volumes** – the number of cases where an individual is in receipt of civil legal aid. Case volumes, however, will not capture end users who are eligible for civil legal aid but, for whatever reason, do not seek legal aid or are not able to obtain it. This could include individuals who are not aware of the civil legal aid system and the potential availability of support, or who assume that they will not be eligible for support. It could also include individuals who are deterred by the requirements of applying, including the potential need for some financial contributions, or who may not be able to find a provider with capacity to take on their case. These types of eventuality are consistent with the concept of ‘**latent demand**’ from broader economics literature.

Taking this together, we consider it appropriate in this study to delineate between two key forms of demand for civil legal aid: funded demand and latent demand (see Figure 3, below).

Figure 3: Conceptualising demand in the civil legal aid market



Source: PA analysis

Latent demand represents individuals who would be eligible for civil legal aid, but are not able to obtain this through limitations in the available supply of information or some issue in the application process, and is therefore not fulfilled (see Figure 4, below).¹³ **Funded demand** represents the actual number of individuals that successfully obtain civil legal aid for their case. **Ineligible demand** represents individuals who are not in scope or eligible for legal aid. Ineligible cases may be ‘fulfilled’, either through individuals self-funding or representing themselves, or not, if the case is dropped or the legal issues go unresolved. The analysis of ineligible demand is out of scope of this study.

¹² Legal Aid Means Test Review (justice.gov.uk), p5.

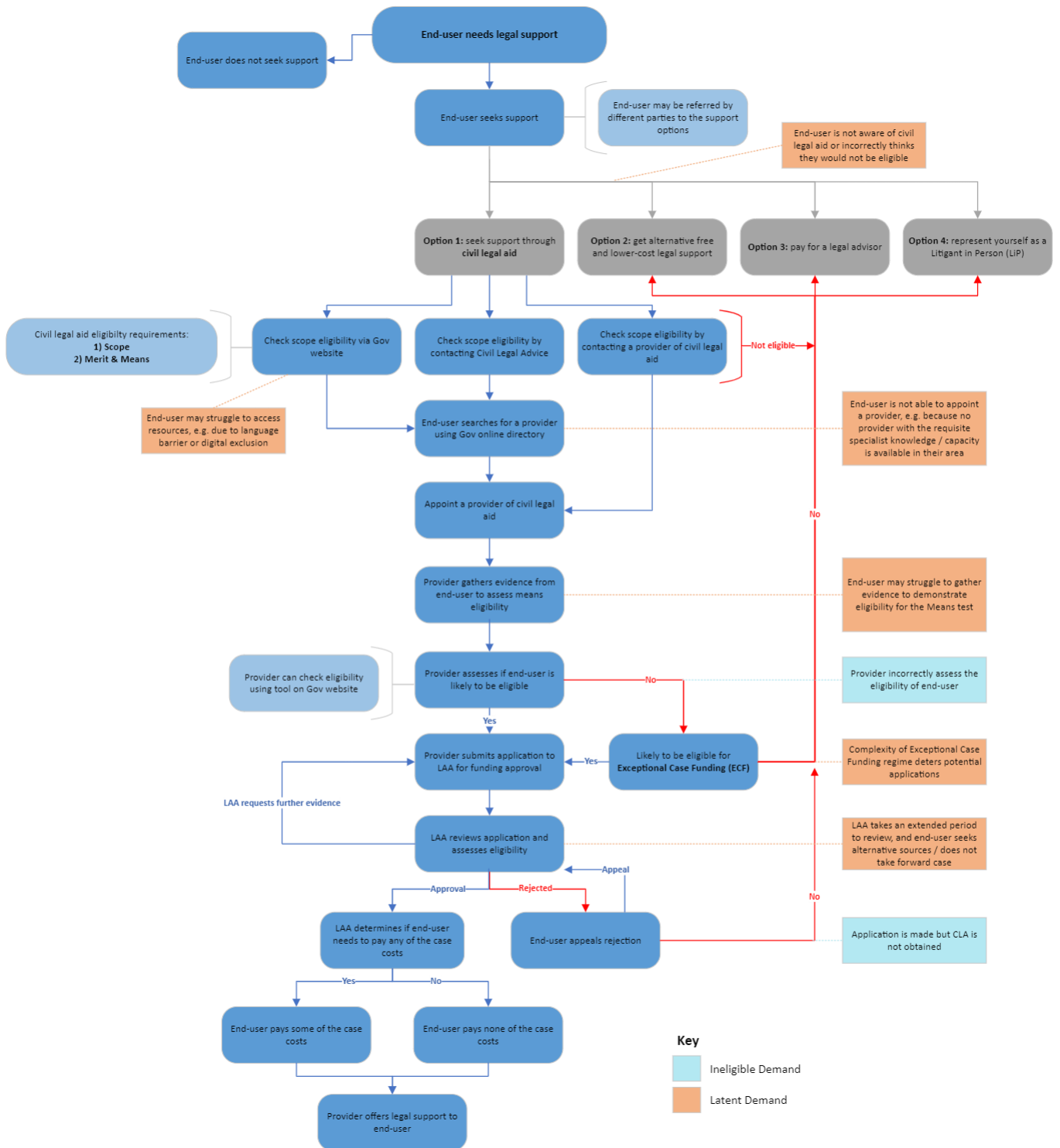
¹³ “People with unmet legal needs often end up contacting advice services at a later point when their circumstances have escalated into multiple or far more serious problems, which are much more difficult and complicated to resolve”, Denvir, C., Kinghan, J., Mant, J. and Newman, D. (2023). Legal Aid and the Future of Access to Justice. Bloomsbury Publishing.

Quantifying funded and latent demand

Given data availability, our quantitative analysis in the main body of this section will focus on funded demand. We discuss the relative merits of analysing this through either cases 'opening' or 'completing' in Section 4.3.

However, gauging the potential size of latent demand is important as individuals who are unable to obtain civil legal aid may not be able to gain access to justice. It is very difficult to estimate the size of latent demand, but our analysis of the end user journey can identify the points at which it is likely to manifest and the potential underlying drivers of this. The provider survey points to latent demand being prevalent but doesn't allow for quantification of the extent. In Figure 4, below, we revisit the end user journey introduced earlier in Section 3 and identify the points at which latent demand may manifest in the application process (see overlaid boxes).

Figure 4: Flowchart of the end-user journey applying for civil legal aid, showing user issues



Source: PA analysis of HMG and MOJ publicly available information.

How latent demand may manifest

This analysis highlights the range of points where latent demand could (conceptually) manifest, including:

- Lack of awareness of the civil legal aid system, potentially compounded by challenges in accessing information due to digital exclusion or language barriers
- Mistaken belief that they will be ineligible for support, either in scope or financial eligibility
- Inability for users to find a suitable civil legal aid advisor with available capacity

- Preference for another funding option, based on perceived ease of access to funds
- Difficulties for users in obtaining the appropriate evidence to support their applications for civil legal aid.

These issues are being explored in more detail in MoJ's User Journey Social Research workstream within RoCLA but, based on the evidence we have been able to identify, we elaborate below on the drivers of these forms of latent demand.

Information asymmetry: Whilst several measures have been adopted to improve access to information about civil legal aid funding (for example, the Civil Legal Advice (CLA) telephone advice service, MoJ's online 'Check if you can get legal aid' eligibility tool¹⁴ and some expansion of early legal advice, individuals may still be unaware of the system and how it works. A public information campaign, planned by the MoJ for 2020, was overtaken by the Covid-19 pandemic and did not happen. The 2019 Legal Needs Survey highlighted several problems of awareness.¹⁵ Fewer than half of a sample of adults in England and Wales (n=28,663) believed that legal aid was available for various in-scope categories of civil law (answers ranged from 42% to 24%). 9% thought legal aid was available for none of the categories. Among a smaller sample of people with experience of a contentious issue, identified as *likely to be eligible* for legal aid (i.e. with a qualifying legal issue and a household income below the gross income threshold of £32,000), but who did *not* use legal aid to pay for their advice, 85% did not think they were eligible.¹⁶ If potentially eligible users are not aware of legal aid, or do not believe they are eligible, they may be unlikely to seek legal support.

Direct and indirect costs: In deciding to pursue their case, end users may weigh the various costs in doing so (e.g. direct costs, individuals may be assessed by the LAA as eligible for civil legal aid to pay a monthly contribution towards their legal aid costs or a capital contribution; or indirect costs such as time spent attending proceedings or the expected emotional harms), against the benefits that may result from resolving the case. If costs are high compared to the potential benefits users may voluntarily no longer pursue their cases.

Market provision: Section 5.5 highlights the capacity challenges that providers are experiencing in the market today. Our Provider Survey, for example, found that providers which experienced a high or very high level of demand (80%) reported turning down an average of 26 cases (for whom eligibility had not yet been assessed) in the month preceding the survey.¹⁷ This trend is corroborated by anecdotal research from the Public Law Project (2023),¹⁸ which indicated that charities across England and Wales took, on average, 16 attempts before securing a legal aid lawyer for refugees and asylum seekers. Otherwise, the anecdotal evidence is in general terms, rather than relating to specific areas of law. For example, a client coordinator with the Community Law Partnership described the process of deciding which cases to take on: "*All of these cases are desperate. We have to decide which case is the most desperate. [We] have to do it because there are not enough of us.*"¹⁹ If users cannot find a suitable

¹⁴ civil-eligibility-calculator.justice.gov.uk. (n.d.). *Civil Legal Aid Eligibility Calculator*. [online] Available at: <https://civil-eligibility-calculator.justice.gov.uk/>.

¹⁵ Legal needs of Individuals in England and Wales. (n.d.), p.107. Available at: <https://legalservicesboard.org.uk/wp-content/uploads/2020/01/Legal-Needs-of-Individuals-Technical-Report-Final-January-2020.pdf>.

¹⁶ The income threshold is £31,884 and varies based on number of dependent children in household. Individuals may still not be eligible as there are other requirements to pass, as noted in Section 3.2. The methodology of the survey identified 12 types of legal issues as eligible for legal aid. Some matters within the 12 types of legal issues may still have been out of scope, so some individuals responding may have been correct that their issue was out of scope.

¹⁷ This figure varies by type of organisation, geography and size of provider. This breakdown is covered in Section 5.5 of the Report.

¹⁸ Rourke, D., Cripwell, E., Summers, J., Hynes, J. and Project, P. (2023). *Access to immigration legal aid in 2023: An ocean of unmet need*. p.9. [online] Available at: <https://publiclawproject.org.uk/content/uploads/2023/09/Oceans-of-unmet-need-Sep-2023.pdf>. Note: it is not clear how representative the results are as the report does not specify survey sampling information.

¹⁹ <https://www.lawgazette.co.uk/news-focus/news-focus-laspo-at-10-can-the-damage-be-undone/5115627.article>

provider or are unable to access an alternative source of advice (such as the CLA helpline²⁰), or funding route, they may drop out and not progress their application for civil legal aid.

Time lags: There are some time lags inherent in the application process. It may take time for providers to check the eligibility of the client and to make an application for civil legal aid, particularly if the end user does not have all the required details (such as financial information) readily available or needs to obtain the required evidence. For Controlled Work, the decision on eligibility is made by providers, meaning that the case can start as soon as the client is found to be eligible. For Licensed Work, once an application has been submitted, the LAA aims to process 85% within 20 working days.²¹ Over the past ten years, the LAA has successfully met this target, with an average of 95% processed to time.²² Nevertheless, some applications may take longer to process, particularly in complex cases (e.g. immigration judicial reviews) and for those that involve Exceptional Case Funding (where the LAA target is to process 85% within 25 working days).²³

These issues have the potential to interact and be self-reinforcing. When users require additional support to understand the civil legal aid process due to information asymmetry, this may add more delays into the process to provide such advice and increase the costs incurred by providers. How far these issues might be the result of trends in provision are explored in more detail in Section 5. The materiality of these issues in driving market efficiency and effectiveness outcomes will also be further explored in Section 9.

4.3 The evolution of case volumes – legal aid services

Key findings and implications:

- LASPO significantly narrowed the scope of civil legal aid which caused a major fall in case volumes post 2012-13.
- Civil representation and mediation cases have largely stabilised at a much lower level.
- The legal help market was declining gradually in the years prior to LASPO, but has declined at a faster rate since then, and this may be because providers find it less profitable.
- The continued fall in demand in some areas suggests other factors beyond LASPO have had a large impact (such as legislative, policy or economic factors).

In this sub-section, we assess funded demand across different civil legal aid services (civil representation, legal help and mediation) using MoJ/LAA case volume data.²⁴ It is possible to analyse case volumes through either cases that are started in a particular year, or cases which are concluded and closed. We consider cases started to be a better measure of demand in the system, as opposed to cases completed. This is because 0cases closed will capture a time lag – representing the duration of the cases, while cases started will indicate the ongoing funded demand. In Section 5 however, we will use cases closed to inform supply, as it gives additional information such as average costs and case length.

²⁰ This service does not cover all in-scope categories of law, e.g., immigration and asylum.

²¹ The providers carry of the means test assessment for controlled work (legal help). The LAA is responsible for the assessment for licenced work.

²² LAA annual report and accounts for the financial years 2013/14 – 2022/23. Available at: https://www.gov.uk/search/transparency-and-freedom-of-information-releases?parent=/crime-justice-and-law/legal-aid-for-providers&topic=4919a97c-3249-496c-8485-b7c8d36d6ef0&content_store_document_type%5B%5D=corporate_report&organisations%5B%5D=legal-aid-agency&order=updated-newest

²³ Further information on LAA processing time targets is available at: <https://www.gov.uk/guidance/civil-processing-dates>.

²⁴ Given the significant differences in the volumes of cases recorded across the three areas of support, we do not seek to combine them in an overall index.

More specifically, for legal help and mediation, we use the numbers of matter starts and mediation starts respectively, while for civil representation, we use the number of certificates granted. Our analysis covers two time periods:

- 2010-2011 to 2022-2023, which includes pre and post LASPO volumes and therefore allows us to understand the big-picture impacts from LASPO; and
- 2014-15 to 2022-23, to isolate the “LASPO effect” in the data and identify the other factors that have impacted case volumes in subsequent years.

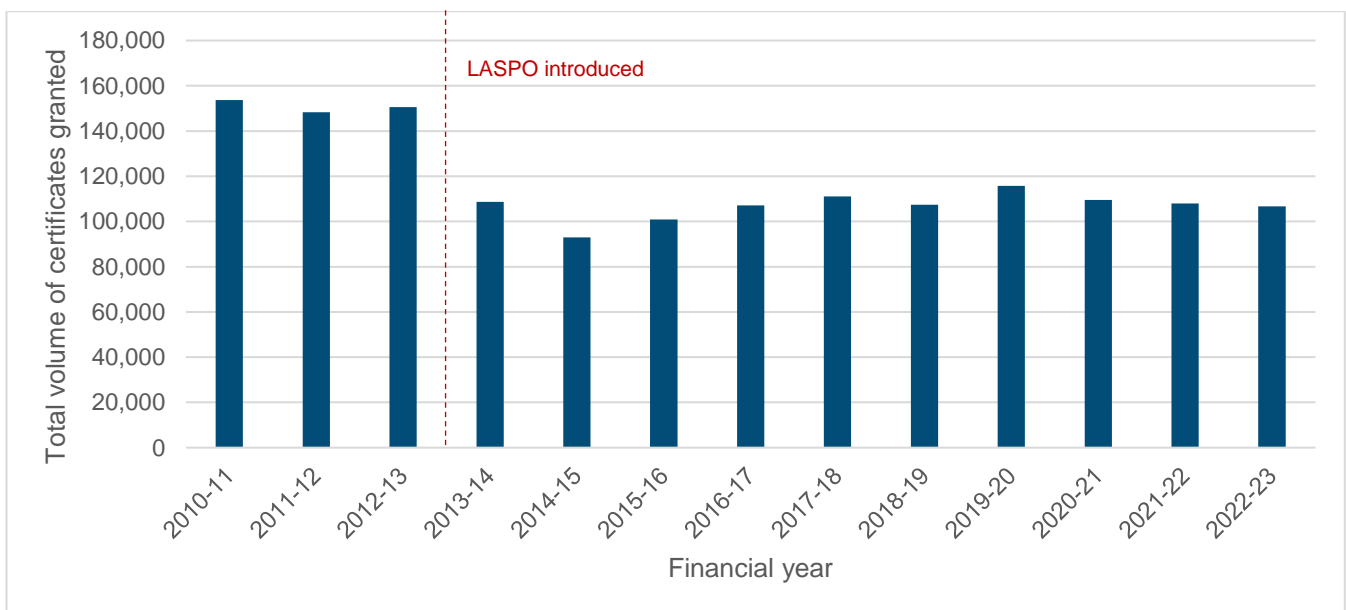
To explain the trends observed, we draw on subject matter expertise from the legal aid sector, alongside broader literature (in particular, the 2019 Post-Implementation Review²⁵ and The Law Society’s 2021 Civil Legal Aid Review²⁶), together with insights from our Provider Survey. It is also worth noting that Covid-19 had a significant impact on the legal system and demand has not yet returned to pre-Covid (19-20) levels, despite gradual increases in case volumes.

Civil representation

Civil representation covers ‘representation by solicitors and barristers for civil cases, which could go to court’.²⁷

Figure 5 below shows that from 2010-2011 to 2022-2023, funded demand for civil representation fell from approximately 153,600 cases to around 106,700, equivalent to a decrease in cases of around 31%. In the two years following the introduction of LASPO in 2012-13, there was a 38% fall in civil representation certificates granted, reflecting the reduced scope brought in by the Act.

Figure 5: Civil representation: total volume of certificates granted, 2010-11 to 2022-23



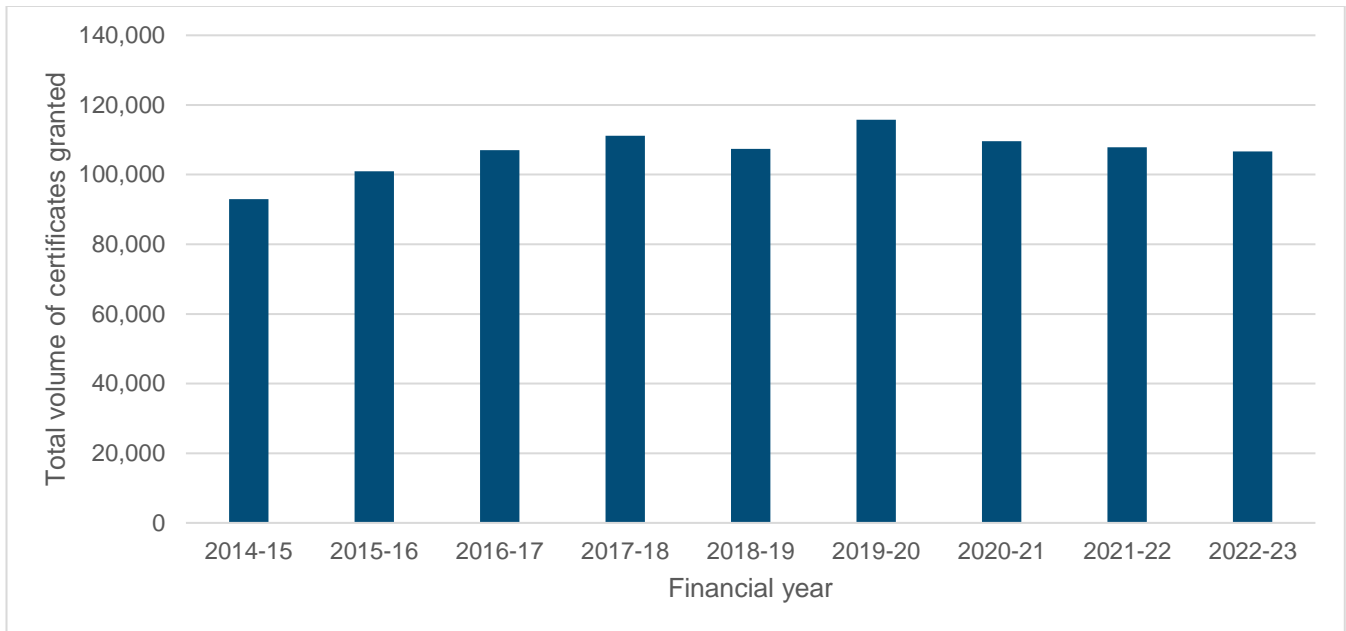
²⁵ Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). (2019). Available at: <https://assets.publishing.service.gov.uk/media/5c5b3b2b40f0b676c362b4e0/post-implementation-review-of-part-1-of-laspo.pdf>.

²⁶ www.lawsociety.org.uk. (n.d.). Civil legal aid: a review of its sustainability and the challenges to its viability. [online] Available at: <https://www.lawsociety.org.uk/topics/research/civil-sustainability-review>.

²⁷ GOV.UK. (2023). Legal aid statistics: January to March 2023. [online] Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2023>.

Figure 6 below indicates that the market has broadly stabilised, and caseloads have increased since 2014-15, with some annual fluctuations in case volumes. A slight overall increase in certificates granted is seen over the period (15%), rising from around 93,000 in 2014-15 to around 106,700 in 2022-23.

Figure 6: Civil representation: total volume of certificates granted, 2014-15 to 2022-23



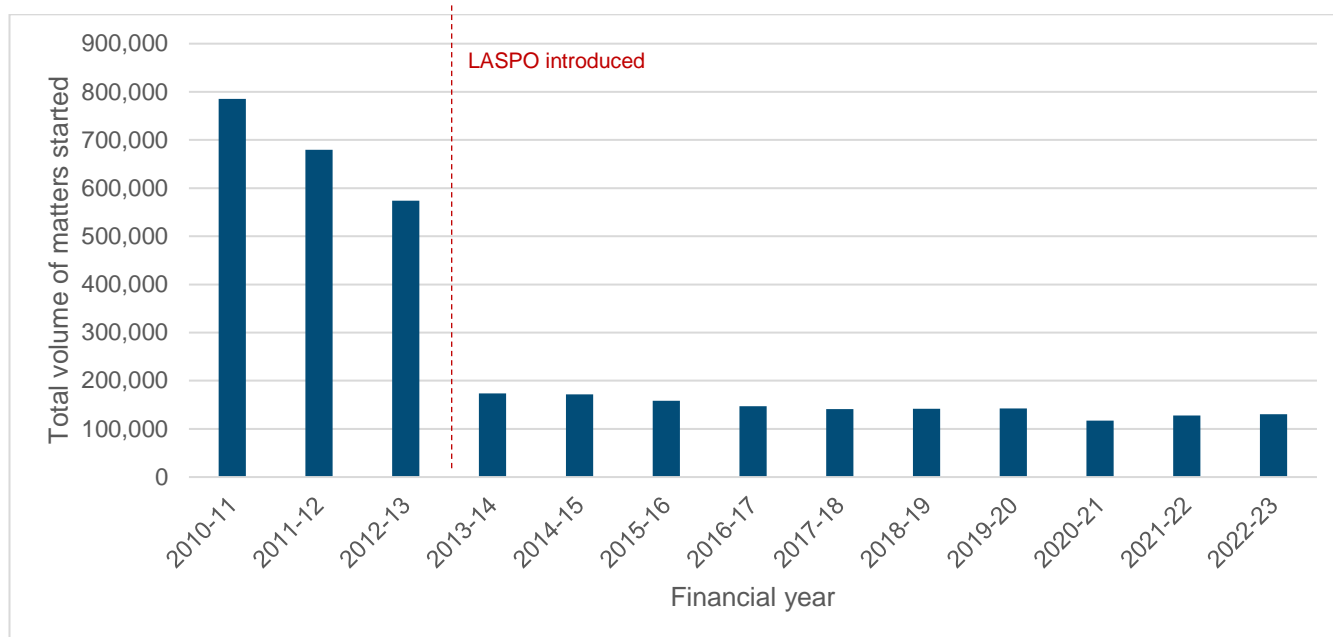
Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 6.2.

The Post-Implementation Review of LASPO (PIR) suggests that the annual fluctuations seen between 2013-14 and 2018-19 can be explained through two factors. Firstly, the higher residual complexity of cases following LASPO, which often take longer to resolve, results in more inconsistent data, with some time periods recording more matter starts than others. Secondly, external factors like economic conditions and changes in the wider legal market (e.g. consolidation of providers, expansion of pro bono work and Conditional Fee Arrangements) impact both demand and the available provision of legal aid services. Since 2019-20, civil representation volumes have declined and this may be better understood by exploring each category of law (see Section 4.4, below).

Legal help

Legal help refers to initial legal advice received by end users at the start of their cases. Figure 7, below, shows that from 2010-2011 to 2022-2023, funded demand for legal help fell from approximately 785,400 matters to 130,800, equivalent to a decrease of around 83%. It should be noted, however, that the bulk of the drop in demand came from a few categories of law, such as Family, Housing & Debt and Welfare Benefits. This is explored later in Section 4.4 where we explore demand by category of law.

Figure 7: Legal help: total volume of matters started from 2010-11 to 2022-23



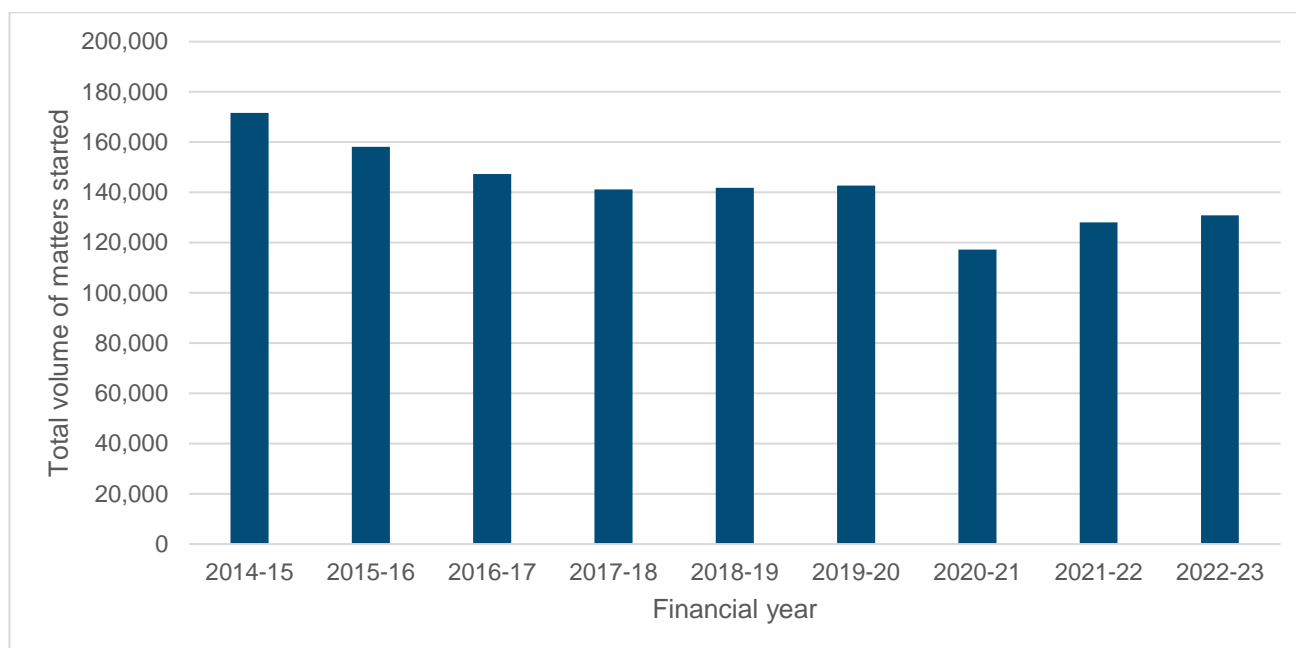
Source: GOV.UK. (2023). *Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 5.1.*

The biggest reduction was seen in the two years immediately following the introduction of LASPO (70%), illustrating the impact of reduced scope for legal help services. However, a steep decline in legal help services can also be seen before this, in both 2011-12 and 2012-13. The PIR provides a number of potential explanations for this decline, including the introduction of new civil legal aid contracts in 2010 (prior to which providers may have ‘run down’ work if they were not intending to re-tender), a programme of improved financial stewardship by the then Legal Services Commission (LSC), who in 2010-11 began issuing more contract sanctions to providers and requiring more conclusive evidence of financial means from prospective end users²⁸, reductions in calls to the CLA helpline – which had a knock-on impact on face to face referrals, reduced funding to the not-for-profit legal advice sector and behavioural responses in anticipation of LASPO.

Figure 8, below, sets out case volumes from 2014-15 to better assess the trends beyond the initial impact from LASPO, and this indicates a continued steady decline, with cases falling from approximately 171,600 in 2014-15 to 130,800 by 2022-23 (a reduction of around 24% over this period). The Covid-19 pandemic saw temporary closure of some court and tribunal buildings as well as temporary suspensions of evictions and repossessions, impacting on case volumes during the period analysed.

²⁸ This was largely in response to the National Audit Office requiring qualification of LSC accounts due to overpayments made by the LSC to solicitors estimated at £25million. [C&AG Report on Accounts: Community Legal Service Fund and Criminal Defence Service accounts 2008-09 - National Audit Office \(NAO\) report](#)

Figure 8: Legal help: total volume of matters started, 2014-15 to 2022-23



Source: GOV.UK. (2023). *Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 5.1.*

The decline in legal help services contrasts with the largely stable civil representation and mediation side of the market (explored later in this section). The PIR suggests that the decline between 2013-14 and 2018-19 might be explained by a range of factors, including the 10% fee reduction on legal help rates (that was implemented as part of the Legal Aid Review just before LASPO)²⁹ and strategic shifts within providers who were selecting work with more potential to offset reduced legal aid rates and ensure financial sustainability.³⁰ Legal help volumes have fallen further since 2019-20, particularly in 2020-21, which is likely to be related to disruption caused by the Covid-19 pandemic. The increased complexity of cases/matters noted in the PIR, alongside flat regulated fee levels (explored in Section 7) are likely contributing to the continued overall decline in matter volumes. Verbatim responses from our Provider Survey provides further anecdotal evidence that some providers avoid doing legal help due to the difficulties in making this work commercially viable:

“Legal help is not cost effective...it is a “loss leader” for doing work.” For-profit organisation, North-East

“The need for our services far outstrips the number of workers we have in place. We need more caseworkers, but legal help rates make this difficult. The only option is to cherry pick cases.” Non-profit organisation, South-West³¹

“Legal help is massively time consuming and over audited for such low fees. Many firms just don’t do it, so clients cannot get advice.” For-profit organisation, South-East

Mediation

Mediation is a confidential process that involves appointing an independent and impartial third person to help parties talk through issues, negotiate, and come to a mutually agreeable solution.³² Legal aid funds family mediation as a separate contract within family. However, the costs of mediation can be claimed as part of civil legal aid in other categories, although this may need to be apportioned between the parties.

²⁹ The LAR (Legal Aid Review) fee change, introduced prior to LASPO included a 10% reduction of all fees, except for family mediation. Section 7 highlights how legal help rates are the lowest rates available to providers compared to civil representation and mediation services and so an equal reduction in rates may have had a disproportionate impact on these services.

³⁰ It’s important to note that ‘cherry-picking’ work is not permitted by LAA contracts.

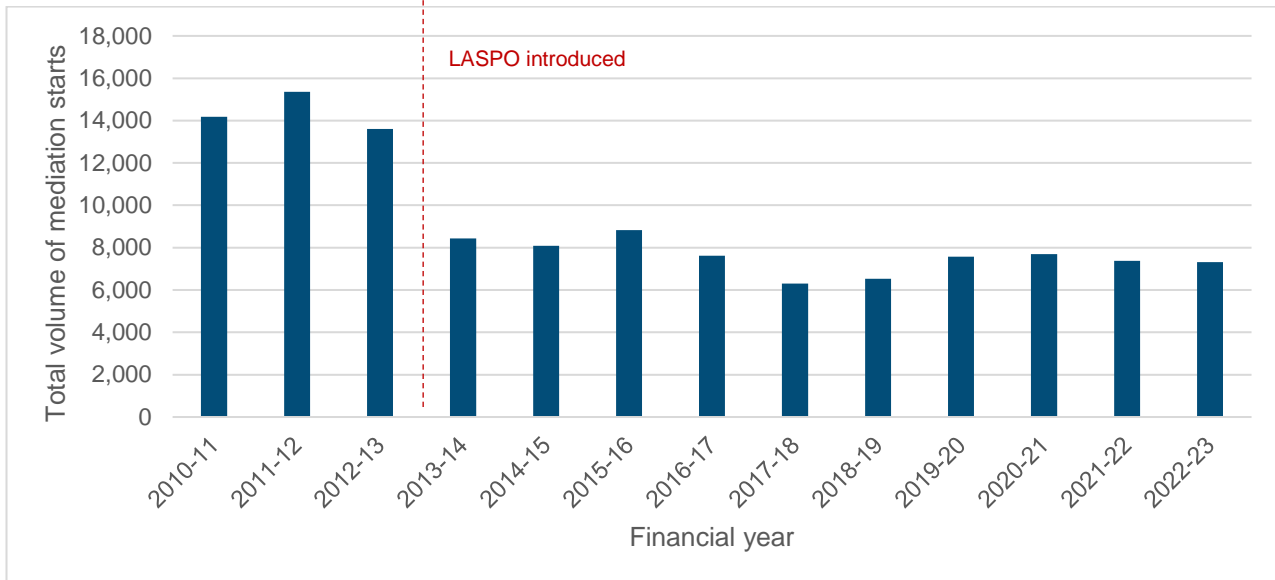
³¹ On the face of it, this approach is not permitted by LAA contracts, although the precise circumstances would need to be better understood.

³² GOV.UK. (n.d.). A guide to civil mediation. [online] Available at: <https://www.gov.uk/guidance/a-guide-to-civil-mediation#what-is-mediation>.

Figure 9 shows that between 2010-2011 and 2022-2023, mediation case volumes fell from around 14,200 to around 7,300. This is equivalent to a decrease in cases of around 48% over this period.

The sharp fall in mediation cases in 2013-14 reflects the narrowing of funding for legal aid providers for initial family advice, which included referring clients towards mediation.

Figure 9: Mediation: total volume of mediation starts, 2010-11 to 2022-23



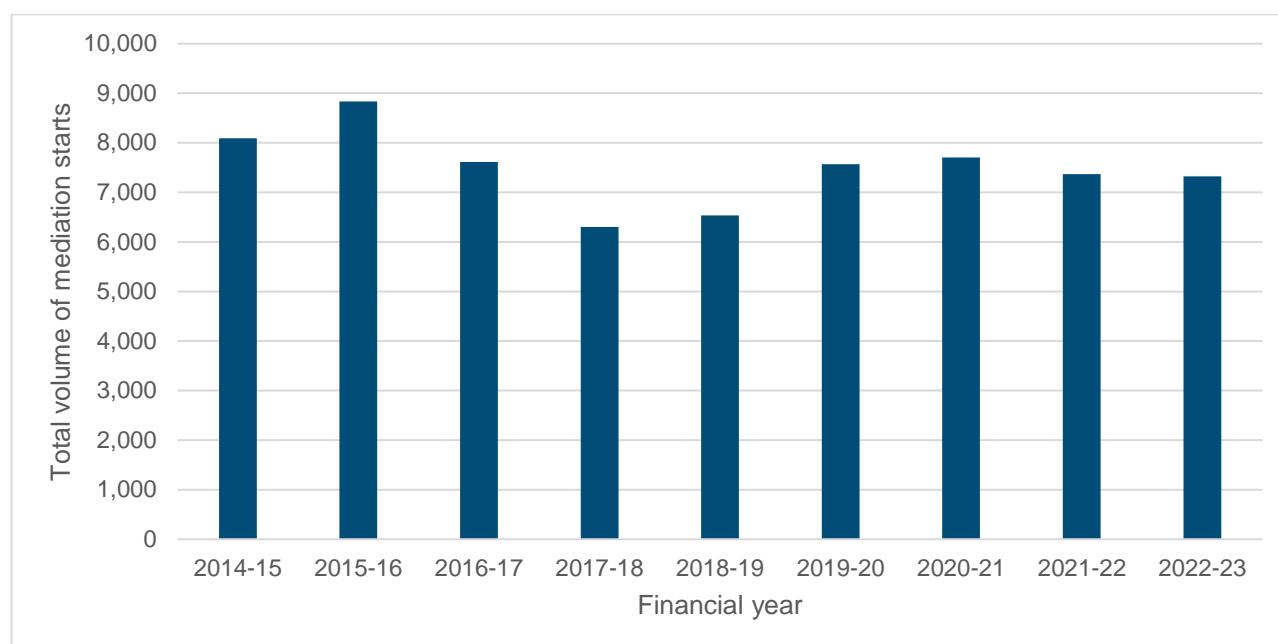
Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. *legal-aid-statistics-tables-jan-mar-2023*. Table 7.2.

Figure 10, below, sets out mediation volumes from 2014-15 onwards and this shows that the market continued to contract up until 2017-18, followed by a slight recovery in recent years. Overall, the number of mediation cases have seen a slight fall over this whole period, from around 8,100 cases in 2014-15 to 7,300 cases in 2022-23, equivalent to a 10% reduction.

The PIR states that the continued reduction in mediation volumes between 2014-15 to 2017-18 went together with a rise in adversarial litigation in private family law and suggests this could be driven by factors including personal preferences moving away from mediation, reduced awareness of mediation as an option, and its perceived effectiveness. The slight recovery in mediation volumes from 2018-19 may have been influenced by a growing policy focus across the civil justice system on encouraging the role of mediation, such as introducing automatic referrals to mediation for small claims disputes and introducing the Family Mediation Voucher Scheme.³³

³³ GOV.UK. (2022). Increasing the use of mediation in the civil justice system. [online] Available at: <https://www.gov.uk/government/consultations/increasing-the-use-of-mediation-in-the-civil-justice-system>.

Figure 10: Mediation: total volume of mediation starts, 2014-15 to 2022-23



Source: GOV.UK. (2023). *Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 7.2.*

It is clear from the sharp reduction following LASPO and levelling out of volumes across legal help, civil representation and mediation that a significant amount of demand has left the civil legal aid system over the last decade. However, it is less clear where this demand may have gone.

It is plausible that some of this demand may have shifted to the broader civil justice system, with cases/matters that previously would have qualified for civil legal aid now proceeding without it. Individuals may have instead found alternative funding sources (such as taking up a CFA), used private funds or represented themselves. It is difficult to compare private and publicly funded case volumes due to underlying differences in the nature of cases, as well as a lack of evidence and data around private work, but in Section 4.4, we analyse the family area of law and the extent to which a fall in publicly funded family cases may have led to a rise in privately funded family cases.

Any rise in individuals representing themselves as Litigants in Person (LiPs) may be particularly concerning because of the lack of formal legal advice these individuals receive. Data on civil cases (excluding Family cases) from the January to March 2023 quarterly civil justice statistics, covering the period 2013-2022, shows that the proportion of defences where neither the claimant nor defendant had legal representation has remained fairly steady, varying between 14% and 20%.³⁴ The extent to which a rise in LiPs can be observed, and the potential implications for the efficiency of the civil justice system, is examined further in Section 9.

³⁴ GOV.UK. (n.d.). *Family Court Statistics Quarterly: January to March 2023*. [online] Available at: <https://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-january-to-march-2023>.

4.4 The evolution of case volumes – categories of law

Key findings and implications:

- There is a mixed picture across different categories of law – civil representation volumes have diverged, whilst there has largely been a structural decline in legal help cases.
- Some large categories of law, such as Housing & Debt and Immigration & Asylum, have continued to decrease since LASPO. Although external forces may have contributed to this (such as the pause to evictions during Covid), this poses concerns with regards to their functioning.
- Civil representation case volumes in the biggest category of law in the market, Family, have broadly stabilised in the last decade following LASPO.
- Other areas of law, such as Mental Health and Community Care, have seen civil representation case volumes increase.
- A wide range of factors are driving these trends – including policy and legislative changes and broader economic conditions and social trends.

It is important to complement a broad analysis of different types of civil legal aid services with a more detailed examination within specific categories of law, to highlight a broader set of market drivers. In this section, we provide a comparative overview of funded demand across the 11 categories of law covered by civil legal aid, between the years 2010-2011 and 2022-2023, using case/matter starts volume data.³⁵ Case volumes are measured in a consistent way to Section 4.3 (i.e. case starts) and distinguished between civil representation and legal help.³⁶ We start by examining how case volumes have evolved before and in the immediate aftermath of LASPO, and then examine the period from 2013-14 to 2022-23. We draw in a wide evidence base to explain the potential drivers of these trends.

Civil representation

Table 1 below sets out the volume of certificates granted since 2010-11 across the different categories of law. This shows that the sharp decline in case volumes in 2013-14 that resulted from LASPO were consistent across all categories, although the percentage declines were not the same across the board. This is consistent with the policy intent of LASPO which, as set out in Section 3.2, sought to re-focus legal aid on those who most need it and deliver significant savings for the taxpayer.³⁷

Table 1: Total number of civil representation certificates granted by category of law, 2010-11 to 2022-23

Financial year	Family	Housing and Debt	Immigration and Asylum	Mental Health	Education	Discrimination	Clinical Negligence	Claims Against Public Authorities	Community Care	Welfare Benefits	Public Law
2010-11	130,719	12,479	2,494	519	139	0	2,905	1,050	857	23	1,485
2011-12	125,962	12,146	2,566	610	125	0	2,639	1,162	759	22	1,698

³⁵ GOV.UK. (2023). *Legal aid statistics: January to March 2023*. [online] Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2023>.

³⁶ Given mediation is only relevant for Family law, we do not look at this in the cross-category analysis and instead consider this data in the Family law deep-dive.

³⁷ The exception is Discrimination which was only introduced as a new category of law in 2013 and where case volumes are very low.

2012-13	127,837	12,208	3,141	506	138	1	2,399	1,226	831	16	1,806
2013-14	90,235	11,027	2,548	456	43	5	1,031	749	586	8	1,573
2014-15	76,728	10,369	1,628	676	25	11	448	1,022	581	6	1,166
2015-16	85,005	9,204	1,676	1,042	22	6	348	976	806	9	1,165
2016-17	92,629	7,980	1,332	914	33	11	299	897	1,335	10	1,025
2017-18	96,354	7,887	1,224	1,074	32	12	178	1,086	1,481	9	1,143
2018-19	92,996	7,350	1,142	1,129	39	7	133	1,215	1,602	5	1,265
2019-20	100,015	7,750	1,269	1,289	55	26	169	1,407	1,788	12	1,514
2020-21	99,261	2,578	1,054	1,280	42	45	144	1,256	1,516	9	1,673
2021-22	95,859	4,225	791	1,660	65	71	120	965	1,856	12	1,553
2022-23	93,838	5,257	856	1,737	78	40	129	847	1,885	23	1,632

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. *legal-aid-statistics-tables-jan-mar-2023*. Table 6.2. Note: Consumer, Employment and Miscellaneous categories have been excluded due to very low case volumes. Red line in table signals the change in time period between before LASPO implementation and after.

When looking at volumes following the implementation of LASPO (as shown under the red line) in Table 1 above, contrasting trends are seen across different categories of law. We can broadly group categories of law around three distinct trends:

- Categories of law that have experienced a decline in case volumes since 2013-14: Housing & Debt, Immigration & Asylum, and Clinical Negligence
- Categories of law that have experienced low or no growth in case volumes since 2013-14: Family, Claims Against Public Authorities, Public Law, and Welfare Benefits.
- Categories of law that have experienced a substantive increase in case volumes since 2013-14: Mental Health, Education, Discrimination and Community Care.

We note that whilst four areas of law have seen an increase in case volumes over this period, these largely represent relatively niche areas of the market compared to the largest segments of the market, which have either declined (such as Housing & Debt and Immigration & Asylum) or evened out (Family). We analyse each of these categories of law in more detail later in this section to identify the potential drivers explaining these trends, following a comparison of how far these trends are observed in the legal help market.

Legal help

It should be noted that almost all categories of law saw a significant decline in legal help matters started in 2013-14 following the introduction of LASPO (see

Table 2, below).³⁸

³⁸ The only exception is Mental Health which increased in this year and has been quite stable over the following decade to 2022/23. Potential reasons for this are discussed later in the Section.

Table 2: Total number of legal help matters started by category of law, 2010-11 to 2022-23

Financial year	Family	Housing and Debt	Immigration and Asylum	Mental Health	Education	Discrimination	Clinical Negligence	Claims Against Public Authorities	Community Care	Welfare Benefits	Public Law
2010-11	268,659	235,283	82,787	34,623	4,675		3,979	3,680	5,629	116,081	1,495
2011-12	232,390	203,970	60,792	39,578	3,775		3,649	4,007	6,216	102,920	1,624
2012-13	204,247	161,967	52,371	41,407	2,955		2,859	2,950	4,977	82,554	1,352
2013-14	43,104	49,606	28,157	42,242	1,153	2,301	114	2,232	3,274	163	1,104
2014-15	43,834	44,255	30,362	42,737	1,752	1,602	74	1,872	3,324	505	1,123
2015-16	37,750	39,985	31,653	38,946	1,708	1,417	47	1,877	3,039	250	1,234
2016-17	35,389	35,859	29,111	37,692	1,608	1,184	15	2,062	2,290	442	1,540
2017-18	32,971	36,219	26,609	36,101	1,882	1,691	21	1,908	1,838	443	1,371
2018-19	33,836	33,281	29,139	35,495	2,006	2,045	52	1,855	2,089	334	1,577
2019-20	33,999	29,433	33,532	35,646	1,827	1,732	62	2,048	2,035	255	2,027
2020-21	30,486	17,291	25,801	33,837	1,653	1,886	33	1,944	1,716	135	2,297
2021-22	28,170	24,118	32,094	33,346	1,471	2,258	36	1,604	2,046	145	2,692
2022-23	24,242	27,067	37,206	31,818	1,754	2,261	29	1,509	1,705	78	3,044

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023](#).

Note: Consumer, Employment and Miscellaneous categories have been excluded due to very low case volumes. Red line in table signals the change in time period between before LASPO implementation and after.

Some categories of law saw a drastic fall in legal help cases, such as Family, Housing & Debt, Clinical Negligence and Welfare Benefits, whilst Immigration & Asylum observed a more moderate reduction. This can be explained by the nature of the scope changes in legal help resulting from LASPO, which differed across categories of law.

When looking at the legal help matter volumes for 2013-14 onwards, we see that unlike civil representation, the trends in legal help are more uniform, with a decline in case volumes since 2013-14 seen across all categories of law except Immigration & Asylum, Education and Public Law.³⁹ The decline ranges from around 2% in Discrimination to 75% in Clinical Negligence. This likely reflects the commercial viability challenges that providers experience with legal help, discussed in Section 4.3, that are seen to be widespread across virtually all categories of law.

We examine each category of law in more detail below. Given the broader and more structural decline we have seen in the legal help market, and the greater significance of civil representation cases for driving overall legal aid expenditure, we use the groupings set out above for the civil representation market to structure the analysis. Given that case volumes fell almost universally across categories of law between 2012-13 and 2013-14 following LASPO, our analysis focuses on two main time periods, firstly between 2013-14 and 2018-19 and secondly between 2018-19 and 2022-23. These have been chosen

³⁹ Providers of civil legal aid in Immigration & Asylum are required to undertake some services, discussed in more detail in Immigration & Asylum deep-dive. Discrimination data was only available for the period 2019-20 onwards.

as the former allows us to capture the factors discussed in the PIR, and the latter period enables us to discuss more recent developments.

Categories of law that have seen a decline in civil representation case volumes since 2013-14

Housing & Debt

Summary trends: In the first five years following LASPO, between 2013-14 and 2018-19, civil representation and legal help case volumes both fell by the same proportion, 33%, within the Housing & Debt area of law. Between 2018-19 and 2022-23, civil representation case volumes fell by a similar proportion, 28%, but legal help case volumes fell by a lower extent, by 19%.

Potential explanations: The PIR found that volumes of legal aid in Housing & Debt declined more than forecast in the period 2012-13 to 2017-18. Specifically, in legal help, matter volumes were expected to fall by 40% in the Impact Assessment, but actually fell by 48%. For civil representation, case volumes were expected to fall by 11%, but in reality, they fell by 36% (over three times as much as expected). The number of mortgage and landlord possession claims going through the courts also fell during this period.

Many of the areas under Housing & Debt were removed from scope for civil legal aid by LASPO, which contributed to the substantial fall in volumes. There is also an active voluntary sector advice network focused on housing cases, which may be resolving more straight forward cases. However, there isn't evidence that the role of this voluntary sector advice network has increased, in which case its contribution to Housing & Debt volumes falling more than expected is unclear. More recently, the 2020-21 drop in claims and slight recovery since likely reflects the impact of the Government introducing measures to place a temporary halt on evictions during the Covid-19 pandemic, which have delivered a fall in reported cases of statutory homelessness.

For Debt specifically, the PIR identified the introduction of the mandatory telephone gateway as the main cause in the sharp decline in cases. This gateway aimed to lower the cost of provision by prioritising phone-based initial legal consultations. Overall, the gateway was found to have supported around half the overall number of cases anticipated over the five years to 2017-18, potentially indicating awareness and take-up issues amongst those potentially eligible for support.

Immigration & Asylum

Summary trends: Between 2013-14 and 2018-19, civil representation cases more than halved (55%), and then dropped a further 25% between this point and 2022-23. This contrasts with legal help matter start volumes, which changed very little between 2013-14 and 2018-19, increasing by 3%, then increasing by 28% between this point and 2022-23.

Potential explanations: The decline in civil legal aid cases has occurred following the removal of most non-asylum immigration cases from the scope of legal aid as part of LASPO. For example, the volume of legal help non-asylum cases fell by 82% since 2012-13, whilst the volume of legal help asylum matters has remained relatively constant over this period, reflecting continuing high numbers of asylum claims. It is also important to note that at the same time, the case backlog has significantly grown in Asylum decisions. Therefore, although case volumes have declined, it is likely also a reflection of the growing time people have spent waiting for a decision.

According to the PIR, policy and operational changes in immigration and asylum systems have driven the decline in case volumes. For example, the Government's 2012 reforms scrutinised family migration claims under ECHR Article 8 more closely, leading to it being more difficult to make a claim. The Immigration Act 2014 also limited the right to appeal in certain cases. Impacts have also been felt from

changes in resources for the Immigration and Asylum Chamber. Some more recent literature,⁴⁰ discussed more fully in Section 5.6, points to the potential for ‘latent demand’ in this space and the lack of capacity for Immigration providers to take on new cases. The Wilding, J. (2021) study found this could potentially be exacerbated by the Home Office’s ‘dispersal policy’ which sees asylum seekers situated outside large metropolitan areas that may have lower access to suitable civil legal aid providers.⁴¹ We explore the geographic spread of providers and offices in Section 5.

Clinical Negligence

Summary trends: Across both civil representation and legal help, there was a substantial decline in case volumes between 2013-14 and 2018-19, with the former falling by 87% over this period and legal help falling by 54%. Since this point, civil representation and legal help cases have broadly leveled out at very low volumes, less than 170 case starts each year for civil representation and less than 65 matter starts each year for legal help.

Potential explanations: The substantial decrease in volumes is primarily due to LASPO, which shifted funding away from legal aid and towards alternative sources like Conditional Fee Agreements (CFAs). Following LASPO, the only exception where legal aid is available is for severe cases involving neurological injuries in children.

Categories of law that have seen low or no growth in civil representation case volumes since 2013-14

Family

Summary trends: Family is the largest category of law, accounting for around 88% of civil representation cases, and 19% of legal help matters, in 2022-23. Since 2013-14, civil representation case starts have changed very little, increasing by only 3% up to 2018-19 and then increasing by 1% between this point and 2022-23. Legal help on the other hand, has continued to gradually decline since 2013-14, falling by 22% up to 2018-19, and then a further 28% between this point and 2022-23.

Potential explanations: LASPO removed legal help for areas of private family law that were in high demand (such as divorce and cases involving child contact), explaining the substantial reduction in legal help matter volumes. The continuing gradual decline of legal help is likely reflecting overall commercial viability issues for legal help in this area of law (noted earlier and explored in greater detail in Section 7). The PIR noted how ‘many factors affect a person’s decision about how to go about resolving a legal dispute’, and these individual factors may have driven fluctuations in annual civil representation case volumes. Policy factors are also likely to have played a role – the amendments to LASPO in relation to domestic violence and child abuse evidence requirements for legal aid in private family law were designed to encourage a higher number of cases from 2017-18 – although this is not especially evident from the changing volumes observed.⁴² The decline in civil representation volumes over the last three years, falling from around 100,000 in 2019-20 to around 93,800 in 2022-23, has been exacerbated by Covid-19 disruption to the justice system and may also be partly the result of more recent encouragement of mediation, for example through the Family Mediation Voucher Scheme launched in March 2021.⁴³

⁴⁰ Wilding, J. (2021) *The Legal Aid Market: Challenges for publicly funded immigration and asylum legal representation*

⁴¹ GOV.UK. (n.d.). Living in dispersal accommodation - English. [online] Available at: <https://www.gov.uk/government/publications/living-in-asylum-accommodation/living-in-dispersal-accommodation-english>.

⁴² Legislation.gov.uk. (2017). *The Civil Legal Aid (Procedure) (Amendment) (No. 2) Regulations 2017*. [online] Available at: <https://www.legislation.gov.uk/uksi/2017/1237/made>.

⁴³ Ministry of Justice (2021). *Guidance: Family Mediation Voucher Scheme*. Available at: <https://www.gov.uk/guidance/family-mediation-voucher-scheme>

Claims Against Public Authorities

Summary trends: Claims Against Public Authorities is a relatively niche area of civil legal aid. From 2013-14 to 2018-19, civil representation case starts increased by 62%, with this trend reversing between this point and 2022-23, where case starts fell by 30%. Legal help cases saw a more consistent decline over the ten-year period, falling by 17% between 2013-14 and 2018-19, and a further 19% between this point and 2022-23.

Potential explanations: The PIR found that the level of civil representation volumes between 2013-14 and 2018-19 was higher than expected in the initial Impact Assessment. The Review suggests that this could be due to a changing demographic profile of clients and an increase in more costly inquest-related cases. For example, the Exceptional Case Funding (ECF) scheme was introduced post 2013-14 for inquests, on the basis of public interest or human rights breaches.

Public Law

Summary trends: Public Law relates to challenges to the actions, omissions or decisions of public bodies, potentially involving procedures such as judicial review. Between 2013-14 and 2018-19, civil representation case starts fell by 20%, followed by a 29% increase between this point and 2022-23. Legal help matter starts have grown consistently since 2013-14, growing by 42% between 2013-14 and 2018-19 and then by 93% between this point and 2022-23.

Potential explanations: LASPO did not significantly alter the scope of legal aid for Public Law but introduced smaller amendments which removed specific sub-categories from scope. The PIR found that this largely explains the continuation of case volume trends seen prior to LASPO, with other factors such as the number of judicial reviews being funded, or changes to judicial review remuneration provisions, causing some annual fluctuations. The PIR found that LASPO had not achieved its objective of restricting case volumes in legal help in Public Law, with legal help volumes remaining similar between 2012-13 and 2017-18. Reasons for this are not outlined in the PIR, but it does state that the government believed that 'public law cases were a priority for legal aid funding, as it is essential that individual citizens can check the exercise of executive power through recourse to the courts, often on issues of the highest importance'.⁴⁴

Welfare benefits

Summary trends: Pre-LASPO, civil legal aid in Welfare Benefits was largely focused on legal help, which recorded more than 100,000 annual cases in 2010-11 and 2011-12. LASPO significantly reduced the scope of legal help support and very low volumes of both civil representation and legal help cases have been reported since 2013-14 – less than 25 in any given year for civil representation, and less than 510 in any given year for legal help.

Potential explanations: LASPO significantly narrowed legal aid availability around Welfare Benefits, limiting it to appeals involving points of law in the Upper Tribunal and Higher Courts, and specific council tax reduction scheme appeals. The PIR found that this reduction in early legal assistance has led to the escalation of some legal issues. The cases that did receive legal aid became more complex, indicating a shift in the nature of the cases that qualified for legal assistance post-LASPO. Finally, recent modifications to the Universal Credit system may have introduced complexities for claimants, potentially increasing the need for legal advice and assistance. These changes could be contributing to the more complex nature of welfare benefit cases that are now seen, and explain why volumes are also lower – if for instance, providers need to spend more time and resource on each claim – which will be explored in Section 5.6.

⁴⁴ See page 110 of the PIR.

Categories of law that have seen an increase in civil representation case volumes since 2013-14

Mental Health

Summary trends: In contrast to most other categories of law, civil representation volumes in Mental Health grew substantially, by 148%, between 2013-14 and 2018-19 (albeit from a low base). Volumes continued to increase after 2018-19, growing by 54% between this point and 2022-23. Legal help volumes conversely have fallen consistently over this period, firstly by 16% between 2013-14 and 2018-19, and then by 10% between this point and 2022-23.

Potential explanations: The higher level of Mental Health civil representation cases is likely due to the legal changes introduced by the Mental Capacity Act 2005, particularly following the Supreme Court's *Chester West and Chester* decision in 2010, which expanded the scope of what is considered a deprivation of liberty. This ruling led to an increase in appeals against Deprivation of Liberty Safeguards (DoLS) authorisations. LASPO continued the statutory duty to provide advice and representation in these cases, and this is one of the categories of law where legal aid is available without means testing.⁴⁵ In recent times, societal factors such as increased mental health awareness and increased rates of diagnosis may have also supported the rising trend in legal challenges and the need for legal assistance in this area, reflected by the rise in civil representation numbers reported above.⁴⁶

Education

Summary trends: Civil legal aid cases in the Education area of law often involve challenges to Local Authority Education, Health, and Care (EHC) plans (or the equivalent system in Wales of Additional Learning Needs). These plans are designed to ensure that children and young adults with special educational needs or disabilities (SEND) receive tailored assistance. This is a more niche area of the market, involving a small number of civil representation cases per year – less than 80 per year since 2013-14. Civil representation volumes fell by 9% between 2013-14, but have since doubled since this point and 2022-23. Legal help volumes on the other hand experienced a substantial increase of 74% between 2013-14 and 2018-19, followed by a decrease of 13% between this point and 2022-23.

Potential explanations: LASPO removed all education law proceedings from the scope of legal aid except for SEND related matters, explaining the sharp reduction following its implementation. The introduction of the mandatory telephone gateway was found by the PIR to further constrain case volumes. Following this, market trends point to a growing underlying legal need in this space, potentially leading to an increase in legal help volumes in recent years (increasing 6% in the past 2 years). For example, there has been a continued rise in the adoption of EHC plans, SEND Tribunal Appeals have increased over this period and complaints to the Local Government and Social Care Ombudsman⁴⁷ have risen substantially since 2016-17. More recently, Education case numbers may have been supported by the re-introduction of face-to-face Education contracts in 2019, as discussed in Section 5.6.

Community care

Summary trends: Between 2013-14 and 2018-19, civil representation volumes in Community Care rose substantially, by 173%, and then a further 18% between this point and 2022-23. Legal help volumes,

⁴⁵ Parker, E. (2018). Deprivation of Liberty Safeguards. House of Commons Library. [online] Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-8095/CBP-8095.pdf>. Under section 21A of the MCA, anyone who has been deprived of their liberty in a care home or hospital through DoLS may challenge it in court. Non-means tested legal aid is available for representation for these challenges. The CWC case expanded the definition of deprivation of liberty to include community settings. Section 16 of the MCA allows the court of protection to make any appropriate order in relation to a person lacking capacity, but only means tested legal aid is available for these cases.

⁴⁶ Surviving Economic Abuse. (n.d.). Denied justice: How the legal aid means test prevents victim-survivors accessing justice. [online] Available at: <https://survivingeconomicabuse.org/what-we-do/policy-influencing/denied-justice-legal-aid-report/>.

⁴⁷ Not going to plan? (2019). Available at: <https://www.lgo.org.uk/assets/attach/5693/EHCP-2019-vfC.pdf>.

conversely, saw a decline over this period, falling by 36% between 2013-14 and 2018-19 and 18% between this point and 2022-23.

Potential explanations: It is important to note that, unlike many of the other categories of law, there was no reduction in scope in Community Care made by LASPO. A study by Access Social Care suggested that there was a shift from legal help to civil representation as providers sought to achieve 'a balanced caseload' for financial sustainability, by prioritising better-funded legal aid cases, such as the Court of Protection, as well as privately-paying cases.⁴⁸ The increased need for care in the community over the last decade, due to ageing populations and increased life expectancies, may have also increased legal need in this area. Furthermore, cases under the Mental Capacity Act 2005 can be completed under either Mental Health or Community Care legal aid. As a result, the extension of scope for deprivation of liberty cases in the *Chester West and Chester* judgement applies here too, potentially explaining some of the increase in cases in this category,

Discrimination

Summary trends: Discrimination claims predominantly relate to equality laws, designed to shield individuals from discriminatory practices in the workplace and other settings. Discrimination was introduced as a new category of law in 2013.⁴⁹ Civil legal aid applies to certain types of discrimination cases but does not cover representation in Employment Tribunals. Like Education and Welfare Benefits, Discrimination has very low civil representation volumes – with less than 75 case starts observed annually over the past 10 years. Legal help matter starts have largely been flat over this period, falling slightly between 2013-14 and 2018-19 and recovering by the same amount between this point and 2022-23.

Potential explanations: Discrimination was introduced as a distinct category of law in 2013. Prior to that, cases were funded under the individual categories relating to the subject matter of the discrimination (for example, discrimination in the provision of housing would have fallen under the Housing category). Since then discrimination claims can be funded by either a Discrimination provider or by a provider with a contract in the relevant category of law. As per the Education category, Discrimination was subject to the mandatory telephone gateway. LAA only introduced face-to-face contracts in 2019 in anticipation of the removal of the mandatory telephone gateway in 2020.

Historically, overall volumes of Discrimination claims have been driven by changes to court tribunal fees. The introduction of fees in 2013 resulted in a 70% drop in the number of claims over the four year lifespan of the policy, due to the deterrent effect on the bringing of claims.⁵⁰ Claims have increased since this point, potentially driven by societal factors (e.g. greater awareness of rights against discrimination) and supported by the removal of Tribunal fees in 2017 and measures by the LAA to widen the choice around how users can access these services (removing the need for mandatory telephone gateway in 2020, for example).⁵¹ The government is currently consulting on bringing back tribunal fees – which may impact future volumes.⁵²

⁴⁸ Hilborne, N. (2022). Lawyers limit community care cases 'to help firms stay afloat'. [online] Legal Futures. Available at: <https://www.legalfutures.co.uk/latest-news/lawyers-limit-community-care-cases-to-help-firms-stay-afloat>.

⁴⁹ Before 2013, Discrimination cases were classified as a category of law most relevant to the subject matter of the case. For example, discrimination in relation to the provision of housing would have been dealt with under Housing.

⁵⁰ Equality and Human Rights Commission (June 2019). 'Access to legal aid for discrimination cases'. Available at: [Access to legal aid for discrimination cases \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/en/our-work/2019-06-19-access-to-legal-aid-for-discrimination-cases)

⁵¹ GOV.UK. (n.d.). Civil news: mandatory telephone gateway phased out. [online] Available at: <https://www.gov.uk/government/news/civil-news-mandatory-telephone-gateway-phased-out>

⁵² Ministry of Justice (2024). *Introducing Fees in the Employment Tribunals and the Employment Appeal Tribunal*. [online] Gov.UK. Available at: <https://www.gov.uk/government/consultations/introducing-fees-in-the-employment-tribunals-and-the-employment-appeal-tribunal#:~:text=Consultation%20description>.

Summary conclusions

Overall, our analysis paints a mixed picture across different categories of law – civil representation volumes have diverged, whilst there has largely been a structural decline in legal help cases. Across the civil representation market, large categories of law have continued to decline in the last decade, such as Housing & Debt and Immigration & Asylum, whilst other smaller categories of law, such as Mental Health and Community Care, have seen case volumes increase. Civil representation case volumes in the biggest category of law in the market, Family, have broadly stabilised in the last decade following LASPO – which is also reflected in the overall civil representation figures.

The legal help market, and the categories of law which have continued to decline for civil representation following LASPO, such as Housing & Debt and Immigration & Asylum, present the most pressing concerns around the health of the market. A wide range of factors are driving these trends – including policy and legislative changes; broader economic conditions and social trends; and the interaction with supply – and these are explored in Section 4.5 below.

4.5 Explaining demand trends over recent years

Key findings and implications:

- The civil legal aid market has had to respond to a wide range of factors including changes in eligibility rules, wider policy and legislative changes, the evolution of the broader legal system, external economic and demographic factors, and a pandemic. Some factors have increased demand and others have suppressed it.
- Civil legal aid is ‘downstream’ of wider policy changes across multiple Government departments and consideration of the legal aid impacts is variable when assessing policy changes, despite the Justice Impact Test process.
- Leaving the means test unchanged from 2009 to the 2023 review will have excluded some people who would have been entitled to civil legal aid (compared to if eligibility thresholds were increased in line with income-inflation), even with the introduction of passporting for people on benefit as a simplified path to legal aid.

Sections 4.3 and 4.4 clearly show how LASPO delivered its policy intent to better prioritise legal aid support and reduce the number of civil legal aid cases.⁵³ This analysis also highlights how, since LASPO reforms, ‘demand’ in the civil legal aid market has been affected by an array of changes, some planned and some less predictable, such as the recent rise in cost of living and impact of Covid-19.

We showed in Section 4.4, in Tables 1 and 2, that there were contrasting trends in changes in demand in civil representation and legal help post 2013-14, with some categories of law rising, some staying relatively flat and others falling. In this sub-section, we identify the cross-cutting factors that have driven these trends, affording greater weight to those factors that have driven the largest categories of law (such as Family, Housing & Debt, Immigration & Asylum and Mental Health). We also set out new analysis on other ‘background’ factors that shape case volumes in a more uniform way across all categories of law. The factors we have identified include:

- Scope and eligibility
- Wider policy and legislative changes

⁵³ Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). (2019). Available at: <https://assets.publishing.service.gov.uk/media/5c5b3b2b40f0b676c362b4e0/post-implementation-review-of-part-1-of-laspo.pdf>.

- Functioning of the legal aid system (e.g. awareness and provision levels)
- Availability of other resolution options
- Economic conditions (including the role of the Covid-19 pandemic)
- Demographic and social trends

Whilst some of the impacts from the above factors are more clear-cut (i.e. the direction of the changes to demand are clearer), others will have had a more mixed effect, whereby it is not possible to say with certainty if the factor will have caused a “net effect” in a particular direction. Our explanation of these factors below makes clear these distinctions. This provides an analytical foundation to explore how case volumes might evolve in the future, which is set out in Section 4.6.

Scope and eligibility

Case volumes have been influenced directly by ongoing changes to scope and eligibility via legal aid policy changes (as opposed to wider government policy changes that may influence eligible numbers).

Examples of scope changes include easing some of the evidential requirements in Family law and evolving case law, such as in Mental Health. These policy changes are discussed in more detail in Section 4.6. The evolution of eligibility criteria, the means and merit tests, and passporting are explained further in Box 1, below.

Box 1: Eligibility and means testing for civil legal aid – up until 2023

Determining financial eligibility for civil legal aid is complex. Some cases are exempt from means tests. For those which are not, determining eligibility has typically involved two main routes: undergoing the full Legal Aid Means Test, or being ‘passporting’ through the full means test assessment through receiving certain welfare benefits. We explain in further detail below:

Passporting allows certain social welfare benefit recipients, including those receiving Income Support, income-based Jobseeker’s Allowance, income-related Employment Support Allowance and, following a 2013 update, Universal Credit (UC), to bypass the income means test for legal aid eligibility. While passporting existed prior to 2013, the inclusion of UC marked an expansion of this policy. Applicants eligible for civil legal aid through passporting are still required to pass the capital assessment.

The Civil Legal Aid Means Test comprises of three key tests: a ‘gross’ income test, a ‘disposable’ income test and a capital assessment, each of which involves a complex set of deductions, allowances and exceptions. The income thresholds were updated annually from when the test was established in 2001 to 2009 but have been fixed since then. The gross monthly income threshold stands at £2,657; the disposable monthly income threshold stands at £733, and the capital threshold at £8,000. Depending on the level of their income and capital available, and meeting other criteria (such as disregards), applicants may be required to contribute to some elements of the legal aid costs. In 2023, the Means Test Review committed to updating the means test thresholds to reflect more current economic conditions.

Impacts that have likely decreased case volumes:

A narrowing of the eligible population through fixed means test thresholds: At present, the various means test thresholds are fixed at levels set in 2009. As nominal incomes and prices have risen in the economy since 2009, fixing these thresholds, all else being equal, would have narrowed the eligible population for civil legal aid over time. However, the Means Test Review (MTR) consultation took place in March 2022, and the results were published in May 2023, including a commitment to update the means test

thresholds to reflect more current economic conditions.⁵⁴ This is discussed in more detail when assessing how case volumes may evolve in the future, in Section 4.6.

Impacts that have likely increased case volumes:

An expansion of the eligible population through passporting reforms: Passporting refers to the process whereby individuals in receipt of certain benefits are deemed eligible for non-contributory legal aid without going through the full means assessment (although they may still be required to undergo the capital assessment). The passporting arrangements were expanded from 2013 to integrate Universal Credit (UC). As UC encompasses a wider range of benefits than previous passporting, some applicants receiving UC are currently being passported where, if they had been means assessed, they would be required to pay income contributions or be ineligible for legal aid.

Net impact:

The complexity of these changes to eligibility mean has not been possible to determine the overall 'net' impact of this factor on case volumes as part of this review.

Wider policy and legislative changes

Civil legal aid is 'downstream' of wider policy changes in Government, and these have a significant impact on legal aid case volumes. All new policy proposals that could have an impact on the justice system are required to complete a Justice Impact Test, which includes identifying any impacts on legal aid eligibility or applications.⁵⁵ It is unclear how well this process works in practice to allow the Legal Aid Agency to modify the supply of legal aid services.

Impacts that have likely decreased case volumes:

Economic policies in response to Covid-19: These policies were aimed at containing the economic damage from the pandemic, including protecting individuals from significant falls in income and unemployment. This likely maintained or reduced legal need broadly across the economy whilst some individual policies (such as pausing evictions to prevent homelessness), reduced case volumes in certain categories of law more directly.

Impacts that have likely increased case volumes:

Legal ambiguities: The wider literature finds that new laws and regulations, especially those with widespread ramifications, have led to legal ambiguities and challenges which can amplify the demand for legal aid, as individuals grapple with new regulations or need clarity on their evolving rights.⁵⁶ The Immigration & Asylum and Housing & Debt categories of law may in particular have been impacted by these changes. These are explored further in Section 4.6.

Net impact:

Whilst it is difficult to determine the overall 'net' impact of this factor, we speculate that wider policy and legislative changes have increased overall case volumes. Whilst the policies enacted in response to Covid-19 may have reduced case volumes in the short-term, a rise in legal ambiguities were more permanent and may have led to a greater or longer-lasting impact.

⁵⁴ GOV.UK. (n.d.). *Legal Aid Means Test Review*. [online] Available at: <https://www.gov.uk/government/consultations/legal-aid-means-test-review/legal-aid-means-test-review>.

⁵⁵ Justice Impact Test Guidance. (2018). Available at: <https://assets.publishing.service.gov.uk/media/5b6daf8ee5274a1cfa14fb9c/justice-impact-test-guidance.pdf>.

⁵⁶ Cowie, G., De Mars, S., Kelly, R. and Torrance, D. (880AD). Constitutional implications of the Withdrawal Agreement legislation. [online] Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-8805/CBP-8805.pdf>.

The functioning of the civil legal aid system

Section 4.2 explored a number of issues in the application process for civil legal aid which could impact the extent to which individuals can obtain legal aid, even if they are eligible for it. A range of possible implications are explored below.

Impacts that have likely decreased case volumes:

Capacity of providers: Capacity issues experienced by providers of civil legal aid may be increasingly preventing individuals finding a suitable legal aid provider – there is a critical inter-dependency here with supply and this is analysed in more detail in Section 5.

Impacts that have likely increased case volumes:

Growing public awareness about their rights and legal services available to them: The growth of free online legal educational sites may be increasing the number of people seeking civil legal aid. When individuals are educated about their entitlements and the resources they can access, they are more likely to act in situations where they feel their rights have been violated.⁵⁷ It should be noted that whilst advancements have been made in sharing more information about individuals' legal rights online, digital exclusion may inhibit some individuals accessing this information. For example, over 4 million people in the UK have never accessed the internet, with another six million lacking basic digital skills.⁵⁸

Net impact:

The complexity of these changes to eligibility mean it is not possible to determine the overall 'net' impact of this factor on case volumes.

Availability of other resolution options

Section 4.2 also sets out the range of alternative pathways available for individuals to resolve legal problems, including alternatives to civil legal aid.

Impacts that have likely decreased case volumes:

Alternative Dispute Resolution (ADR): In recent years, justice policy has emphasised ADR, including mediation, as potential methods to resolve cases quicker and at low cost, before court proceedings are required.⁵⁹ The growth of these forms of dispute resolution, encouraged by policy changes in recent years (for example, within the Family Law setting), may have reduced the need for civil legal aid in certain circumstances.

Mandatory telephone gateway: Our analysis in Section 4.4 highlighted how the mandatory telephone gateway implemented in certain categories of law, namely Housing & Debt, Education and Discrimination, changed the way that legal aid was delivered. The mandatory nature of these gateways was found to reduce cases in these areas in the years following this being implemented.

Impacts that have likely increased case volumes:

Displaced demand: Greater encouragement of mediation as a means to lower demand in other services (such as civil representation) may have somewhat of a 'waterbed effect' – whereby demand is shifted from one legal aid service area to another. A reduction in civil representation cases may therefore show up in an increase in mediation cases. Whilst the aggregate volume of demand may be unaffected in this

⁵⁷ www.lawsociety.org.uk. (n.d.). Public legal education. [online] Available at: <https://www.lawsociety.org.uk/campaigns/public-legal-education#:~:text=PLE%20helps%20to%20create%20empowered>.

⁵⁸ www.parliament.co.uk. (n.d.). The Future of Legal Aid. [online] Available at: <https://publications.parliament.uk/pa/cm5802/cmselect/cmjust/70/7006.htm>.

⁵⁹ Cortés, P. (2022). Embedding alternative dispute resolution in the civil justice system: a taxonomy for ADR referrals and a digital pathway to increase the uptake of ADR. *Legal Studies*, pp.1–19. doi:<https://doi.org/10.1017/lst.2022.42>.

scenario, the level of funding required would be lower and it may increase efficiency by diverting cases away from the Courts.

Net impact:

Although the reported growth of alternative resolution options will have led to some displacement of demand, we consider it is more likely that the overall impact will have been a net decrease in legal aid case volumes from this factor.

Economic conditions

Impacts that have likely decreased case volumes:

Long-term economic growth: Rising incomes for individuals can lead to fewer qualifying for civil legal aid if they no longer pass the means test for eligibility – where their incomes exceed the maximum thresholds.

Covid-19: Focusing specifically on the Covid-19 pandemic, Section 4.3 highlighted the significant drop in case volumes that it caused: the number of legal help cases started fell by 18% between 2019-20 and 2020-21 and the number of civil representation cases started fell by 5%. This is likely to be caused by disruption to the civil justice system, lockdowns and the need to implement restrictions on social distancing during court proceedings. Cases within some categories of law, such as Family, have not recovered since Covid-19 and the potential link between this and the efficiency of the justice system is explored in more detail in Section 9.⁶⁰

Impacts that have likely increased case volumes:

Economic downturns: Conversely, economic downturns can lead to unemployment and falling incomes for individuals which might amplify legal need, including for civil legal aid (i.e. disputes involving housing & debt, welfare benefits, and employment rights). Reduced incomes may also see more individuals qualify for legal aid through the means test and passporting through other benefits, and levels of inequality may rise. These drivers are found to increase demand for legal aid services, particularly low-cost forms of support.⁶¹

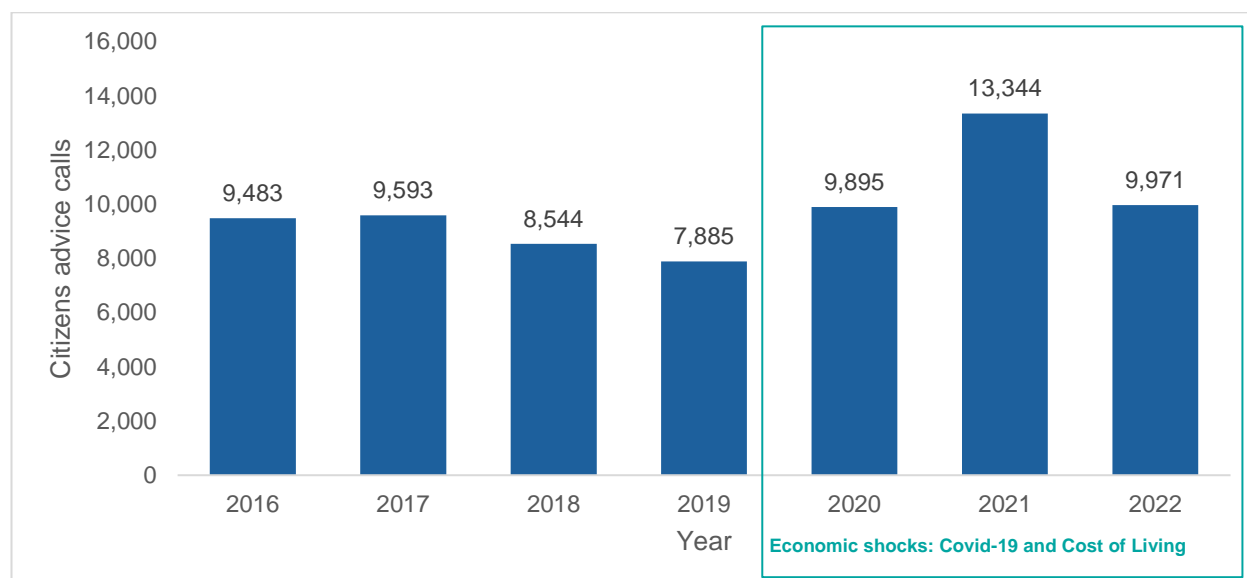
The period since LASPO's introduction has been defined by challenging economic conditions that will have had substantial impacts on levels of civil legal aid demand, particularly in the aftermath of several economic shocks – EU Exit, the Covid-19 pandemic and the recent inflationary pressures on cost of living. Figure 11 below shows data from Citizens Advice⁶² on how calls to hotlines seeking advice on legal aid has changed between 2016 to 2022 (the period over which the data is available from). We observe a spike in calls between 2020 and 2022, a period characterised by Covid-19 and growing cost of living pressures. Over the last year, the most common calls related to finding a legal aid lawyer, as well as eligibility and scope. This data also highlights the propensity for legal problems in general to accumulate and interact in economic downturns – for example, 19% of people contacting Citizens Advice in 2022 with a legal issue also reported a Housing issue, and 18% reported a Debt issue.

⁶⁰ It should be noted that whilst case volumes fell during the pandemic, this does not necessarily mean that legal need subsided. In certain family cases, such as domestic abuse, the pandemic likely exacerbated these issues, with domestic abuse helpline calls increasing by 66% between 2019 and 2020 and concerns regarding the impact of abuse on children increasing by 32% over this period. It is important also to note, as explained in Section 4.4, changes to evidence requirements for legal aid in private family law, introduced in 2017-18, that were designed to encourage a higher number of cases, may also have contributed to the increases seen in 2019 and 2020.

⁶¹ Pleasence, P. and Balmer, N.J. (2010). The Audacity of Justice: Recession, Redundancy, Rights and Legal Aid. Social Policy and Society, 9(4), pp.475–488. doi:<https://doi.org/10.1017/s1474746410000205>.

⁶² Tableau.com. (2023). Available at: <https://public.tableau.com/app/profile/citizensadvice/viz/AdviceTrendsSept2023/Cover>.

Figure 11: Citizens Advice hotline calls on Legal Aid



Source: Citizens Advice Data.

Net impact:

We find relatively muted evidence for a conclusive impact of economic conditions in the case volume data. Tables 1 and 2 in Section 4.4 for instance, show that Housing & Debt cases have seen a moderate increase in cases since 2020-21; however, this increase is lower than in areas less likely to be impacted by economic shocks, such as Mental Health and Education cases.

Demographic and social change

Impacts that have likely increased case volumes:

Population growth: The population of England and Wales has grown by around 7% between 2011 and 2022,⁶³ resulting in a higher potential eligible population for civil legal aid.

Migration levels: Increased levels of net inward migration in recent years have contributed to a higher number of Asylum cases that require legal aid advice. This has also led to a political focus on changes to the rules governing immigration generally and illegal migration specifically, which are expected to lead to higher demand for related legal services.

Social changes: Alongside demographic changes, social changes have also played a role in shifting the landscape of legal needs. For example, a rising awareness of issues around discrimination and mental health in broader society were identified in our analysis in Section 4.4 as potential supporting reasons for rising case volumes within these categories of law over recent years.

Net impact:

We consider these factors will have led to an overall positive impact on case volumes, as a background factor impacting most categories of law, but particularly within Immigration & Asylum.

⁶³ www.ons.gov.uk. (n.d.). *Estimates of the population for England and Wales - Office for National Statistics*. [online] Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/estimatesofthepopulationforenglandandwales>.

4.6 The outlook for future case volumes

Key findings and implications:

- It is difficult to predict the outlook for case volumes with certainty given the wide range of competing factors at play, including rapidly evolving legislative change in ‘upstream’ policy areas such as immigration and asylum policy.
- However, our core expectation is that increases to means test thresholds and population growth, supported by legislative changes, are likely to lead to moderately higher demand for civil legal aid over the next 5-10 years.
- It is important to recognise that case volumes are not dependent solely on ‘demand’, but on the interaction between supply and demand. If the market is to be sustained, civil legal aid providers may be required to service a higher level of ‘demand’ over the short and medium term.

This section explores the potential future demand for civil legal aid by analysing possible future trends for the factors described in the previous section, drawing on subject matter expertise from MoJ and LAA policy and forecasting teams, together with insights from the broader literature. Understanding the outlook for demand is vital to be able to assess the sustainable level of provision that is required to service this demand, which will be explored in Section 5.

Scope and eligibility

As mentioned in Section 4.5, the MTR announced increases to means test thresholds and simplification of the means test process. The MTR also proposed a series of reforms to simplify the means test process, including the removal of the means test for some civil cases, and additional measures described below. The first phase of these reforms was implemented in August 2023, with all changes from the consultation expected to be fully implemented within the next two years (at the time of writing).

These reforms will expand the eligible population in civil legal aid which would, all else being equal, translate into higher levels of demand for civil legal aid. The Impact Assessment accompanying the MTR⁶⁴ estimated that these reforms would lead to up to 3,000-5,000 additional Civil Representation claims per year and between 13,000-19,000 additional provider-assessed legal help claims per year.⁶⁵ The impact will be greatest in the years immediately following implementation and will reduce as prices and incomes rise – pushing more individuals above the eligibility financial thresholds. These increases in demand will also only be sustained if these thresholds are regularly updated, which the MoJ has committed to do.

The MTR's broader goal was to modernise and streamline access to legal aid, ensuring it aligns with contemporary economic conditions and needs of the population, whilst balancing efficiency with accessibility and fairness. Accordingly, there will be a post-implementation review 3 to 5 years from the new means test coming into operation.

Wider policy and legislative changes

As noted in Section 4.5, civil legal aid is ‘downstream’ of wider policy changes and future planned legislation is expected to have a significant impact on civil legal aid case volumes. Drawing on MoJ and LAA policy expertise, we have mapped key policy changes currently being implemented and legislated to

⁶⁴ Title: Legal Aid Means Test Review -Civil Impact Assessment (IA) Summary: Intervention and Options RPC Opinion: N/A. (2023). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1159099/government-response-to-legal-aid-means-test-review-impact-assessment-civil.pdf.

⁶⁵ It should be noted these figures relate to Baseline 2, which is adjudged to be more representative of market conditions. In Baseline 1, it was estimated that the reforms could result in up to 13,000–19,000 additional Civil Representation claims per year, and up to 34,000– 50,000 provider-assessed Legal Help claims per year.

distinct areas of law and explored how this might impact demand for civil legal aid in these areas. This is shown in Table 3 below.

In the short and medium-term, policy changes, albeit with high levels of uncertainty, are expected to increase civil legal aid case volumes across Immigration & Asylum, Housing & Debt, Family and Mental Health.

The prospect of a new Parliament does make it difficult to predict the direction of future policy and legislation.

Table 3: Impact of potential legislative changes on civil legal aid demand

Area of Law	Factors affecting eligible population	Description	Potential impact on demand for civil legal aid
Immigration	Implementation of the Illegal Migration Act (IMA) 2023	The IMA aims to reduce illegal immigration. Once the relevant statutory provisions are commenced, legal aid will be available on a non-means and merits basis for those individuals subject to a removal notice under the Act. A 15% fee increase for immigration work done under the IMA is being introduced to encourage provider engagement. Other incentives include accreditation payments, remote provision of legal advice in IRC's and payment of T&S for in-person visits.	The changes brought by the IMA will - in the short term at least - introduce additional demand for civil legal aid, especially in view of the expedited timeframes for dealing with IMA removals. The Rwanda Bill aims to reduce scope for legal challenge to removal decisions, although early cases are likely to be contested.
Housing & Debt	Government housing reforms include: <ul style="list-style-type: none"> • Lifting the Covid ban on Evictions and Repossessions • Launch of Housing Loss Prevention Advice Service (HLPAS) (August 2023) • Forthcoming Renters Reform Bill 	<p>The lifting of the eviction and repossession ban has seen a trend towards increasing demand for housing legal aid services, although it has not yet returned to pre-pandemic levels.</p> <p>The Housing Loss Prevention Advice Service, introduced in August 2023, offers free early legal advice and in-court representation for those at risk of losing their home.</p> <p>The Renters Reform Bill proposes significant changes, including the banning of Section 21</p>	<p>A gradual increase in demand for legal aid services is expected due to the lifted ban on evictions and repossessions, following a period where individuals had been protected from these issues.</p> <p>According to the MoJ's findings from the Impact Assessment, the HLPAS will lead to an additional income of £8.1m for providers per year. The expectation is that demand will shift towards early advice but that claim volumes will remain</p>

Area of Law	Factors affecting eligible population	Description	Potential impact on demand for civil legal aid
		<p>eviction notices and a prohibition on landlords and those acting on their behalf from discriminating against tenants on the basis of having children or being on benefits.</p>	<p>roughly the same as pre-pandemic levels, the result being that access to justice for individuals facing possession proceedings is maintained. There is a possibility though that uptake of HLPAS will increase due to other factors, such as the cost of living.</p> <p>The Renters Reform Bill is likely to substantially increase demand for legal aid, with all possession cases which proceed to court requiring hearings at which free legally aided representation will be available. There could also be a small increase in discrimination claims as a result of the provisions relating to discrimination against tenants who have children or are in receipt of benefits. Furthermore, the impact will be geographically specific and not uniform across England and Wales.</p>
<p>Family</p>	<p>In 2023, the following legislative amendments were made:</p> <ul style="list-style-type: none"> • Special Guardianship Orders (SGOs) brought into scope of civil legal aid (May)⁶⁶ • Evidence requirements broadened for claiming legal aid for domestic abuse cases (March)⁶⁷ 	<p>These changes aim to provide more comprehensive legal support in family-related matters, particularly in cases involving child custody and domestic abuse, ensuring broader and earlier access to legal aid for affected individuals.</p>	<p>Together, these policy changes could substantially increase the demand for civil legal aid. The broader scope for domestic abuse cases and the changes to Special Guardianship, Placement, Adoption Orders and family child arrangement cases will likely lead to more individuals seeking legal aid in family-related matters, particularly in</p>

⁶⁶ GOV.UK. (n.d.). Civil news: changes to scope of family legal aid. [online] Available at: <https://www.gov.uk/government/news/civil-news-changes-to-scope-of-family-legal-aid>.

⁶⁷ GOV.UK. (n.d.). Civil news: means free legal aid features in family rules changes. [online] Available at: <https://www.gov.uk/government/news/civil-news-means-free-legal-aid-features-in-family-rules-changes>.

Area of Law	Factors affecting eligible population	Description	Potential impact on demand for civil legal aid
	<ul style="list-style-type: none"> Means test removed for parents contesting Placement and Adoption Orders (March) Domestic Abuse Protection Notices/Orders brought into scope of legal aid, with a pilot for these measures planned for Spring 2024. <p>In January 2024, MoJ announced the Early Family Legal Advice (EFLA) pilot which seeks to evaluate the impact of early legal advice in private family law cases on promoting early resolution and diverting child arrangement cases from court, where appropriate. This pilot is due to be launched later this year and will run in selected areas in England and Wales for two years.</p>		cases involving domestic abuse and child custody.
Mental Health	Reform of Mental Health Act 1983 ⁶⁸	<p>The Draft Mental Health Bill, informed by a 2018 Independent Review and public consultation, aims to modernise the Mental Health Act 1983 (MHA) to better align with contemporary mental health services.</p> <p>The primary objectives of this reform are to: enhance patient autonomy and choice in care; improve treatment experiences with dignity and respect; minimise restrictions while</p>	According to the DHSC Impact Assessment, estimated additional monetised costs for the Mental Health Tribunal, including legal aid, is approximately £223m for the period 2030-31 to 2043-44. ⁶⁹ Reasons for the additional costs associated with legal aid include the expectation of greater tribunal hearings due to the introduction of automatic referrals.

⁶⁸ GOV.UK. (n.d.). Draft Mental Health Bill 2022. [online] Available at: <https://www.gov.uk/government/publications/draft-mental-health-bill-2022>.
⁶⁹ Department of Health & Social Care (2022). *Mental Health Act Draft Bill - Impact Assessment*. [online] p.28. Available at: <https://assets.publishing.service.gov.uk/media/62b9941ce90e0765d25dedd5/draft-mental-health-bill-impact-assessment.pdf>.

Area of Law	Factors affecting eligible population	Description	Potential impact on demand for civil legal aid
		<p>limiting detention lengths; introduce new safeguards, such as access to an Independent Mental Health Advocate; and reduce racial disparities in mental health detentions.</p> <p>The reform proposes significant legislative changes, focusing on safeguarding improvements in both health and social care and the justice system.</p>	

Source: PA analysis of HMG sources. Note: Law Commission Reforms under Family area of law include asset division post-divorce, flexible child custody arrangements and enhanced support for domestic support victims

Availability of other resolution options

Building on recent justice policy to encourage ADR and mediation in resolving legal problems earlier in the legal process, the Government has announced measures to further strengthen the role of mediation which we expect to reduce the number of civil legal aid cases overall, and see mediation replace some civil representation cases.

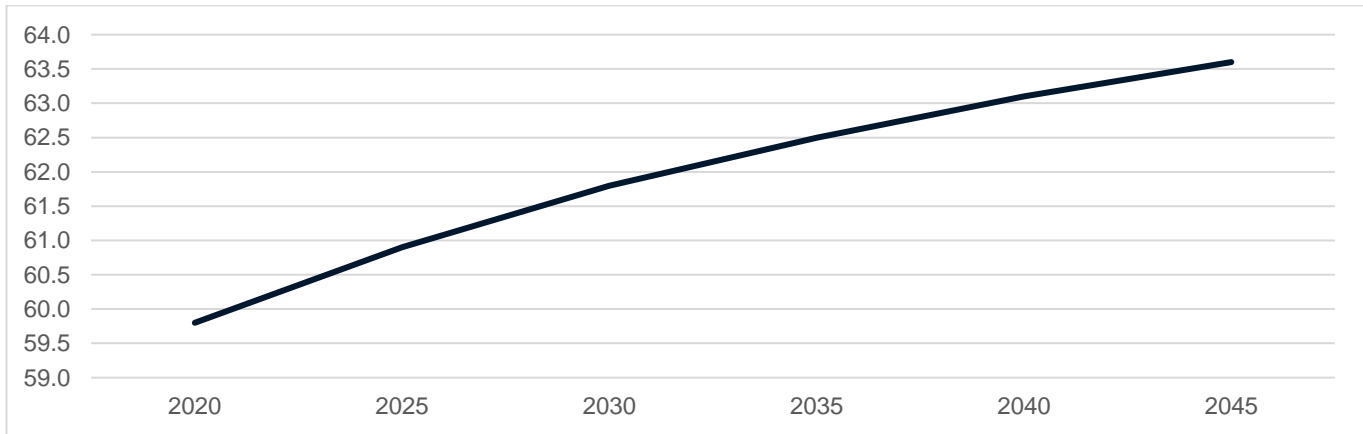
Economic conditions

Whilst ONS forecasts suggest inflation will start to moderate and cost-of-living pressures ease, the economic outlook remains uncertain. Longer-term levels of demand for civil legal aid, particularly in areas related to Employment law, Housing & Debt, will be linked more broadly to longer-term economic challenges around economic growth and productivity, unemployment patterns, affordable housing supply and levels of income inequality. These factors are very difficult to forecast and would require further analysis to be able to evidence.

Demographic and social change

Higher population growth will translate into a higher eligible population for civil legal aid. The population of England and Wales is expected to grow by around 4 million people between 2020 and 2045, an increase of 6% (see Figure 12 below).⁷⁰

Figure 12: Total population forecast England and Wales (millions)



⁷⁰ We note that population growth is a crude measure and the demand for legal services may differ across different elements of the population.

For other demographic factors, the impact on demand is less clear-cut. For example, whilst population growth can be predicted with greater certainty through long-term demographic change, the role that migration will play in this is less certain. The ONS' core long-term projection is for net international migration levels to fall by c.20% over the next 10 years,⁷¹ although this is highly dependent on immigration and asylum policy measures. This would likely decrease the level of demand seen for civil legal aid for Immigration and Asylum cases. This is, however, dependent on the outcome of current legislative debate around the implementation of the Illegal Migration Act.

Summary conclusions

In conclusion, our analysis has found that it is difficult to predict the outlook for case volumes with reasonable certainty, given the wide range of competing factors at play. However, our core expectation is that increases to means test thresholds and population growth, supported by legislative changes, is likely to lead to moderately higher demand for civil legal aid over the next 5-10 years.

There are a number of critical uncertainties around this expectation, including rapidly evolving legislative change in 'upstream' policy areas, such as immigration and asylum policy, and the next Parliament. It is also important to recognise that case volumes are not dependent solely on 'demand', but on the interaction between supply and demand.

In Section 5, we assess trends in the civil legal aid provider base and summarise how demand and supply are expected to interact in the future. We start to explore the sustainability of civil legal aid provision – if the market is to be sustained, civil legal aid providers will be required to service a higher level of 'demand' over the short and medium term.

⁷¹ www.ons.gov.uk. (2024). *National population projections - Office for National Statistics*. [online] Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/bulletins/nationalpopulationprojections/2021basedinterim> See Figure 2.

5. Supply – civil legal aid provision

5.1 Introduction

In Section 4, we assessed that there is likely to be moderately higher demand for civil legal aid over the next 5-10 years. In this section, we assess supply – the capacity of the civil legal aid market to meet this demand over the short and medium term.

We start by explaining how supply can be defined and measured in the civil legal aid context, using MoJ/LAA data on the number of providers as our key measure and exploring how this has evolved both in the immediate aftermath of the implementation of LASPO, and subsequently. We assess provider numbers in the context of how the nature of cases they advise on has evolved. We analyse this provider landscape across different civil legal aid services and categories of law and examine some of the key features of these providers, such as how long they have operated in the market, their commercial structure and where they are based. We start by exploring trends across the sector as a whole, before looking at individual categories of law.

Following our assessment of provider numbers, we also consider the other factors that influence overall capacity and quality of market provision. We conclude by bringing together our analysis on demand and supply to consider how these may interact, drawing out some initial findings for the health and sustainability of the market to examine in greater detail in the remainder of the Report.

5.2 Defining supply and provision

It is not possible to directly observe the level of ‘supply’ in the civil legal aid market. The simplest way of measuring supply is the number of providers who hold a contract with the LAA to deliver civil legal aid work and we use this as our primary data point in this section. However, it should be acknowledged that this is an imperfect measure of supply. Whilst a provider may hold a contract with the LAA to deliver civil legal aid, they are not mandated to deliver any number of cases and they may deliver a greater or lesser number depending on a host of factors, such as their available capacity and the attractiveness of legal aid work versus other service areas. Furthermore, provider numbers do not capture the size of these providers and how many practitioners within them do legal aid work. Our assessment of provider numbers is, therefore, set within this broader context. To provide a more complete assessment of supply, this section also includes analysis on average caseloads delivered by providers and the composition of the market, including the size of providers and the presence of profit-making versus not-for-profit providers.

In line with our analysis in Section 4, we assess these supply dynamics over two time periods: firstly, covering the fullest pre- and post-LASPO period as data allows, enabling us to understand the big-picture impacts from LASPO; and secondly, focusing on the period since 2013-14 to remove the “LASPO effect” and identify the other factors that have impacted market provision in recent years. We also highlight the timing of LAA procurement exercises (see Box 2 below), to highlight the important role these have had in influencing overall levels of supply, although this does not include LAA’s most recent procurement round (2023-24) as data is not currently available.

While there is no competition between firms tendering for provider contracts in procurement rounds, it is important to note that the LAA plays an important market stewardship role and has broader tools for stimulating market appetite. Information shared by the LAA on a Provider and Contract Capacity Review

conducted in 2023⁷² sets out how the LAA designs its procurement activity to monitor and address capacity constraints in the provision of civil legal aid services:

- The LAA carries out capacity reviews to assess coverage and identify any existing or potential gaps in service provision. This includes conducting market engagement in affected geographical regions and categories of law, to understand the main issues impacting provision. Where provision is found to be insufficient – for instance due to unsuccessful procurement rounds, the LAA can issue emergency contracts or extend current contracts.
- The LAA has teams of contract managers who can engage existing provider offices to better understand the market structure (e.g. the make-up of providers), the potential reasons for any inactivity and current issues experienced.

⁷² Legal Aid Agency ed., (2023). LAA Service Development and Commissioning Provider and Contract Capacity Review: February 2023 – June 2023.

Box 2: Summary of LAA procurement activity

The LAA and its predecessor, the Legal Services Commission (LSC), have conducted extensive procurement activity since 2010-11, inviting providers to tender for contracts across each of the categories of civil law. There have been three major procurement rounds - in 2010, 2013 and 2018 - involving most areas of law, supplemented by additional targeted procurement exercises for specific areas of law or locations.

2010: The LSC conducted a major procurement exercise and awarded new contracts in all categories of law apart from Family (Family contracts were extended through a non-competitive tender. This is because many Family providers lost their contract through the 2010 procurement exercise and the MoJ/LAA were subject to a subsequent judicial review).

2012: The LSC awarded new contracts in Family (and Family with Housing contracts) replacing the contracts that were extended in this area in 2010.

2013: The newly created LAA made a number of changes to contracts to take into account the implementation of LASPO. This included awarding new contracts in Family, Immigration & Asylum, and Housing & Debt, and extending contracts for the remaining categories of law. The “mandatory telephone gateway” for Education, Debt, and Discrimination was also introduced.

2014: New contracts were awarded in Mental Health and Community Care.

2015: New contracts were awarded in Claims Against Public Authorities, Clinical Negligence, and Public Law.

2018: The LAA conducted a major procurement exercise and awarded new contracts in most categories of law

2019: In anticipation of the removal of the mandatory telephone gateway, which formally came to an end in early 2020, new face-to-face contracts were introduced in Education and Discrimination.

2022: A tender was carried out to award supplementary contracts in all civil categories (i.e., in addition to the ones already in place).

2023: A tender was carried out which comprised of two parts:

- 1) current in-market providers could accept a one-year extension.
- 2) new providers could enter the market.

In 2023, there was also a tender for the new Housing Loss Prevention Advice Service (HLPAS).

In addition to the above, targeted procurement exercises have been carried out over the years (usually in specific locations) in Housing & Debt, Welfare Benefits, Education, Immigration & Asylum work and to cover various Housing Court Duty Possession Schemes. The list above also does not include any of the tenders that were carried out for Civil Legal Advice specialist telephone advice contracts in this time period.

5.3 The evolution of provision – numbers of providers and provider offices

Key findings and implications:

- There has been a sustained decline in provider numbers and offices – LASPO drove a sharp contraction in the market, but the decline in provider numbers and offices has continued.
- The LAA's last major procurement round in 2018-19 stimulated significant market entry and exit activity, demonstrating that there is still an appetite from providers to enter the market, but this boost to provider numbers and offices has since been eliminated through providers steadily withdrawing from the market.
- The ongoing rate of supply erosion appears to be driven by underlying market fundamentals, primarily commercial viability and access to specialist skills.

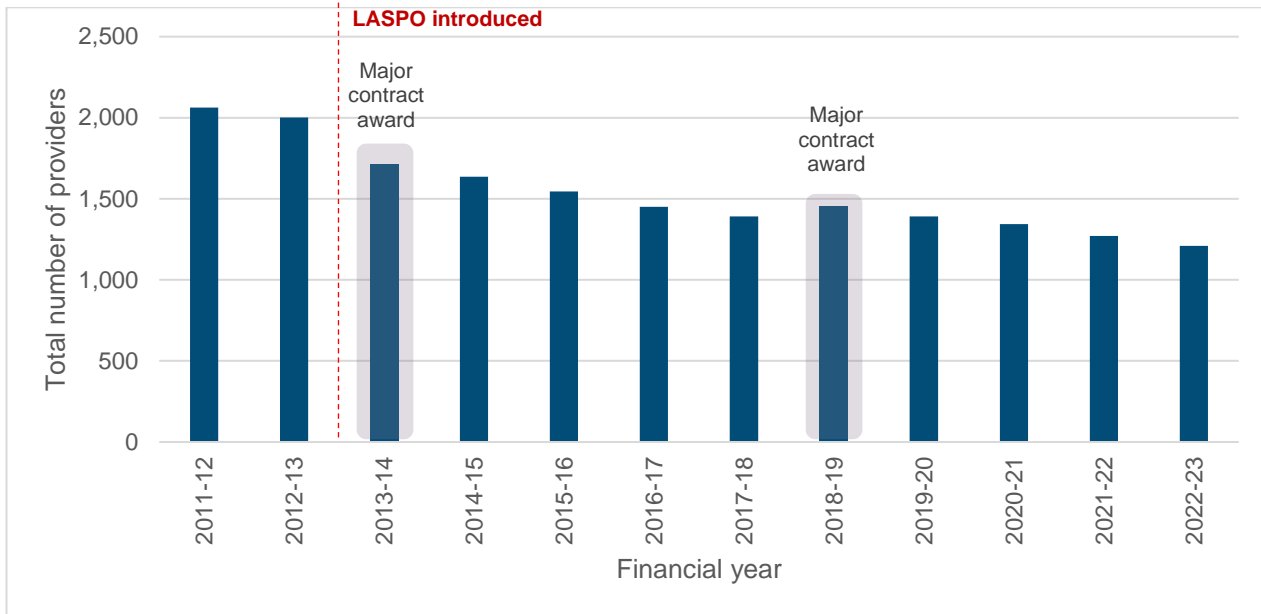
In this sub-section we examine how provision has evolved through the lens of the number of providers operating in the market. In exploring this data, we examine both the number of providers and the number of provider offices. It is important to distinguish between these different measures: a provider is defined as an organisation that holds a contract with the LAA to deliver civil legal aid services – however, a provider can operate from more than one office. This distinction is particularly important when we examine market structure in Section 5.8, and the geographic location of providers in Section 5.9. We provide figures for the number of providers and offices contracted by the LAA and additionally how many providers and offices have started work. These are briefly defined below:

- The number contracted by the LAA – at the end of each financial year.
- The number that have started work – this captures only the providers that have started work in each financial year and allows a view of active providers (as some providers may choose not to carry out any work despite holding a contract).

Number of providers and offices contracted by the LAA

Figure 13 below shows the number of providers contracted by the LAA to deliver civil legal aid since 2011-12. The initial expected decline in provider numbers post-LASPO, due to many cases being taken out of scope of legal aid, has been followed by a continuation of this trend in more recent years. Overall, the number of providers at the end of 2022-23 was 41% lower than in 2011-12, having fallen from 2,062 to 1,209. Given that the main opportunities to join the market in recent years were the major procurement rounds held by the LAA in 2013-14 and 2018-19, as discussed above, we consider it most appropriate to assess the change in providers between these years. The number of providers fell by 258 over this period (equivalent to 15% of the provider supply base in 2013-14). We explore entry and exit of providers in greater detail later in this sub-section. Whilst trends in provider numbers after 2018-19 show a continued declining trend, it is important to recognise that the impact of the 2023-24 procurement round is not captured in the current data.

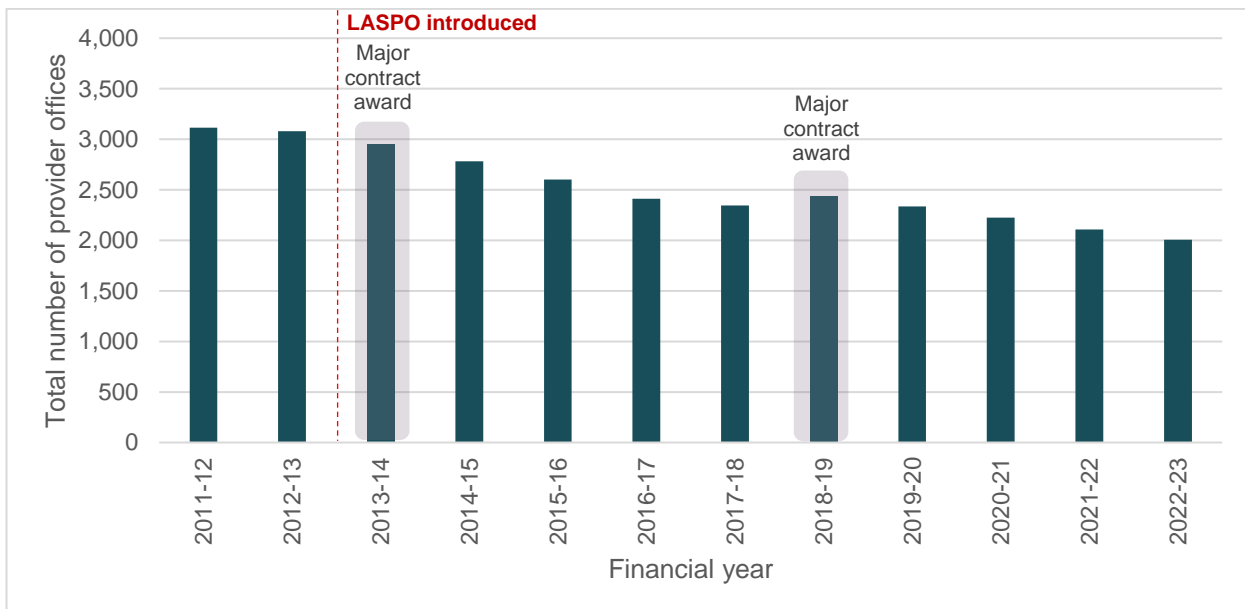
Figure 13: Number of providers with a contract for civil legal aid for 2011-12 to 2022-23⁷³



Source: Civil legal aid contracts data supplied by the MoJ. Figures are as of the end of each financial year. Shading highlights major contract procurement rounds.

This trend is very similar when analysing the number of offices held by providers with a contract to deliver civil legal aid. Figure 14 below shows that the number of provider offices has declined by 36% since 2011-12, having fallen from 3,116 to 2,006. In the period between 2013-14 and 2018-19, the rate of decline in the number of offices has outstripped that of provider numbers, falling by 520 (which represents 18% of the provider office supply base in 2013-14). In Section 5.8, we explore the changes in provider size over time in more detail.

Figure 14: Number of offices held by providers with a contract to deliver civil legal aid for 2011-12 to 2022-23⁷⁴



Source: Civil legal aid contracts data from the MoJ. Figures are as of the end of each financial year. Shading highlights major contract procurement rounds.

⁷³ Please note that due to the nature of the data supplied, analysis could only be carried out from 2011/12 rather than 2010/11.

⁷⁴ Ibid.

Number of providers and offices starting work

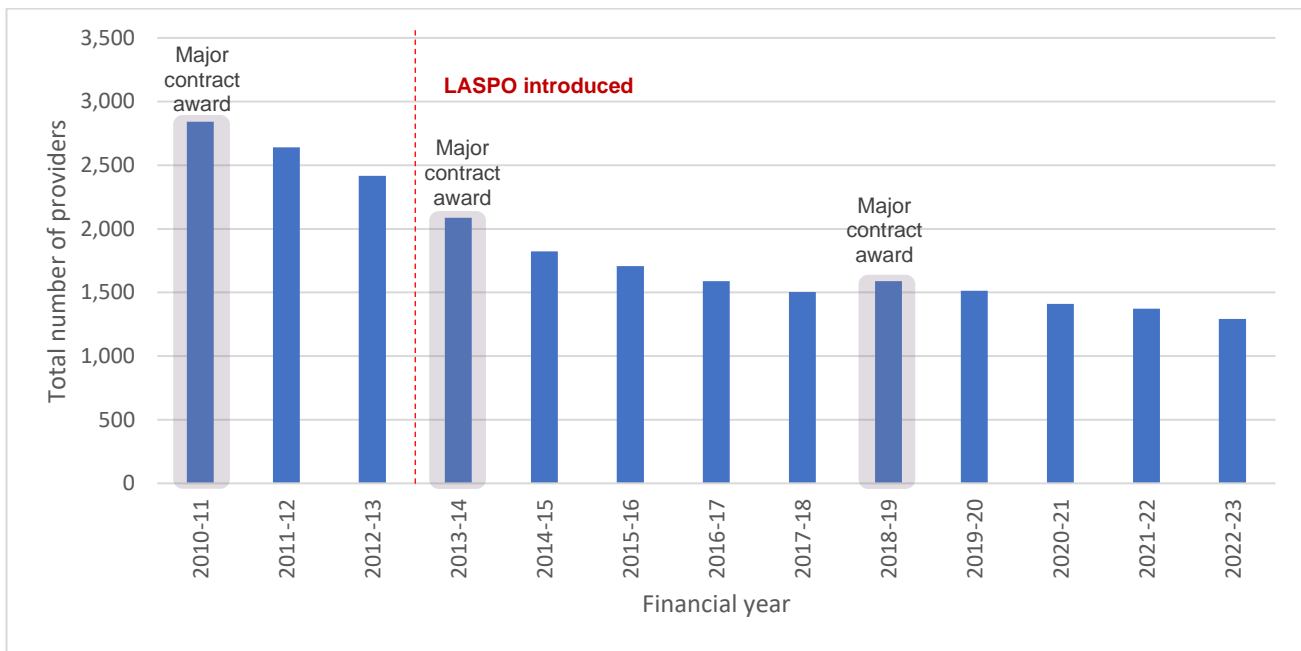
Figure 15 and Figure 16 below shows the number of providers and provider offices starting work for the period 2010-11 to 2022-23. This period begins a year earlier than Figure 13 and Figure 14 – due to greater data availability, and now includes the 2010-11 major procurement round.

The number of providers starting work is an alternative measure to the number of contracts, which offers a more accurate view of active supply by eliminating potential ‘zombie firms’ i.e. firms that have legal aid contracts but don’t deliver legal aid work.

The figures show a very similar declining trend to that seen in Figure 13 and Figure 14. Over the period 2010-11 to 2022-23, the number of providers and offices starting work declined by 54% and 51% respectively. The rate of the decline was relatively even over time - between 2010-11 and 2013-14, the number of providers and offices declined by 27% and 19% respectively and then between 2013-14 and 2018-19, they declined by 24% and 23% respectively.

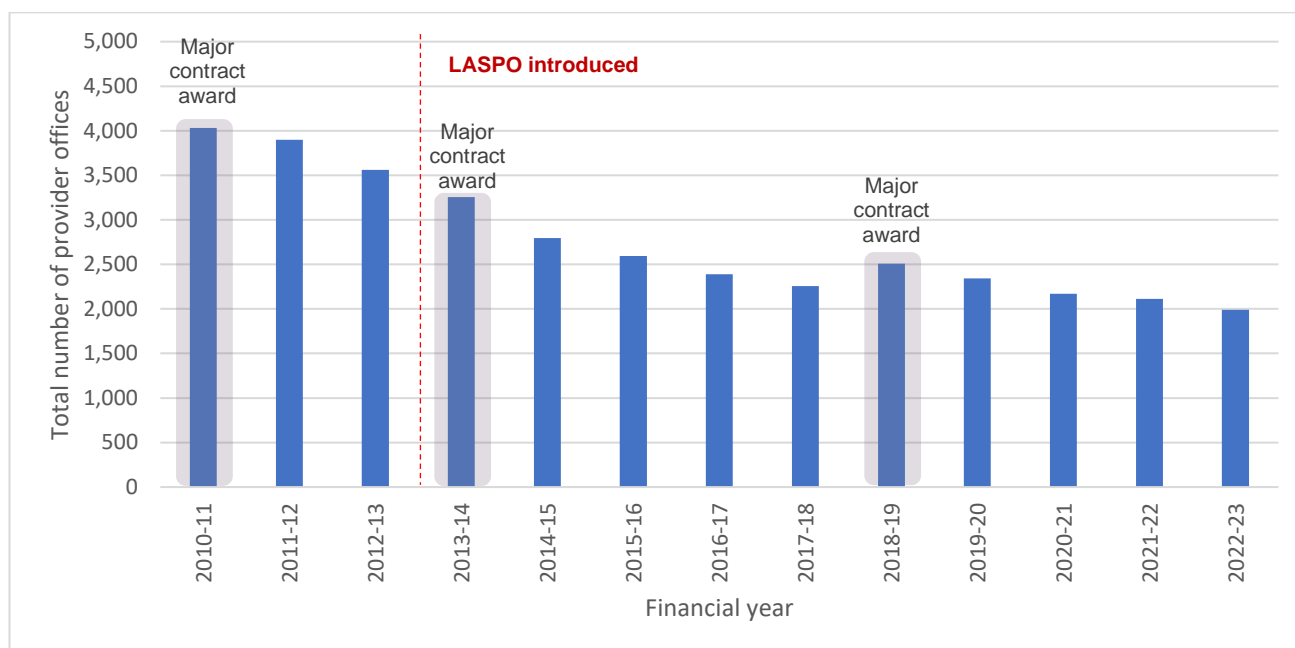
Figure 15 and Figure 16 show a higher set of numbers than Figure 13 and Figure 14, i.e. there are a higher number of providers/offices starting work than contracts, but the core trend is the same. Further analysis is required to understand the reason for the differences in the data, but one possible reason is the existence of time lags in the data (i.e. the starts data reflects starts across the whole year, whilst the contracts data reflect the “end year” position).

Figure 15: Number of providers starting work for 2010-11 to 2022-23



Source: Civil Legal aid statistics England and Wales starts by provider and area data to March 2023. Shading highlights major contract procurement rounds.

Figure 16: Number of offices held by providers starting work for 2010-11 to 2022-23



Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023.

Entry and exit of providers and offices

By examining contract data published by the LAA, it is possible to examine the extent to which these trends have been driven by entry or exit of providers/offices.⁷⁵ Figure 17 and Figure 18 below show entry and exit of providers and provider offices respectively over the period 2013-14 to 2022-23. Entry and exit data for the first month of 2013-14 (i.e. April 2013) has been excluded from the chart and calculations, as the entry number captured all existing providers at that time rather than just the new entry, due to being the start of the dataset.

In the period 2013-14 to 2022-23, 1,116 providers entered the market, and 2,151 providers left the market, whilst 1,580 provider offices entered the market, and 2,926 provider offices left the market (subject to the above limitation). Whilst the number of providers leaving the market is higher than the number entering the market, it also indicates an encouraging sign that new entrants are prepared to enter the market.

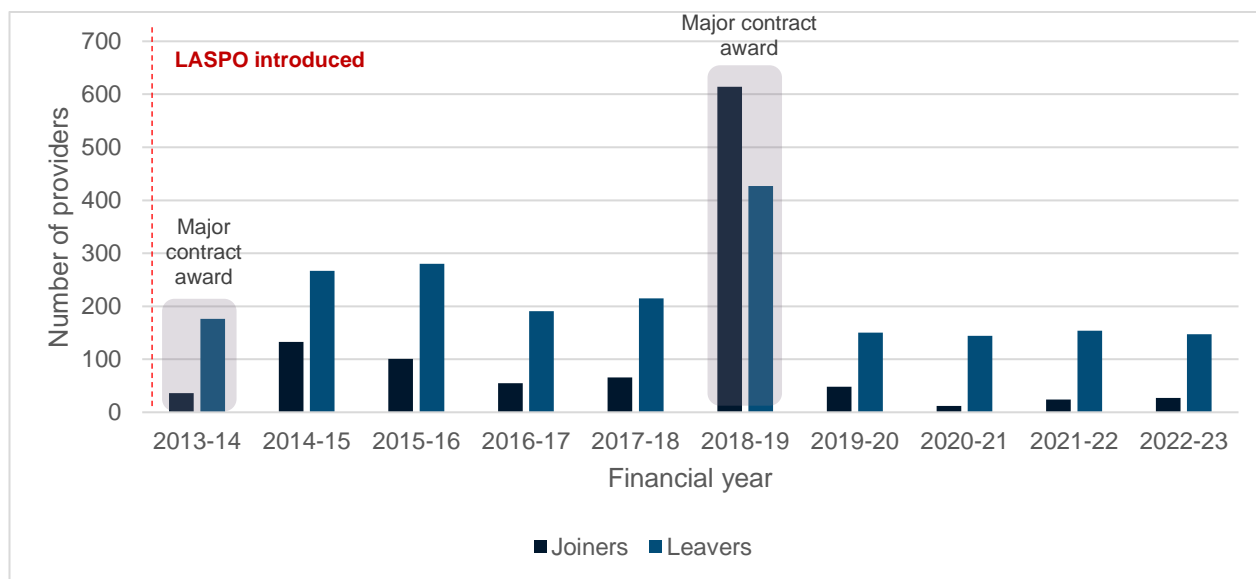
The only year when the number of providers or provider offices entering the market exceeded those leaving the market was 2018-19, as expected given that this was the year of a major LAA procurement round. This procurement resulted in a high degree of ‘churn’ in the market, with a large proportion of existing market providers leaving, but also a significant number of new entrants joining. This churn includes providers exiting individual contracts, while continuing to operate in other areas. In our Provider Survey, 150 respondents (out of 228) had previously given up at least one contract.

It is notable that the net increase in providers with contracts from the latest major procurement round was eroded within two years through the high numbers of providers leaving the market. The same applies to provider offices. We consider this an unexpected outcome following a large procurement exercise – some providers who are making an active decision to join the market, or to continue to operate in it, are subsequently deciding to withdraw from the market in a relatively short amount of time. It is also noticeable over the last four years that the number of providers joining the market (i.e. through targeted procurement activity the LAA deploys to supplement the main procurement rounds) has been

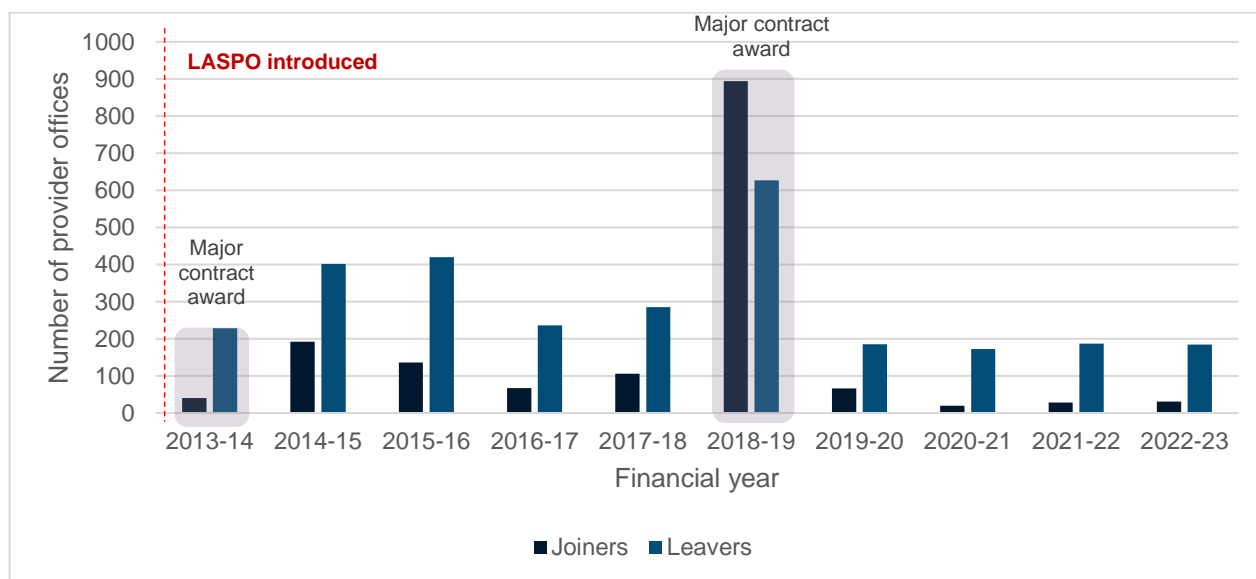
⁷⁵ It should be noted that the LAA contract data does not reconcile exactly with the provider data provided by the LAA, and therefore, comparisons should be made carefully and interpreted as directional and qualitative in nature.

much lower than before the 2018-19 procurement round. Sections 6, 7, and 8 will explore the factors that are driving these decisions on market entry and exit.

Figure 17: Number of providers joining and leaving contracts from 2013-14 to 2022-23⁷⁶



Source: Contract data from the LAA. Data for April 2013 is not included as it would include numbers for every existing contract holder in the joiner’s variable since it is the start of the time series. Figure 18: Number of provider offices joining and leaving contracts from 2013-14 to 2022-23⁷⁷



Source: Contract data from the LAA. Data for April 2013 is not included as it would include numbers for every existing contract holder in the joiners’ variable, since it is the start of the time series.

Explaining the trends in provider numbers

MoJ contract data, LAA market entry and exit data and responses to our Provider Survey all evidence a sustained decline in provider numbers, and there are a range of reasons explaining this trend.

Figure 19 below presents LAA data on the explanations given by the 761 provider offices who exited their civil legal aid contracts during the period September 2017 to August 2023. Around 50 offices exited the market over this period as a result of LAA action (for example, through terminations and sanctions); whilst the vast majority of exits were the result of a decision by the provider. The most common explanation given was “commercial viability”⁷⁸, which 324 (43%) of offices mentioned as their primary reason for leaving. This is explored further in Section 7, where we unpack the issues that providers face

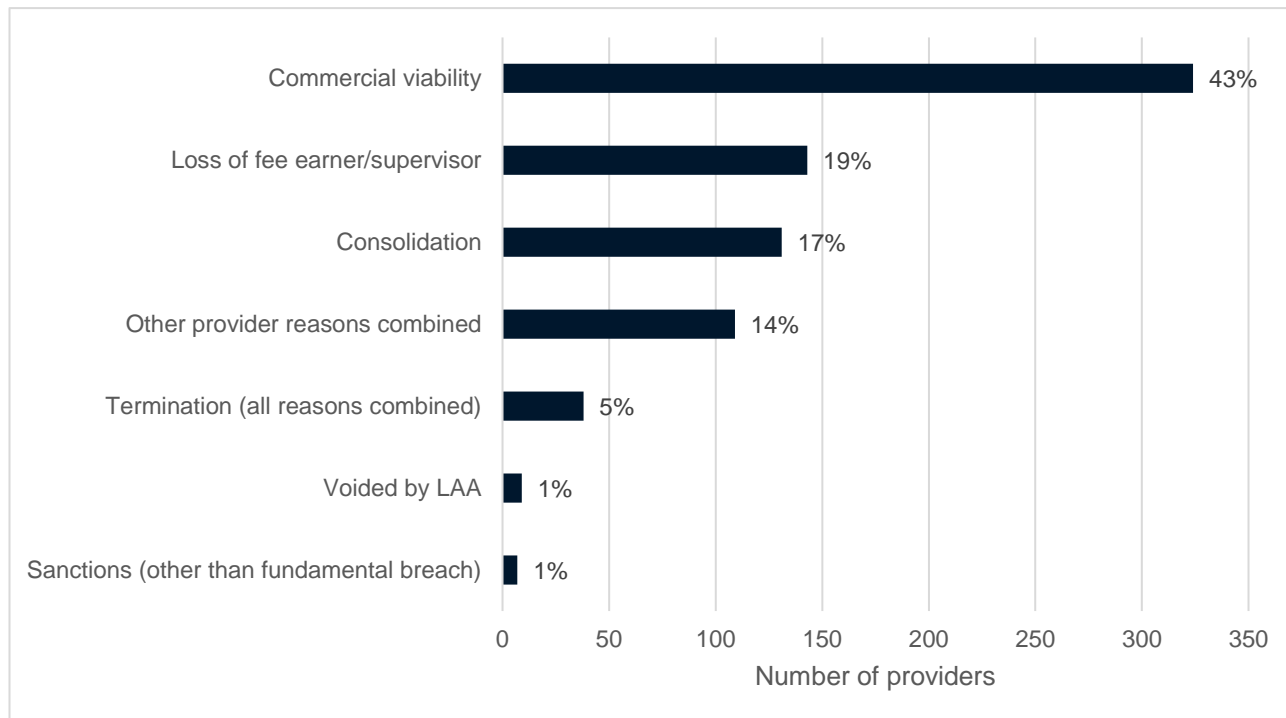
⁷⁶ Due to the nature of the data supplied, analysis could only be carried out from 2013/14 rather than 2010/11.

⁷⁷ Ibid.

⁷⁸ Commercial viability by implication would mean whether fees cover costs and in turn generate some form of acceptable profit margin to cover any associated investment risks/opportunity cost. But could also extend to workforce/premises sustainability etc.

with fees not covering costs adequately. Another 143 offices (19%) withdrew primarily due to the loss of key fee earners/supervisors. This data also shows that 131 offices (17%) left due to consolidation with other legal firms over the period.

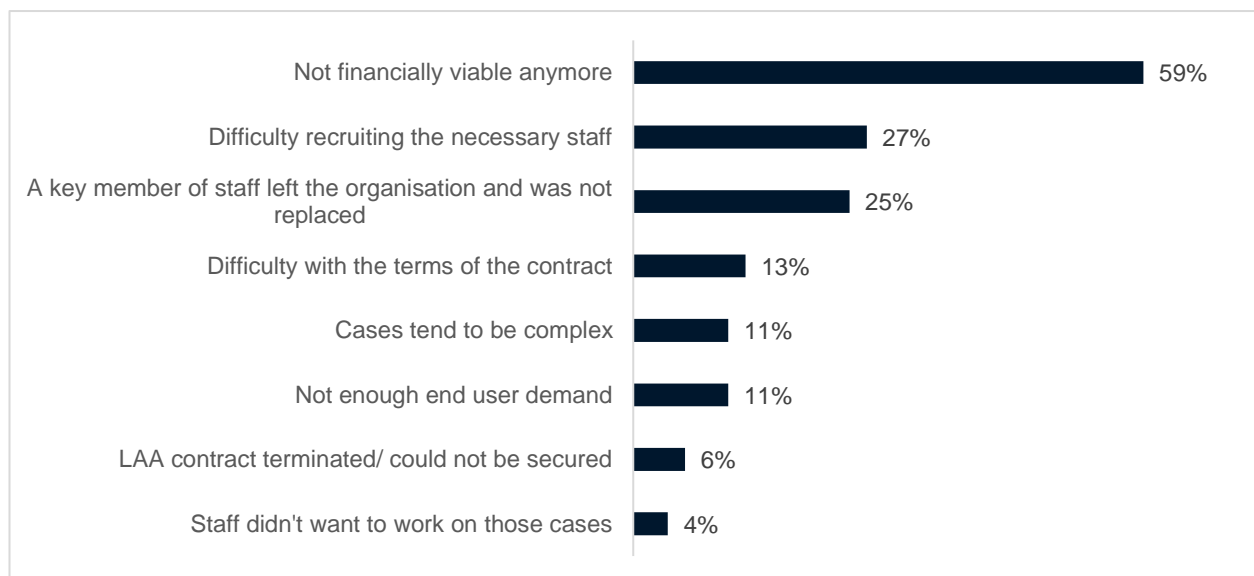
Figure 19: Reasons for exiting from the civil legal aid market, September 2017 – August 2023⁷⁹



Source: PA analysis of LAA data.

These findings are complemented by our Provider Survey (see Figure 20 below), where 59% of the 150 providers who have stopped holding one of their civil legal aid contracts did so because it was no longer financially viable, followed by 27% withdrawing due to difficulty recruiting staff and 25% withdrawing due to a member of staff leaving and not being replaced.

Figure 20: Reasons providers have stopped holding civil legal aid contracts



⁷⁹ Data was not available for a longer time period.

The staffing issues impacting providers are analysed in more detail in Section 6, and issues around financial viability of the market are examined further when exploring fees in Sections 7 and market profitability in Section 8.

5.4 Legal aid services: evolution of provision

Key findings and implications:

- The number of provider offices delivering civil representation and legal help have fallen by around the same amount following LASPO.
- For civil representation, this decline has been roughly in line with reductions in case volumes, but the number of legal help providers has declined less than anticipated. Providers are, on average, delivering fewer legal help cases, reflecting concerns about affordability but potentially retaining a foothold in this segment of the market, as a stepping stone to provide more financially viable civil representation services in these areas.

In Section 5.3 we examined the aggregate number of providers and provider offices with contracts to deliver civil legal aid in all its forms. In this sub-section, we explore how far these trends are observed across providers who deliver different types of legal aid services – civil representation, legal help and mediation.

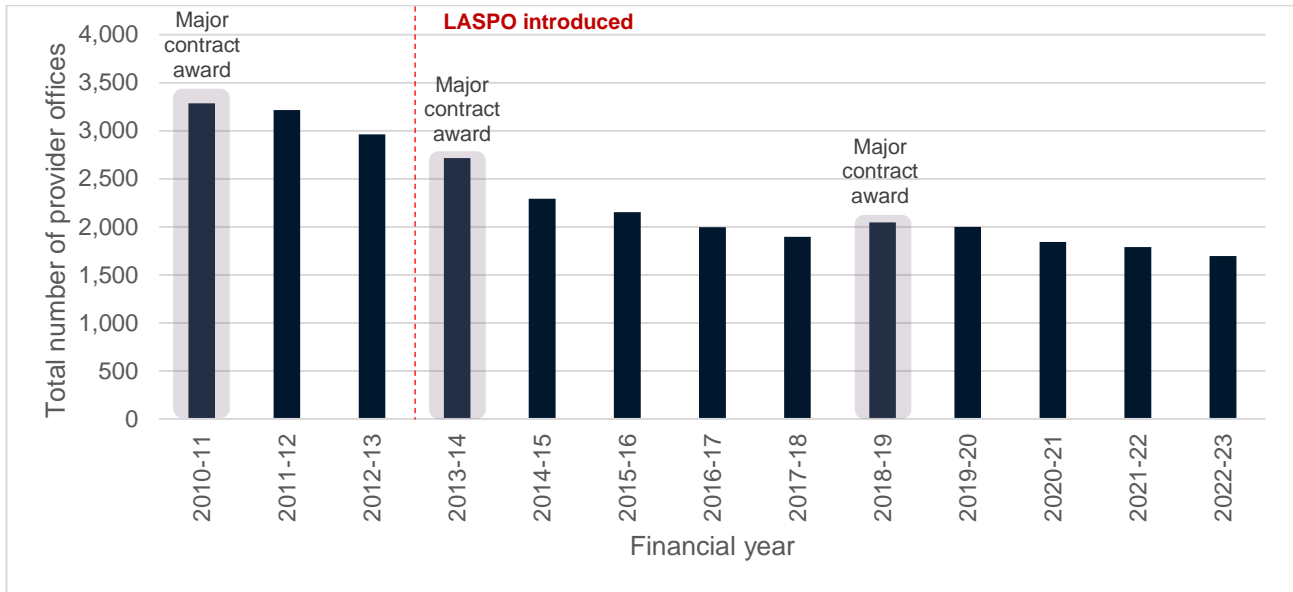
We use published MoJ/LAA data on the number of providers who started cases/matters across different legal aid services to assess volumes. It would also be possible to conduct this analysis based on cases/matters completed, but we consider that cases/matters started better reflects the timing of provider intentions (as cases may complete only with a significant lag).⁸⁰ We use the number of provider offices, rather than providers, as this ‘unit of supply’ is less likely to be impacted by any changes in market structure over this period (i.e. office data may better capture any trend around the size of providers getting larger).

Analysis of this data, as shown in Figure 21, Figure 22 and Figure 23 below, shows that the reductions in provider office numbers have been broad based across different areas of legal service over this period, falling by 48% in civil representation, 54% in legal help and 51% in mediation.

Figure 21 below shows the number of provider offices starting civil representation cases between 2010-11 to 2022-23. This data exhibits a broadly similar trend to overall provider office numbers discussed in Section 5.3 – i.e. the initial expected decline in provider numbers post-LASPO, due to many cases being taken out of scope of legal aid, followed by a continuation of this trend in more recent years, and decline (25%) between the major procurement rounds in 2013-14 and 2018-19. The 25% fall between the two major procurement rounds is very similar to the 23% fall observed over the same period in the broader provider office numbers seen in Figure 16.

⁸⁰ We consider cases/matters completed to be a more appropriate metric when analysing provider capacity and caseload, as this best reflects a provider’s ability to deliver a case from start to finish. Full expenditure data is also only available when cases are fully completed and so this metric is most appropriate when average case costs are being analysed, for example.

Figure 21: Number of provider offices starting civil representation work, 2010-11 to 2022-23

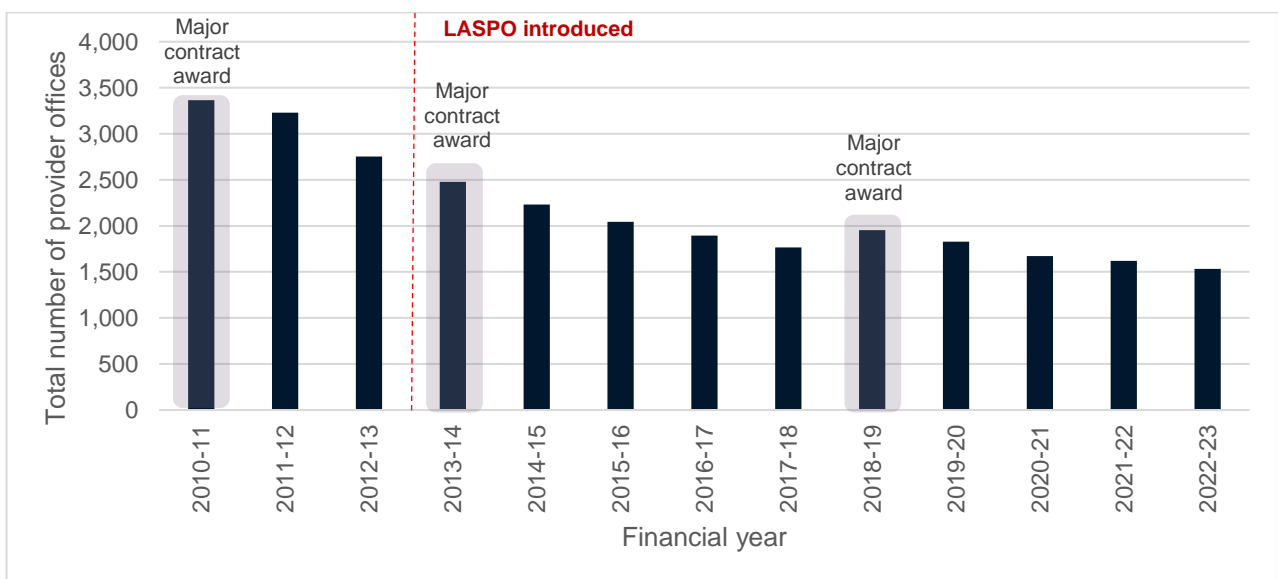


Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023](#)
 Note: provider offices may deliver more than one type of civil legal aid service.

Changes in provider office numbers for those that work in legal help, shown in Figure 22 below, exhibit a very similar pattern to civil representation, with a decline in numbers of 21% between the two most recent major procurement rounds. However, the slightly lower decline than civil representation contrasts with our analysis in Section 4 that showed how legal help case volumes fell more significantly than civil representation. Although, the number of legal help providers has declined, this reflects that providers are on average delivering a fewer number of these cases.

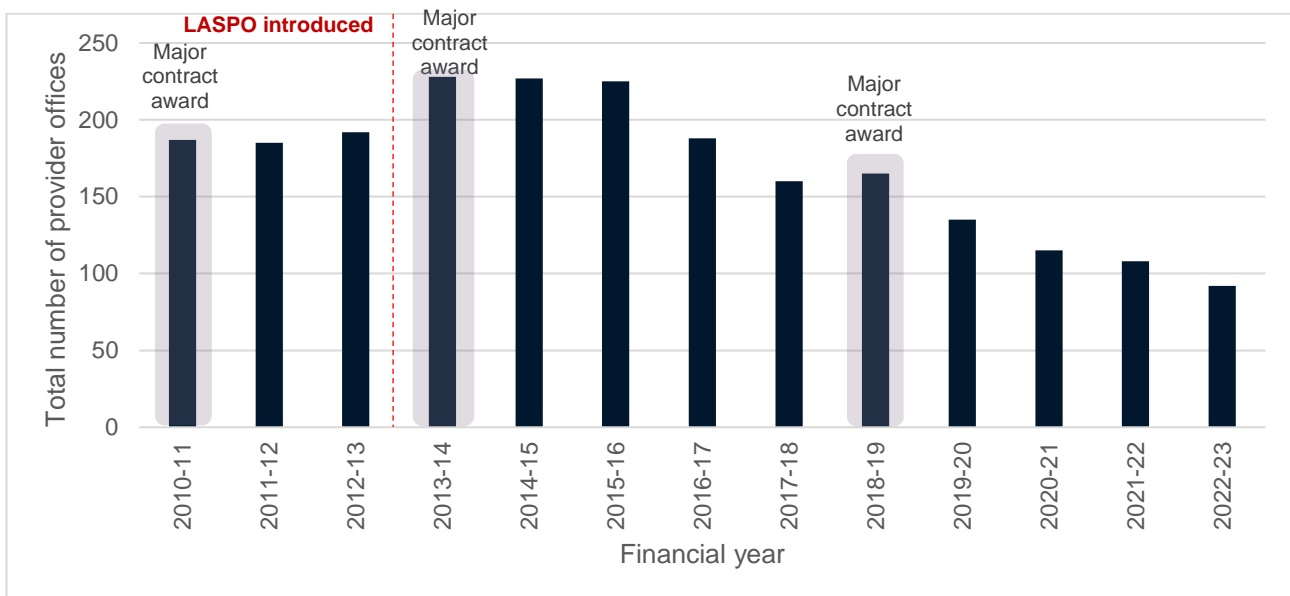
Providers are likely to be retaining a foothold in the market as a gateway to provide civil representation services in these areas. This provides one explanation why providers do any legal help work, despite responses to our Provider Survey indicating the difficulties in making this work commercially viable. Denvir *et al.* (2022) provide some other potential reasons – it provides useful training for junior staff or they feel a moral obligation to undertake this work.

Figure 22: Number of provider offices starting legal help work, 2010-11 to 2022-23



The number of provider offices delivering mediation work illustrates a very different trend to civil representation and legal help. Figure 23 below shows that from 2010-11 to 2013-14, the number of provider offices grew 22%. The upward trend then begins to reverse. Between the 2013-14 and 2018-19 major procurement rounds, provider office numbers declined by 28%. The downward trend then continues beyond 2018-19. Further evidence is needed to fully explain the reduction in provider offices starting mediation work in recent years, but analysis in Section 5.5 shows that this has gone hand-in-hand with a significant increase in the average number of mediation matters per provider office. In turn, the greater mediation capacity of providers means that fewer providers are needed to fulfil this demand. This may be indicative of changes in market structure within this area of the market, with larger providers playing a more prominent role. The impact and sustainability of higher caseloads is discussed in more detail in Section 5.5, below.

Figure 23: Number of provider offices starting mediation matters, 2010-11 to 2022-23



Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023
 Note: provider offices may deliver more than one type of civil legal aid service.

5.5 The evolution of provision: provider capacity

Key findings and implications:

- Market provision has broadly been able to be maintained in the wake of providers exiting through remaining providers delivering higher caseloads. There is some evidence of consolidation, with larger providers benefitting from greater resilience.
- Overall, however, providers report experiencing very high levels of demand and this results in significant capacity issues, with providers saying that they are forced to turn away large numbers of potential cases on a monthly basis and voluntary sector providers saying that they are forced to choose the clients with the greatest need.
- Capacity issues may in part be exacerbated by more complex and expensive cases that take longer to resolve. Speeding up cases through broader reforms to the civil justice system could help unlock additional capacity from legal aid providers.

As outlined in Section 5.2, the number of providers and provider offices is only one indication of overall market provision levels. The capacity of providers to deliver civil legal aid cases is critical for determining how far demand can be met, and the evidence around this is explored in this sub-section.

We analyse capacity through a range of lenses, starting with primary evidence from our Provider Survey on reported capacity issues. We then explore what may be driving capacity issues in the market through assessing a range of factors, including the number of cases/matters providers can deliver, the length of time it takes to complete these cases and the potential level of complexity involved in these cases.

Capacity issues reported by providers

Our Provider Survey provides new evidence on the level of capacity that providers report. We asked providers to rank end-user demand on a 7-point scale, with 1 being 'low' and 7 being 'overwhelming' demand.⁸¹ The responses found that:

- 50% of providers stated that demand was 'very high' or 'overwhelming' (i.e. 6+ on the scale).
- 80% of providers stated that demand was higher than a standard level (i.e. 5+ on the scale).

Importantly, demand is reported to be high, even though case volumes are historically at low levels in the post-LASPO period, which is indicative of significant capacity issues in the market. A symptom of this is also found through providers reporting turning away potentially eligible end-users – in our Provider Survey, providers that were experiencing a high level of demand reported, on average, turning down 26 cases in the month preceding the survey (although their eligibility for civil legal aid likely had not yet been assessed at this point).⁸² This number differed by region, type and size of provider. For instance, providers in London reported turning away 47 cases on average, compared to 17 for the rest of England and Wales, FP providers reported turning away 22 cases on average compared to 39 for NFP providers, and smaller providers (1-30 employees) reported turning away 23 cases on average compared to 30 for larger (30+ employees). These divergences are somewhat expected, where providers in London serve a large population size, FP providers may be better positioned to handle high caseloads compared to NFP providers (we examine differences between types of providers in Section 5.9) and larger providers may attract more enquiries than smaller providers – perhaps due to having more offices (differences in provider size are further examined in Section 5.8).

For specific civil legal aid contracts, very high demand was reported more for Housing & Debt (65%) and Immigration & Asylum services (83%). Reported levels of demand for Family and Public Law services were also high.

Below, the potential factors that are driving these capacity issues are assessed – including the size of caseloads that providers are delivering, the duration of cases, and their complexity.

Average caseloads – the number of cases/matters completed per provider office

Here we analyse the cases/matters 'completed' data when considering number of cases per provider office, rather than 'started' cases/matters, as it provides a more comprehensive dataset allowing us to analyse providers available capacity to fully deliver a case from start to finish. The data covers the same period as the case/matter starts dataset, 2010-11 to 2022-23 and enables us to see changes in the aggregate (shown below), as well as break down by service type (i.e. civil representation, legal help and mediation) and by category of law (both of which are explored in later sub-sections). It should be noted

⁸¹ It's important to note the potential for differential interpretations of the levels on the 7-point scale among the respondents.

⁸² Important caveats to flag for this figure include that not all the enquiries will have been definitely proven to be eligible cases. Also, it is not clear the extent to which the enquiries turned away were subsequently taken on by different providers – data does not exist for this. Lastly, the average of 26 reported relates to providers that reported high demand, and therefore the average may be lower for all providers.

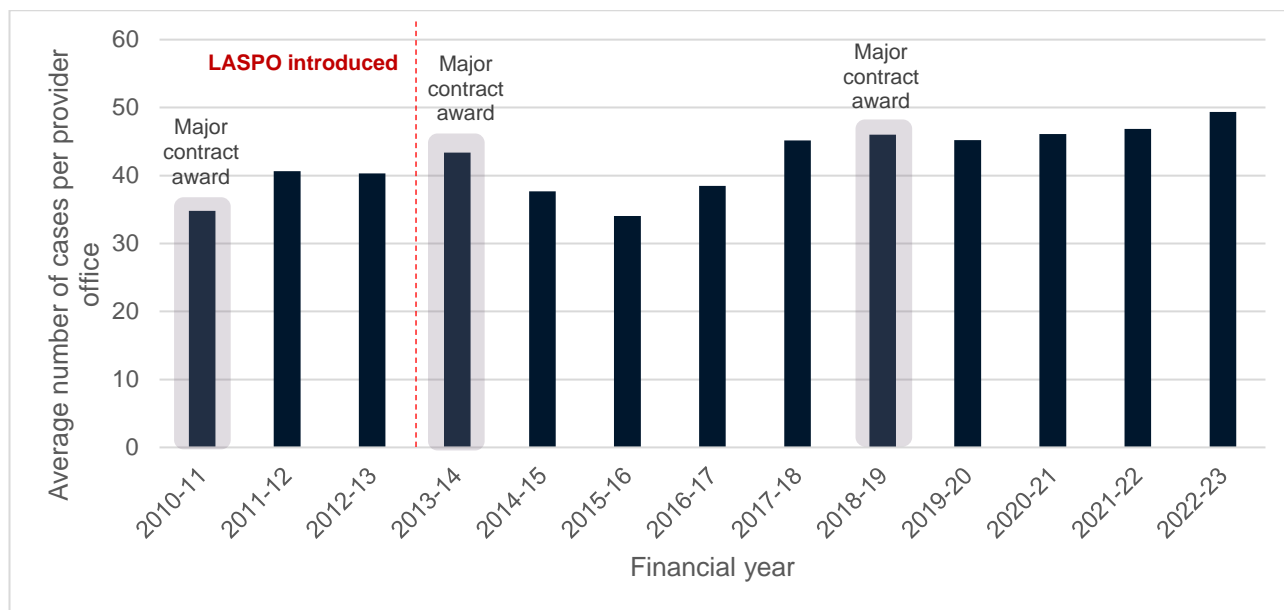
that average figures do not take into consideration how cases are distributed across the provider offices, but this analysis does still allow broad trends to be illustrated.

Figure 24 below presents the average number of cases completed per provider office for civil representation. Over the whole period, this has grown by 42%, from 35 cases in 2010-11 to 49 in 2022-23. The growth in average case numbers per provider office has not been uniform over this period. Between the two latest major procurement rounds, in 2013-14 and 2018-19, it grew at a marginal level of 6% and then continued that marginal growth after 2018-19, increasing by 7%. The aggregate growth in average case volumes per provider office between the major procurement rounds masked a decline, which occurred for two consecutive years from 2013-14 to 2015-16, and was then followed by annual increases after that.

We saw in Section 4.3,

Figure 5, that demand had dropped by approximately 31% over the whole period (measured by cases started), signalling that falling number of provider offices contributes to the higher average caseload.⁸³ This trend shows that providers are, on average, able to manage a higher civil representation caseload since LASPO. Using this data alone, it is not possible to identify the root causes of this trend, such as providers increasing their focus on legal aid or size of their legal aid teams, efficiency improvements or a feature of the changing mix of providers remaining in the market. The extent to which this may be caused by changes in market structure, such as consolidation between providers, is analysed in Section 5.8. In Section 5.12 we explore the pain points and issues reported by providers, which will give further insights into the capacity of providers. In Section 9, we assess efficiency.

Figure 24: Average number of cases completed per provider office for civil representation, 2010-11 to 2022-23



Source for number of civil representation cases: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 6.3. Source for number of provider offices completing civil representation cases: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-civil-completions-provider-area-data-to-mar-2023.

Figure 25 below presents the equivalent data for legal help matters completed and this highlights a very different pattern – with matters completed per provider office falling by 65% over the period, from 239 in 2010-11 to 83 in 2022-23. A noticeable drop is observed immediately following the implementation of LASPO in 2012-13, as seen in Section 4.3, Figure 7, illustrating how LASPO significantly reduced the scope of legal help services. The drop in providers undertaking legal help work was more modest than

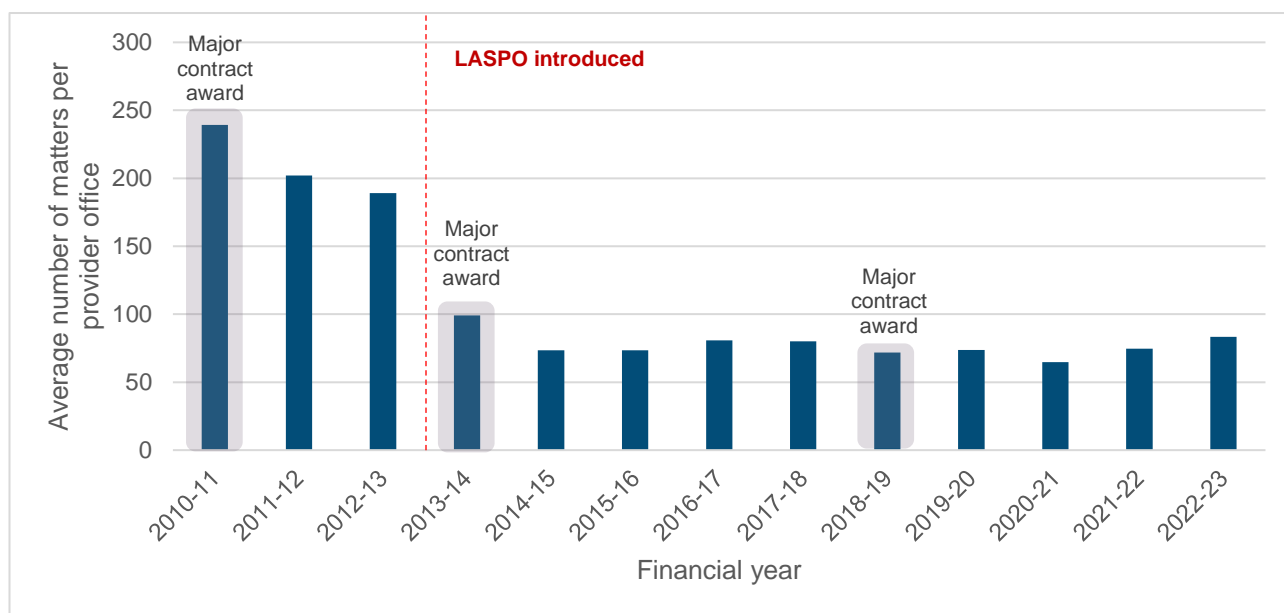
⁸³ Comparisons between cases started and cases completed data will carry some.

might be expected given the significant decrease in case volumes, providing further evidence that many providers were generally keen to keep a ‘toehold’ in the legal help market, delivering only a small number of cases per year.

Although the average number of matters completed per provider office did decline between the two most recent major procurement rounds (28%), from 2014-15 onwards, the levels remained relatively stable. This may indicate adjustment following the reduction in scope from LASPO. Looking at the period from 2018-19, we can see that the average numbers have mostly grown, rising from 72 to 83 (a gain of 16%).

Similar to civil representation, it’s not possible to ascertain from this data alone the reasons for the recent increase in average numbers of matters completed per provider office. The recent uptick is also likely to reflect a recovery in overall matter completions since the disruptions to the broader civil justice system during the pandemic.

Figure 25: Average number of matters completed per provider office for legal help, 2010-11 to 2022-23

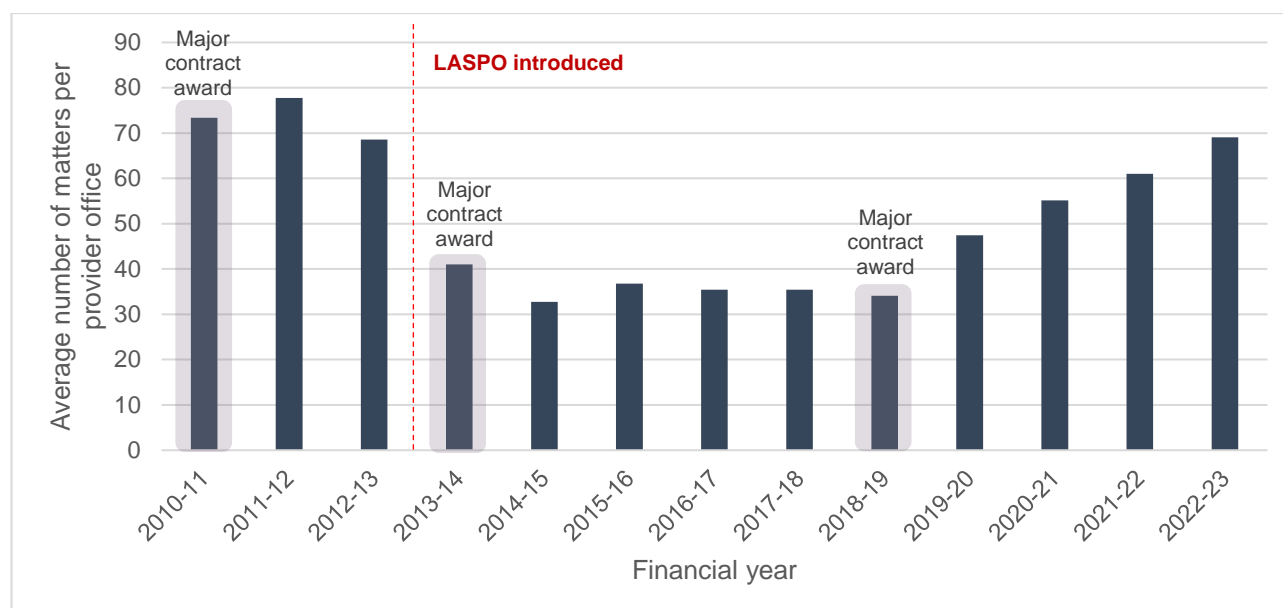


Source for number of civil representation cases: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 5.2. Source for number of provider offices completing civil representation cases: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-civil-completions-provider-area-data-to-mar-2023.

Finally, Figure 26 below shows the average numbers of matters completed per provider office for mediation. There are three clear patterns observed in the data. Prior to LASPO, between 2010-11 and 2012-13, the average number of mediation cases delivered was at its highest level of the entire period, at 69-78 per provider office. LASPO delivered a significant reduction in the scope of mediation services and average matters completed per provider office decreased by 40% in 2013-14. Levels remained at these lower levels until 2018-19, from which mediation caseloads have increased to around 69 cases, close to the pre-LASPO level seen in 2010-11. Recent increases are more substantial than in civil representation and legal help and it is likely that wider factors beyond a changing mix of providers in the market have driven this. For instance, this trend might be linked to some of the drivers explored in Section 4, which illustrated how a significant recovery in mediation volumes from 2018-19 may have been influenced by a growing focus of mediation in the civil justice system.⁸⁴

⁸⁴ GOV.UK. (n.d.). Increasing the use of mediation in the civil justice system. [online] Available at: <https://www.gov.uk/government/consultations/increasing-the-use-of-mediation-in-the-civil-justice-system>.

Figure 26: Average number of cases completed per provider office for mediation, 2010-11 to 2022-23



Source for number of civil representation cases: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 7.2. Source for number of provider offices completing civil representation cases: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-civil-completions-provider-area-data-to-mar-2023.

Overall, this analysis highlights that in civil representation and mediation services, provider offices, on average, have been able to deliver an increased caseload over recent years. This may help explain some of the capacity issues raised by providers – if they are delivering more cases on average, they may have less available capacity to take on new cases. Alternatively, capacity issues could also be explained by the changing nature of cases – for example, if cases are becoming more lengthy, expensive and complex to deliver. We examine this possibility in more detail below.

Changing nature of cases – duration of cases

Understanding how long cases/matters are taking to complete is an important factor of market efficiency (which will be explored in Section 9) – with an important objective of the justice system to quickly resolve users’ legal problems. It can also be a key factor in explaining provider capacity issues, as the time providers are required to spend working on each case/matter will impact their resourcing.

In Figure 27 and Figure 28 below, we assess the average time taken to complete civil representation cases and legal help matters, respectively, for the period 2010-11 to 2022-23.⁸⁵ We do not do the same for mediation due to a lack of data availability.⁸⁶

The data is split by Family and non-Family – given that Family accounts for 91% of all cases by value as of 2022-23 (we explore the more granular breakdown by category of law in Section 5.6). There is a clear difference in case durations between Family and non-Family, with non-Family cases having longer durations across the entire period. Across the whole period, Family case durations fell by 8%, while non-Family grew 34%.

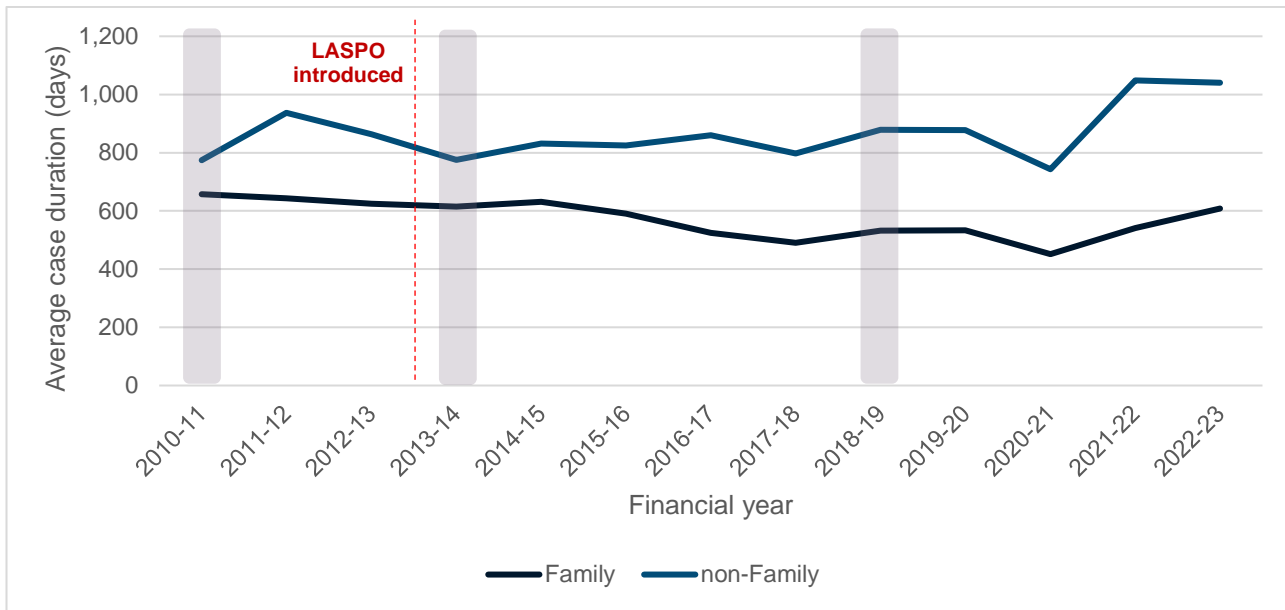
However, it’s notable that duration for both groups declined in 2020-21 and have since increased at a greater rate. In the last three years, case durations in Family have increased by 35%. The effects of the Covid-19 pandemic have likely contributed to these recent changes, with fewer cases taking place in

⁸⁵ For civil representation, duration is measured as time between final bill date and start date. If start date is unknown, application submission date is used. For legal help, duration is measured as time between submission and start date.

⁸⁶ Data shared by MoJ is limited to civil representation and legal help.

2020-21 due to lockdowns, and backlogs in courts and in processing asylum appeals, causing a rise in case duration in the years following 2020-21.

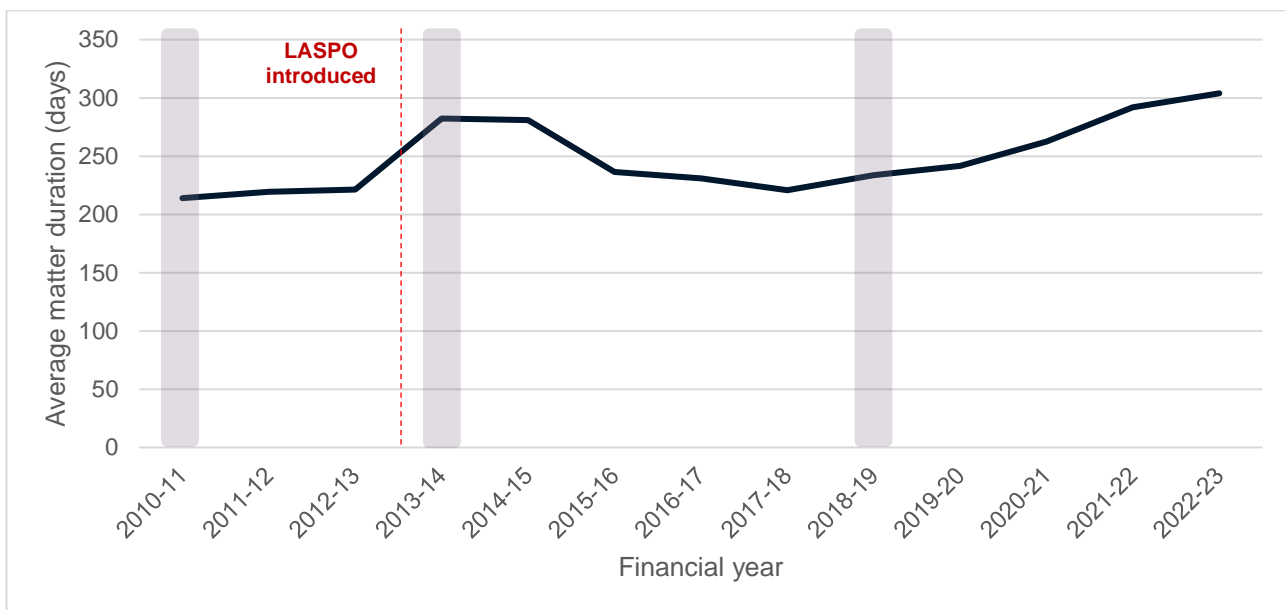
Figure 27: Average duration of cases completed for civil representation, 2010-11 to 2022-23



Source: PA analysis of LAA data shared by the MoJ. Note: Grey shaded columns indicate LAA major procurement rounds. Please note: Due to low case volumes, this analysis excludes Miscellaneous, Personal Injury, Employment and Consumer categories of law.

In Figure 28 below, we see that the average duration of matters completed for legal help rose overall across the period by 42%. The most significant increase came after the implementation of LASPO, where average durations rose 28% in one year. It did however, then fall between the time of the two major procurement rounds in 2013-14 and 2018-19, by 17%. Since 2018-19, average durations have been gradually rising, growing by 30% between this point and 2022-23. As noted before for civil representation, disruption from Covid-19 will likely have played a key role in driving rises in legal help durations in more recent years. This Covid-related increase will disappear as all the pre-covid advice cases leave the system.

Figure 28: Average duration of matters completed for legal help, 2010-11 to 2022-23



It should also be noted that the trend of rising case durations for both civil representation (as shown by the non-Family group for civil representation) and legal help is broadly in line with increases seen across all civil representation cases (i.e. not just those where civil legal aid is used), indicating that the increases in case durations are partly due to reductions in efficiency across the broader civil justice system.⁸⁷ The implication is that speeding up cases through broader reforms to the civil justice system would help unlock additional capacity from legal aid providers.⁸⁸ It may also be the case that rising durations reflects a growing underlying complexity in civil legal aid cases – we assess this further below.

Changing nature of cases – case complexity

Increasing levels of complexity in the problems clients have and how they engage providers adds to the strain on provider's capacity. Assessing the level of complexity in the work providers do for end users is not straightforward and there is no single exact method to measure complexity. We look at three different sources of information to inform the assessment of complexity. This includes information from the PIR on potential contributing factors, time series data on the number of legal help matters where costs 'escaped' the fixed fee thresholds and time series data on the number of civil representation cases which were granted 'high-cost case' status. We explore the fees landscape in civil legal aid in more detail in Section 7.

PIR evidence on contributing factors

The PIR describes rising complexity levels for providers handling cases, due to a rise in what are known as 'problem clusters' and clients presenting at a later stage in their problem.⁸⁹ It explained that individuals frequently experience a number of different legal problems simultaneously – with some falling outside the scope of civil legal aid. The Legal Problem and Resolution Survey showed that half of adults who had experienced at least one legal problem in the last 18 months had experienced more than one problem in the period (20% reported experiencing two problems, 9% reported three problems, and 22% four or more problems). It also reported that 63% of Law Works Clinics co-ordinators reported an increase in the complexity of legal matters they dealt with, 52% said they are seeing clients presenting at a later stage in their problem, and 61% have witnessed an increase in the number of clients with multiple problems or problem clusters. Although these statistics are several years old, it is likely the issues identified continue to be prevalent.

Growth of 'high cost' cases

When a civil case becomes complex and expensive it may need to be managed by the LAA under a high cost case contract.⁹⁰ A civil high cost case is any civil case where the final costs either to settlement or final hearing are likely to exceed £25,000. Figure 29 below shows data from the LAA on the proportion of all closed cases that were high cost cases over the period 2010-11 to 2022-23. This shows a notable increase in the proportion of cases classified as high cost cases since 2018-19. We analyse the overall cost of all types of civil legal aid cases in the next sub-section, which highlights a similar trend.

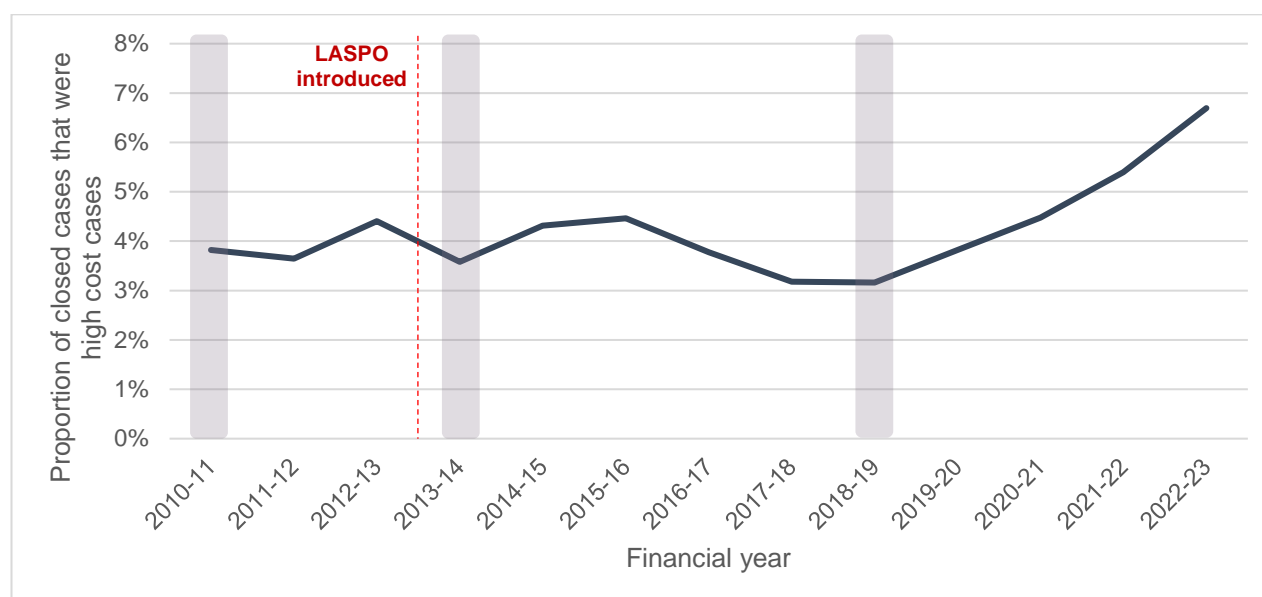
⁸⁷ PA analysis of Civil Justice Statistics (MoJ) between 2011 and 2022: average durations (in weeks) between claim and hearing and trial. Available at: [Judicial and Court statistics 2011 \(publishing.service.gov.uk\)](https://judicialandcourtstatistics2011.publishing.service.gov.uk) and [Civil Justice Statistics Quarterly: October to December 2022 - GOV.UK \(www.gov.uk\)](https://civiljusticestatisticsquarterly.october-to-december-2022.gov.uk)

⁸⁸ Although, reforms that look to divert cases from courts into alternative measures, such as mediation, often lead to a drop in the less complex cases – leaving behind the more complex cases.

⁸⁹ Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). (2019). Available at: <https://assets.publishing.service.gov.uk/media/5c5b3b2b40f0b676c362b4e0/post-implementation-review-of-part-1-of-laspo.pdf>.

⁹⁰ <https://www.gov.uk/guidance/legal-aid-high-cost-cases>

Figure 29: Proportion of closed cases that were high-cost cases, 2010-11 to 2022-23



Source: Data shared by the LAA. Note: Grey shaded columns indicate LAA major procurement rounds.

Proportion of cases escaping fixed thresholds

Regulated fees are typically either standard fixed fees or hourly rates, with the majority of work done in civil legal aid attracting standard fixed fees (explained further in Section 7). Standard fixed fees can transition to hourly rates if the cost to providers of providing their services meets the "escape fee threshold" – which is three times the value of the fixed fee. If this happens, the standard fee “escapes” to hourly rates for the whole case. We can infer that when cases escape to hourly rates, it is a sign that those cases are more complex for providers to deal with. Table 4 below presents data on legal help matters (excluding for Family due to data availability), broken down by whether the fees paid to providers were fixed fees or escape fees.⁹¹ The data is based on the year the matters started, as opposed to closed, because the relevant fee scheme for a case is based on when the case starts. The proportion of legal help matters which earned escape fees has increased over time, from 3-4% in the 3 years prior to the implementation of LASPO, to 9% in 2019-20.⁹² Whilst this increase would be expected following LASPO, where the complexity of residual cases increased (see PIR findings above), this trend has continued to be observed in the data. Whilst this data is only for legal help, this may be a further sign of the rising complexity of civil legal aid cases. Plausibly, there may also be other explanations – for example, with providers becoming better able to maximise their claims for reimbursement under the regulations (explored further in Section 9).

Table 4: Proportion of legal help matters where the fee earned by providers was either fixed, hourly or ‘escaped’, 2010-11 to 2019-20

Financial year	Fixed fee	Hourly rates	Escape fee
2010-2011	94%	4%	3%
2011-2012	94%	4%	3%
2012-2013	93%	4%	3%
2013-2014	85%	10%	5%
2014-2015	85%	10%	5%
2015-2016	83%	10%	7%
2016-2017	82%	10%	7%
2017-2018	82%	10%	8%

⁹¹ We expect to receive further data from the MoJ on civil representation cases – which would specifically cover two Family areas of law: the Care Proceedings Graduated Fee Scheme and the Private Family Law Representation Scheme.

⁹² The time period for the data is limited to 2019-20, as the impacts of Covid-19 cause significant biases in subsequent data.

2018-2019	83%	9%	8%
2019-2020	82%	9%	9%

Source: LAA data shared by the MoJ. Note: Red line in table signals the change in time period between before LASPO implementation and after.

Taken together, this evidence base broadly supports the finding that average complexity of civil legal aid cases has risen over time, which could make it more challenging for providers to take on new cases. Any growing complexity of cases would also be expected to be captured in the revenue that providers earn for a case/matter, on average – and this is examined below.

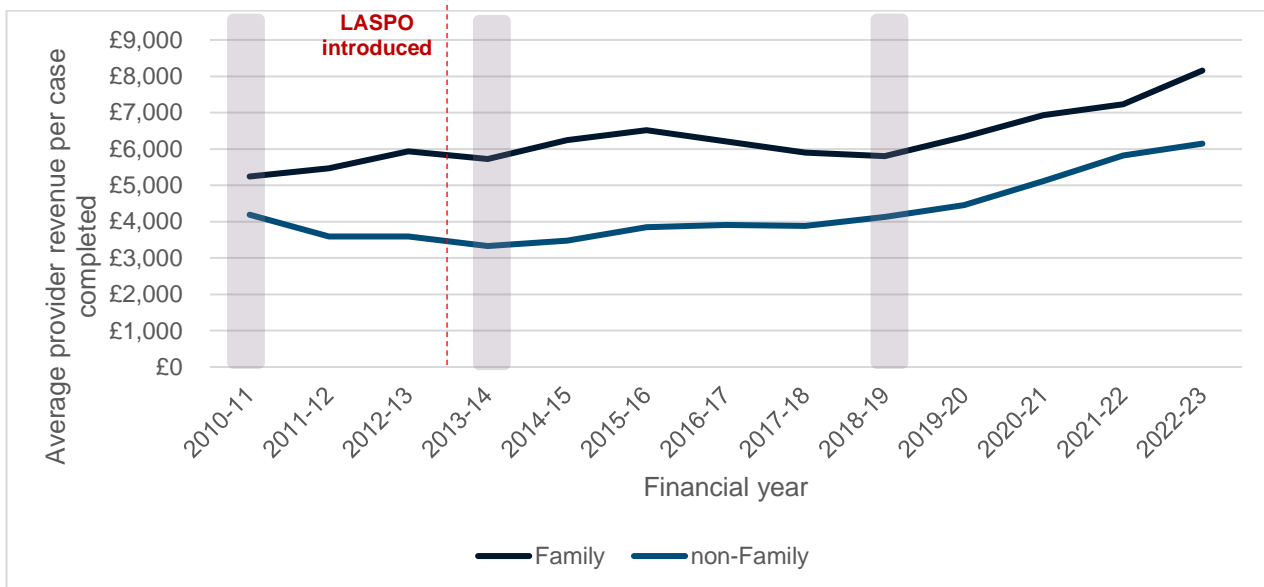
Changing nature of cases – average provider revenue per case/matter

If, on average, cases/matters are becoming more expensive to deliver, this may reflect a growing complexity of cases and explain why providers are experiencing capacity issues in meeting market demand. Using completions data from the LAA, we can compare the total expenditure (i.e. revenue to providers) on cases/matters completed against the equivalent volumes for civil representation, legal help and mediation over the period between 2010-11 and 2022-23. We explore the changes in average provider revenue per case/matter as a proxy for understanding complexity.

Figure 30 below shows the average provider revenue per case completed for civil representation, split by Family and non-Family (given Family accounts for the vast majority of civil representation cases). It shows that Family cases have a higher value for every year of the time period, but also that both Family and non-Family follow a similar pattern – with each increasing by 56% and 47% respectively over the period 2010-11 to 2022-23. Between the two major procurement rounds (2013-14 and 2018-19), Family recorded only a 1% increase, while non-Family increased 24%. From 2018-19 onwards, both experience substantial growth of 41% and 49% respectively. We explore the levels of regulated fees in Section 7.

The PIR highlighted how fluctuations in average provider revenue per case between 2012-13 and 2017-18 may have been caused by significant changes within specific categories of law, such as Housing & Debt and Family.⁹³ More recent increases may have been caused by disruptions to the civil justice system as a result of Covid-19, and linked increases in case durations (explored in the next sub-section).

Figure 30: Average provider revenue per case completed for civil representation, 2010-11 to 22-23

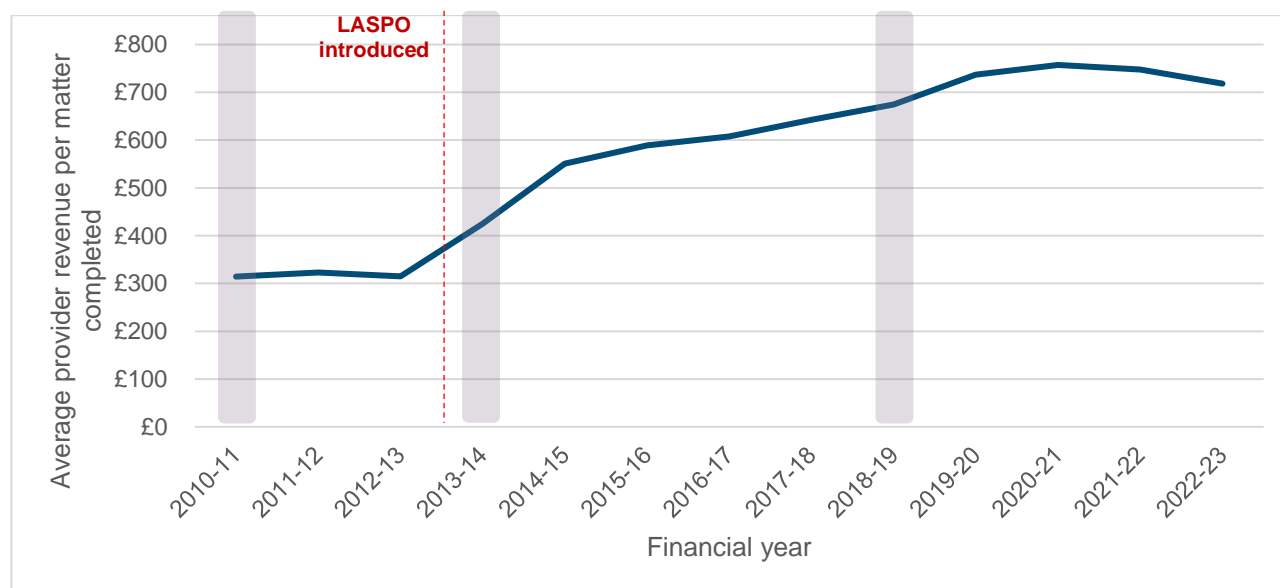


Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-tables-jan-mar-2023](https://www.gov.uk/government/statistics/legal-aid-statistics-tables-jan-mar-2023). Tables 6.3, 6.5 & 6.7. Note: Grey shaded columns indicate LAA major procurement rounds.

⁹³ Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). (2019). Available at: <https://assets.publishing.service.gov.uk/media/5c5b3b2b40f0b676c362b4e0/post-implementation-review-of-part-1-of-laspo.pdf>.

Figure 31 below shows that for legal help, the rise in provider revenue per matter completed has been even greater, more than doubling (128%) since 2010-11. In contrast with civil representation, the greatest rise came in the five years from 2013-14, following the implementation of LASPO, growing 59%. From 2018-19 onwards, the value rose 7%. The PIR highlighted how there had been a particularly significant rise in average provider revenue per matter between 2012-13 and 2017-18 in the legal help space, which overall reduced the anticipated savings from LASPO identified in the original impact assessment. The Review found that removing various areas from the scope of legal aid has altered the case mix and led to the most complex cases remaining legal aid-funded. Legal help may not have witnessed the rise in costs seen in civil representation in recent years because of disruption to the justice system, as this is early-stage advice delivered by providers directly without the need for hearings and proceedings in the civil justice system.

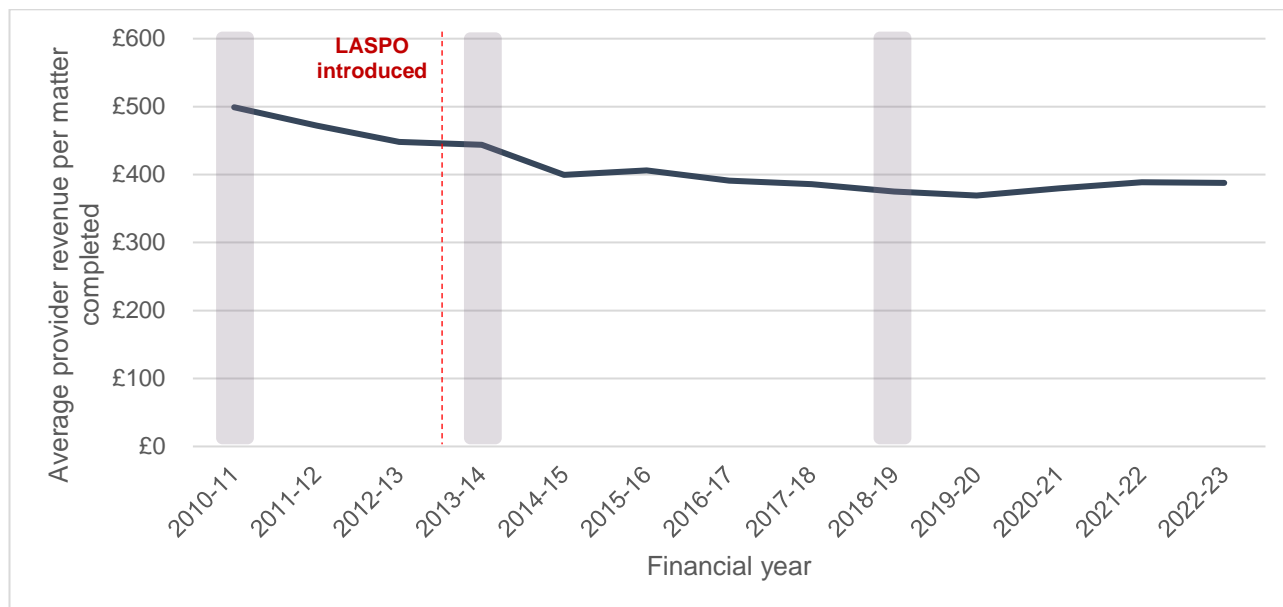
Figure 31: Average provider revenue per matter completed for legal help, 2010-11 to 2022-23



Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-tables-jan-mar-2023](#). Tables 5.2 & 5.3. Note: Grey shaded columns indicate LAA major procurement rounds.

By contrast, Figure 32 below shows that average provider revenue per matter completed for mediation has declined through much of this period, falling by 22% over the period 2010-11 to 2022-23. We explained previously that LASPO made fewer changes to the scope of mediation compared to the other types of services, and partnered with a recent emphasis by MoJ policy on mediation as a potential method to resolve cases at low cost before court proceedings are required, may explain why it hasn't experienced the same trends as civil representation and legal help – which now focus on fewer but more complex cases/matters.

Figure 32: Average provider revenue per matter completed for mediation, 2010-11 to 2022-23



Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 7.2. Note: Grey shaded columns indicate LAA major procurement rounds.

Conclusion

Overall, our assessment in this section has shown that providers report experiencing very high levels of demand and this results in significant capacity issues, forcing them to turn away large numbers of potential cases on a monthly basis. Voluntary sector providers say that they are forced to choose the clients with the greatest need.

There are a number of potential root causes of these capacity constraints. For civil representation and mediation work, providers have maintained provision in the market through delivering higher caseloads on average. This may make it difficult to take on new cases, and there is some evidence to suggest that this is being exacerbated by more complex and expensive cases that take longer to resolve. Speeding up cases through broader reforms to the civil justice system could help unlock additional capacity from legal aid providers.

Further explanations for some of these trends – for example, behavioural responses from providers, are assessed in more detail in Section 9. It is important to note capacity issues are unlikely to be experienced uniformly across all categories of law, for instance, some have low levels of demand (e.g. Mental Health). In the next sub-section we will explore how the different factors described above vary by categories of law.

5.6 The number of providers and offices – categories of law

Key findings and implications:

- Provider numbers in most categories of law have declined since 2013/14. These include the biggest areas of law such as Family, Immigration & Asylum and Housing & Debt, which make up a large portion of the civil legal aid market.
- LAA procurement rounds have temporarily added to the numbers of providers, but these “net additions” have typically been eroded within two to three years through providers leaving the market over the course of their contracts.
- Provision in some categories of law, such as Community Care and Mental Health, has been able to respond to providers exiting through remaining providers delivering higher caseloads.
- Housing & Debt and Immigration & Asylum represent the most pressing areas of concern in the market. The combination of lower case volumes, falling provider numbers and capacity gaps (potentially due to rising case complexities and durations) puts pressures on existing providers and does not present the conditions to attract potential new entrants to the market.

In the previous sub-sections, we highlighted the challenging supply picture in the civil legal aid market. In this sub-section, we look at this supply picture within the categories of law.

Section 4 highlighted the varied picture across different categories of law, with some of the largest categories of law, such as Housing & Debt and Immigration & Asylum, seeing case volumes continue to decline following LASPO, the Family Law market stabilising whilst growth in case volumes has been seen in Mental Health and Community Care Law. Our analysis in this sub-section explores how far these trends have been mirrored in the supply-side of the market. Our analysis is structured in a consistent way to Section 5.5 and covers the following areas:

- We assess “headline” changes in supply levels through assessing LAA data on the number of providers and offices contracted to deliver civil legal aid services across different categories of law for Apr 2013 – Aug 2023.⁹⁴
- We consider capacity in the market through bringing in MoJ/LAA data on the average number of cases/matters per provider office for civil representation and legal help across categories of law for 2010-11 to 2022-23, and supplement this with findings from our Provider Survey.
- We seek to explain some of these trends through assessing how MoJ/LAA data on the average provider revenue per case (for civil representation) has evolved across different categories of law between 2010-11 to 2022-23, and explore how far this might be linked to changes in case durations.

Number of providers and offices contracted by the LAA

Figure 33-35 below show the number of providers and offices contracted by the LAA for each category of law for the period April 2013 to August 2023.⁹⁵ There are contrasting trends shown across these categories and to support our analysis, we have grouped them in the following way:

⁹⁴ We assess number of providers from 2013-14 due to data availability – meaning the focus is on post-LASPO trends. Some areas of law – such as Education and Discrimination – have data only for a shorter time period, as specific contracts for these services were not introduced until a later date.

⁹⁵ A chart for miscellaneous is not included.

- Categories of law that have seen higher numbers of providers/offices across the full time period (defined as a rise of 10% or more): Claims Against Public Authorities, and Welfare Benefits.
- Categories of law that have seen a relatively flat number of providers/offices across the full time period (defined as a change less than 10%): Public Law
- Categories of law that have seen a significantly lower number of providers across the full time period (defined as a decline of 10% or more): Community Care, Housing & Debt, Immigration & Asylum, Family, Clinical Negligence and Mental Health.

Discrimination and Education have been discounted from the subsequent analysis due to changes in contracting meaning they were not available throughout the entire period. Education contracts were reintroduced in 2019 after a six year absence and Discrimination only came into existence in 2019.

We note that this method of grouping is simplistic and does not reflect the rates of change or more recent patterns following the 2018-19 LAA procurement round – these dynamics are covered in more detail in the qualitative analysis that seeks to explain these trends.

Overall, six categories of law have seen a decline in providers, compared to three categories of law that have remained stable or increased. However, categories which have been stable and rising tend to be categories of law which involve much fewer case volumes, mirroring our findings from Section 4. The categories of law that have declined are a much more significant part of the market – representing 97.5% of total civil representation cases in 2022-23.

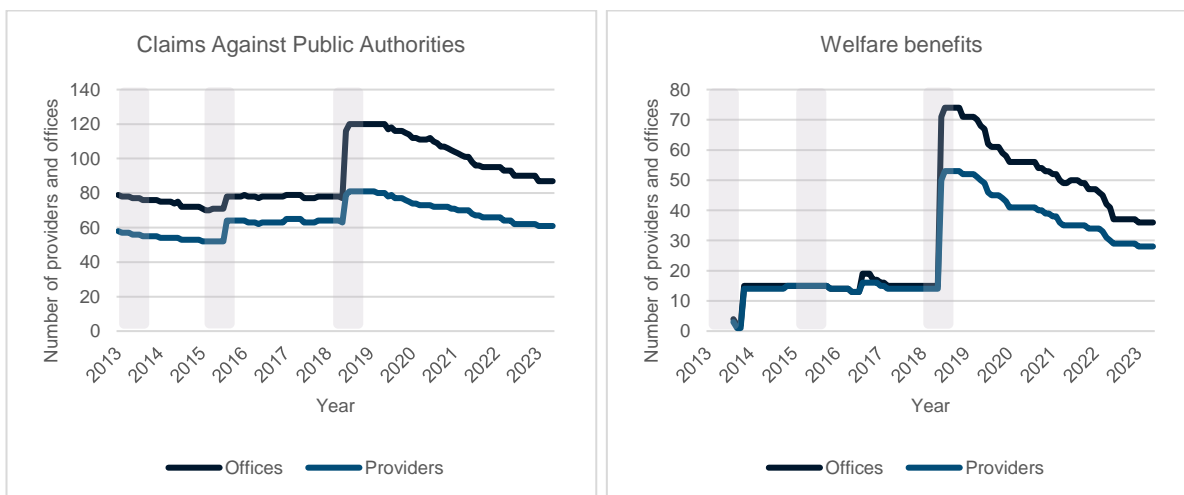
In the following sub-sections we explore each of these groupings in more detail, unpicking the key trends seen within particular categories and seeking to explain these and identify implications for the health and sustainability of the market.

Categories of law that have seen a significantly higher number of providers

Figure 33 highlights two areas of law that had increased numbers of providers over the period:

- Claims Against Public Authorities – providers increased by 5% and offices by 10% since April 2013
- Welfare Benefits – providers increased by 100% and offices by 140% since February 2014.

Figure 33: Number of provider organisations and offices by category of law – areas of law that experienced a higher number of providers/offices⁹⁶



⁹⁶ Please note that due to the nature of the data supplied, analysis could only be carried out from 2013 rather than 2010/11.

Source: PA analysis of LAA data. Grey shaded columns indicate LAA major procurement rounds, and other procurement rounds specific to individual categories of law, e.g., 2015 for Claims Against Public Authorities.

Claims Against Public Authorities and Welfare Benefits have both experienced increases in provider numbers across the time period that the data allows analysis for. This has largely been the result of procurement exercises delivered by the LAA in 2018 for the two categories which led to new entrants into these markets, although we have no direct evidence as to provider motivations. For Claims Against Public Authorities, providers could have been attracted by an increase in inquest-related cases and the expansion of the Exceptional Case Funding (ECF) for inquests, as discussed in Section 4. Since 2018, Welfare Benefits has been procured as a standalone category whereas previously it was procured alongside Housing & Debt.

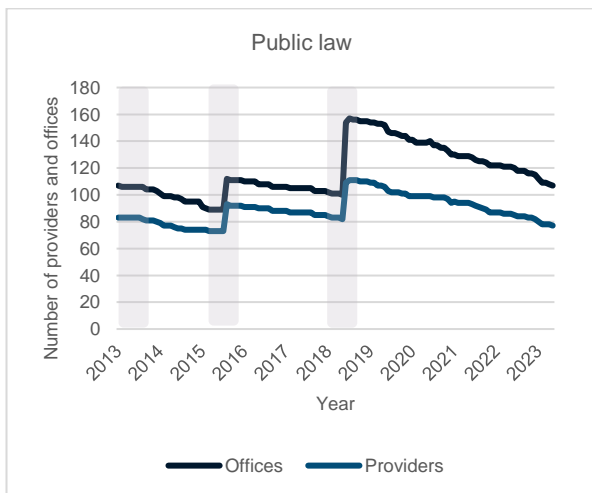
It should be noted that these categories represent less than 10% of total providers of civil legal aid and there have been noticeable annual declines in provider numbers since the last procurement rounds were held, with many providers choosing to leave the market.

Categories of law that seen a relatively flat number of providers/offices

Figure 34 highlights two areas of law that saw a relatively stable number of providers over the period:

- Public law – providers declined by 6% and offices had no change

Figure 34: Number of provider organisations and offices by category of law – Areas of law that experienced relatively stable numbers of providers and offices⁹⁷



Source: PA analysis of LAA data. Similar to those categories which have seen a higher number of providers, the number of Public Law providers has increased as a result of successful LAA procurement exercises in 2015 and 2018.

Section 4 showed that Public Law cases have remained relatively stable since LASPO, which did not substantially alter the scope of legal aid in this area, and this is likely to have attracted providers to this market relative to other areas that have seen scope significantly reduced.

It should be noted that Public Law providers have consistently left the market over the course of the last five years since the most recent procurement round – with a decline in providers and offices of 31% and 32% respectively between Oct 2018 and Aug 2023.

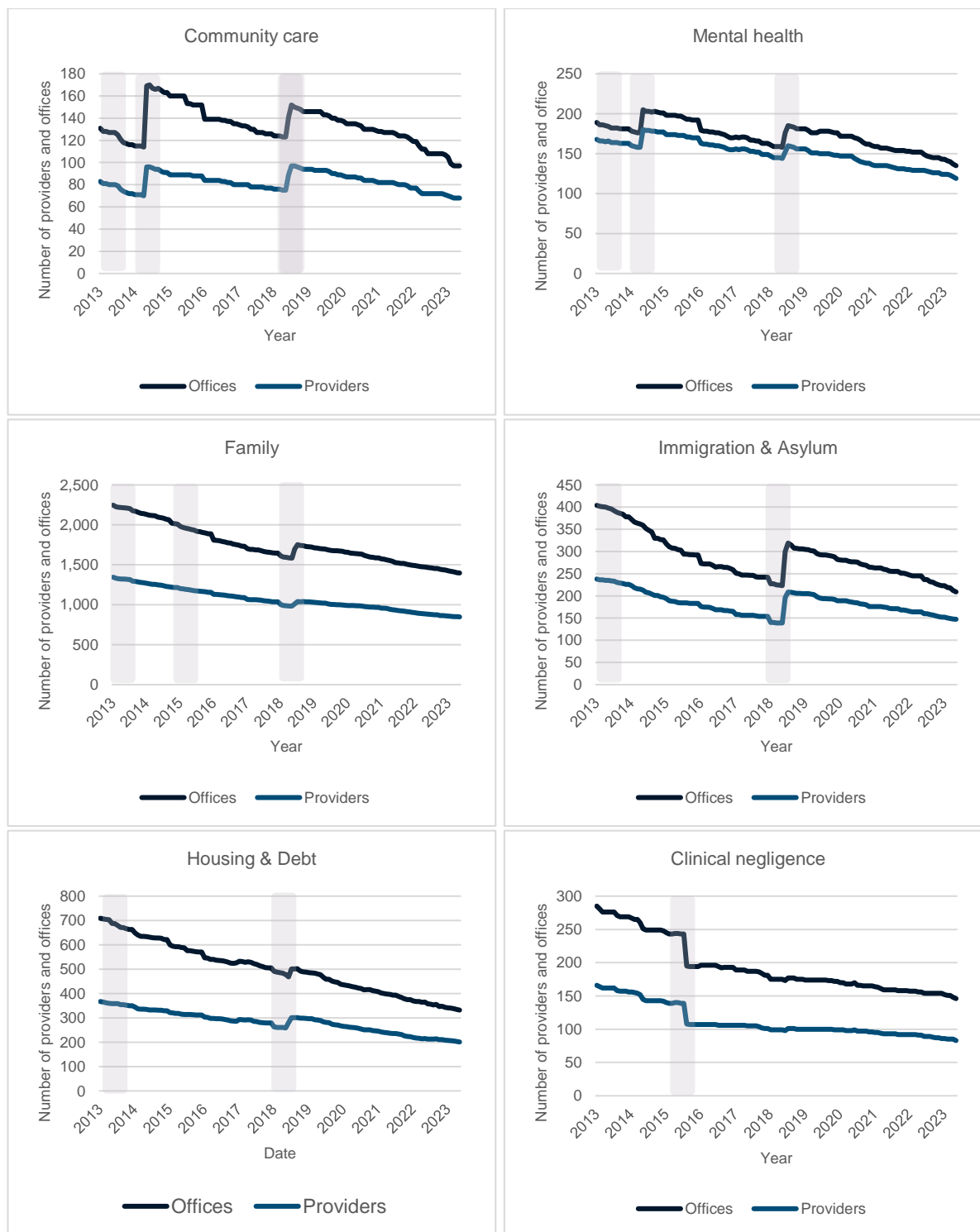
Categories of law that have seen a significantly lower number of providers

Figure 35 shows seven areas of law where a significantly lower number of providers were observed over the period. This included:

⁹⁷ Please note that due to the nature of the data supplied, analysis could only be carried out from 2013 rather than 2010/11.

- Community Care – providers declined by 18%, while offices declined by 26%, since April 2013
- Mental Health – providers and offices both declined by 29% since April 2013
- Family – providers declined by 37%, while offices declined by 38%, since April 2013
- Immigration & Asylum – providers declined by 38%, while offices declined by 48%, since April 2013
- Housing & Debt – providers declined by 45%, while offices declined by 53%, since April 2013
- Clinical Negligence – providers declined by 50%, while offices declined by 49%, since April 2013

Figure 35: Number of provider organisations and offices by category of law – Areas of law that experienced decline in number of providers and offices⁹⁸



Source: Data from the LAA. Note: Data for Miscellaneous area of law is not shown above. Providers and offices dropped by c.34% and 38% respectively. Grey shaded columns indicate LAA major procurement rounds, and other procurement rounds specific to individual categories of law, e.g., 2015 for Clinical Negligence.

Of these areas of law, Family and Housing & Debt are the largest segments of the market, and these have experienced a higher rate of contraction since 2013 than the provider market as a whole. Our analysis in Section 4 showed that Housing & Debt has seen amongst the largest reduction in case volumes (for civil representation), so it is not surprising that provider numbers have fallen in line with this. Family case volumes have remained more stable and the decline in provider numbers indicates that providers are increasingly servicing a larger number of cases. We explore reported demand levels by

⁹⁸ Please note that due to the nature of the data supplied, analysis could only be carried out from 2013 rather than 2010/11.

providers working in Family areas of law later in this sub-section, to get a sense of whether these higher caseloads are sustainable.

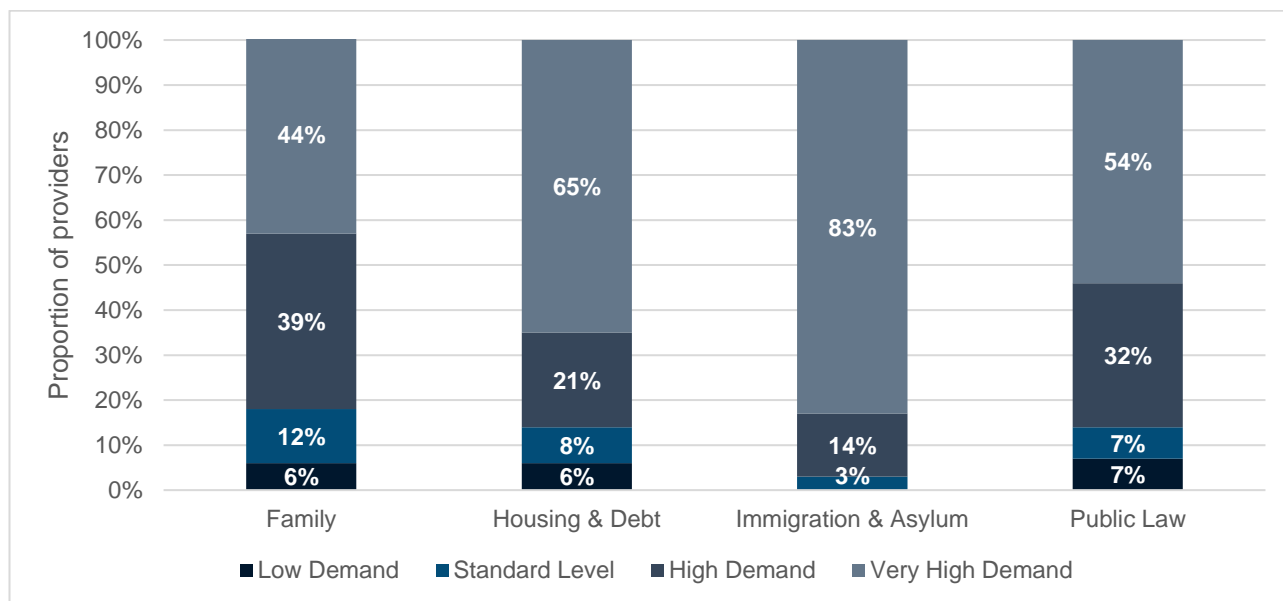
Immigration & Asylum, Clinical Negligence, Community Care and Mental Health have seen contrasting patterns in provider numbers. For Immigration & Asylum, Community Care and Mental Health, there has been a higher pace of decline over the last five years. Immigration & Asylum and Clinical Negligence have seen both case volumes decline over the last five years and provider numbers have reduced in line with this. Mental Health and Community Care cases have grown in number over the last five years, and subsequent analysis in this section shows that the reduction in providers in these markets has gone hand in hand with an increase in the number of cases each provider is delivering.

Across all of these categories of law, it is notable how LAA procurement rounds have temporarily added to the numbers of providers, but these “net additions” have typically been eroded within one to two years, with providers leaving the market over the course of their contracts. In the next sub-section, we demonstrate how caseloads have evolved for providers operating in the civil legal aid market, and how this has provided a mechanism for demand and supply to balance.

Capacity issues reported by providers – categories of law

High-level findings from our Provider Survey presented in Section 5.5 showed providers reporting very high levels of demand and turning away potential civil legal aid cases. Whilst we do not know for certain if all these cases would have been eligible for civil legal aid, and capacity in the market may be fluid and change on a weekly basis, this evidence is indicative of gaps in the market. Sub-segment analysis from our survey reveals that a deficiency of capacity compared to demand may be particularly acute among Housing & Debt and Immigration & Asylum providers (see Figure 36, below).

Figure 36: Provider reported demand for civil legal aid broken out by area of law



Source: Provider Survey (2024), Q24: For each Legal Aid area your organisation operates in, how much demand is your organisation currently experiencing for that service? Providers asked to choose a point on a 7-point scale, with 1 being ‘overwhelming’, 4 being ‘standard’ and 7 being ‘very low’. Base: Family contract holders (n=141), Housing and Debt contract holders (n=65), Immigration contract holders (n=36), Public Law contract holders (n=41)

Sample sizes restricted this analysis to four categories of law, but this still shows a clear distinction between these categories and Family and Public Law. 83% of Immigration & Asylum providers reported ‘overwhelming or ‘very high’ demand’, despite the reduction in case volumes in this area being lower than seen in the market as a whole (as described in Section 4). This might potentially be indicative of rising complexities or legal ambiguities in Immigration & Asylum cases (for example due to recent changes to asylum policy, deportation, family reunions and the new post-EU Exit points-based

immigration system), the longer length of time it is taking to resolve asylum claims or other capacity constraints. Wilding (2019) found that there was an “illusion of provider availability in Immigration because in practice providers have no (or limited) capacity to open new cases”.⁹⁹ Immigration & Asylum and Housing & Debt providers’ experience of very high levels of demand is the likely reason for our survey finding that these providers turn away more potential clients on a monthly basis than market providers as whole – this analysis is presented in more detail in Section 9.

In the remainder of this sub-section, we use a consistent structure to the one employed in Section 5.5 to seek to better understand what is driving the capacity issues observed across different categories of law – in terms of rising caseloads, case length and complexity. We do not seek to replicate the previous analysis, instead seeking to understand the different drivers that may be playing out across the market. We focus on Family, Housing & Debt, Immigration & Asylum and Public Law as the biggest categories of law and where we have data on capacity from our Provider Survey, but detail other categories of law where there are important differences.

Average caseloads – the number of cases/matters completed per provider office

Table 5, below, shows the average number of civil representation cases per provider office for each category of law between 2010-11 to 2022-23.

This evidence enables a more detailed view of the overall trend highlighted in Section 5.5, that providers have been able to service higher caseloads in recent years. Table 5 shows that 7 of the 11 categories of law have seen average caseloads increase since 2010-11, 1 category remains stable and 3 categories decreased.¹⁰⁰

It is notable that for two of the biggest categories of law – Housing & Debt and Immigration & Asylum – caseloads have declined in recent years. For some smaller categories of law, the changes were relatively gradual over time, such as Claims Against Public Authorities, potentially reflecting a gradual increase in capacity, efficiency or a change in the mix of providers in the market. Whilst other categories of law have seen marked rises in caseloads over the last few years, including Education, Community Care, Mental Health and Public Law. We saw above in Figure 36 that providers doing Public Law work reported above average levels of excess demand (86% reported ‘high’ or ‘very high’ demand, compared to an average of 80%). This indicates that these providers may be feeling stretched to deal with the higher caseload, rather than reflecting increasing efficiency.

The average caseload for Family is the highest among all the categories, reflecting that providers who work in this area typically focus on this sole area of law. To further understand the drivers of this, we explore the higher levels of fees available in Family law in Section 7 and higher reported profitability levels in Section 8. Caseloads have been relatively stable in this area of law over time.

Table 5: Average number of civil representation cases completed per provider office by areas of law, 2010-11 to 2022-23

Financial year	Family	Housing and Debt	Immigration and Asylum	Mental Health	Education	Discrimination	Clinical Negligence	Claims Against Public Authorities	Community Care	Welfare Benefits	Public Law
2010-11	13	12	13	3	5		13	6	7	3	4
2011-12	15	14	12	3	4		15	7	7	2	4
2012-13	16	15	11	4	4		13	9	7	1	5
2013-14	19	16	11	3	4		12	9	7	1	5

⁹⁹ Wilding, J. (2019). Droughts and Deserts. A report on the immigration legal aid market.

¹⁰⁰ **Increased caseloads:** Family, Mental Health, Education, Discrimination, Claims Against Public Authorities, Community Care and Public Law. **Stable caseload:** Housing & Debt. **Reduced caseloads:** Immigration & Asylum, Clinical Negligence and Welfare Benefits.

2014-15	17	18	13	4	4	1	10	11	6	1	5
2015-16	17	19	15	4	3	4	9	10	6	2	5
2016-17	22	19	16	6	3	8	8	9	7	2	6
2017-18	26	19	16	9	4	2	7	11	11	2	7
2018-19	28	19	13	11	6	5	6	9	15	2	7
2019-20	25	18	9	11	6	7	6	11	16	1	7
2020-21	22	15	9	18	4	3	5	11	17	2	10
2021-22	23	11	9	13	12	5	5	14	16	1	12
2022-23	24	13	9	16	9	4	5	12	18	1	12

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Table 6.3. legal-aid-statistics-civil-completions-provider-area-data-to-mar-2023. Note: Red line in table signals the change in time period between before LASPO implementation and after.

Categories of law which have seen higher case volumes, lower provider office numbers and an increase in the number of cases existing provider offices are delivering represent some of the most concerning areas of the market, as these dynamics might lead to unsustainably high levels of caseloads – which might ultimately drive higher provider office exit rates. These areas would include Mental Health and Community Care. Another would be categories of law that report significant capacity issues but which have seen lower case volumes and a reduction in the number of cases existing providers are able to deliver. These dynamics could be indicative of “hidden” capacity constraints and also do not present the conditions for encouraging potential new entrants into the market. These areas include Housing & Debt and Immigration & Asylum.

In Section 5.5, we saw how the changing nature of cases – which are potentially becoming lengthier, more complex and expensive – has gone hand-in-hand with rising caseloads in explaining capacity issues in the market. Below, we assess the categories of law where these findings are most pronounced.

Changing nature of cases duration of cases

Our analysis in Section 5.5 showed that case durations had notably increased for non-Family civil representation cases over the last two years, and this rise was roughly in line with durations seen more broadly in the civil justice system over the same period. Longer case durations may have played a role in making new work more difficult to resource. Table 66 below shows the average civil representation case length in days for 2010-11 to 2022-23 across different categories of law. It should be noted that in this analysis, we consider the mean to be the most appropriate metric – we believe it is important to capture the impact of any very long cases in the average, given the significant costs and issues these present to users.

Table 66: Mean duration of civil representation cases (days) by category of law, 2010-11 to 2022-23

Financial year	Family	Housing & Debt	Immigration and Asylum	Mental Health	Education	Discrimination	Clinical Negligence	Claims Against Public Authorities	Community Care	Welfare Benefits	Public Law
2010-11	650	600	700	650	900		1,350	1,150	600	1,450	650
2011-12	650	850	650	650	800		1,450	1,100	600	800	700
2012-13	600	750	800	700	950		1,500	1,150	600	1,300	700
2013-14	600	650	650	700	1,000		1,450	1,050	650	1,550	600
2014-15	650	700	750	750	1,000	300	1,600	1,200	650	1,500	750
2015-16	600	600	900	800	800	350	1,850	1,450	700	900	800
2016-17	500	650	1,050	700	1,000	650	2,250	1,250	650	450	850
2017-18	500	550	1,050	650	950	450	2,350	1,300	600	750	900

2018-19	550	650	1,150	700	1,450	750	2,950	1,300	600	2,100	950
2019-20	550	600	1,700	650	800	600	3,050	1,300	650	1,150	950
2020-21	450	600	900	600	600	700	3,150	1,050	600	800	750
2021-22	550	850	1,450	700	750	550	3,550	1,600	600	1,250	950
2022-23	600	850	1,450	650	750	750	3,750	1,600	650	1,100	1,050

Source: PA analysis of LAA data. Note: Data for discrimination was only available from 2014-15 onwards. Numbers rounded to nearest fifty. Red line in table signals the change in time period between before LASPO implementation and after.

Whilst there is significant volatility in the data across the entire period, 8 of the 11 categories of law experienced increases in the average case lengths over the whole period. Of those categories of law that have seen the greatest increase in durations since 2020-21 (Claims Against Public Authorities, Immigration & Asylum and Clinical Negligence), all of these were shown to experience increases in average provider revenue per case over the same period. In these categories of law, it now takes, on average, over four years to complete a civil representation case (and in Clinical Negligence it is substantially higher than this). This provides support to the hypotheses that high case lengths may be linked to more complex and expensive cases and may be an underlying reason for reported capacity gaps, though there could be other factors.

The categories of law experiencing the biggest rises in case durations may also be those that are experiencing more acute challenges in the broader civil justice system, including backlogs in courts and in processing asylum appeals. We explore these dynamics in greater detail in Section 9.

Change in nature of cases – case complexity and provider revenue per case/matter

In Section 5.5, we found some evidence supporting the notion that complexity of civil legal aid cases has risen over time. One proxy for this was the average revenue providers made per case/matter which has risen consistently for civil representation and legal help cases since 2018-19. In Table 7 below, we break-down the non-Family data into the separate categories of law for civil representation cases. Table 77 This data shows that average provider revenue varies significantly across different categories of law for this case type, owing to the different nature of proceedings and underlying level of complexity, and the levels of fees paid (explored in Section 7).

Table 77: Average provider revenue per civil representation case completed by category of law, 2010-11 to 2022-23

Financial year	Family	Housing & Debt	Immigration & Asylum	Mental Health	Education	Discrimination	Clinical Negligence	Claims Against Public Authorities	Community Care	Welfare Benefits	Public Law
2010-11	£5,250	£2,450	£2,400	£10,450	£4,100		£4,300	£2,950	£4,350	£1,500	£3,850
2011-12	£5,450	£2,550	£2,650	£14,550	£4,200		£4,700	£2,350	£4,200	£2,800	£5,150
2012-13	£5,950	£2,600	£2,650	£14,450	£4,900		£5,200	£2,500	£4,200	£10,350	£4,450
2013-14	£5,700	£2,350	£2,200	£16,950	£4,600		£4,750	£2,750	£3,600	£6,550	£4,500
2014-15	£6,250	£2,350	£2,650	£20,250	£4,350	£34,650	£5,800	£2,300	£3,900	£8,250	£5,200
2015-16	£6,500	£2,350	£3,450	£18,650	£3,150	£300	£8,700	£2,300	£3,750	£6,050	£4,850
2016-17	£6,200	£2,450	£2,900	£13,650	£4,450	£1,500	£5,850	£3,800	£3,450	£3,600	£4,400
2017-18	£5,900	£2,350	£3,200	£12,200	£3,350	£650	£6,700	£3,300	£5,600	£6,300	£4,250
2018-19	£5,800	£2,600	£3,050	£11,250	£2,800	£1,400	£6,300	£3,650	£7,250	£9,600	£4,700
2019-20	£6,350	£2,550	£3,400	£11,850	£2,300	£6,600	£5,300	£4,300	£10,000	£5,800	£4,050
2020-21	£6,950	£3,000	£3,750	£10,450	£2,200	£4,850	£5,550	£3,000	£11,250	£4,800	£3,300
2021-22	£7,250	£3,250	£2,600	£12,300	£2,100	£2,350	£7,450	£3,500	£12,800	£3,900	£3,600
2022-23	£8,150	£3,100	£5,350	£11,050	£2,600	£4,950	£7,700	£3,850	£12,750	£6,850	£4,450

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. legal-aid-statistics-tables-jan-mar-2023. Tables 6.3, 6.5 & 6.7. Note: Data for discrimination was only available from 2014-15 onwards. Discrimination and Welfare Benefits data is highly volatile due to low

number of case volumes. Values rounded to nearest fifty. Red line in table signals the change in time period between before LASPO implementation and after.

Housing & Debt had one of the lowest average provider revenues per completed case over the whole period, ranging from approximately £2,350 to £3,250, while Mental Health (and increasingly Community Care more recently) had the highest, ranging from approximately £10,450 to £20,250. Of the 10 categories of law (omitting Discrimination due to low case number volatility), 9 experienced an increase in average provider revenue per case over the entire period (2010-11 to 2022-23), while only Education declined.¹⁰¹ For changes in average provider revenue per case post-LASPO from 2013-14 onwards, 7 of the 10 areas experienced an increase in average provider revenue per case (those that declined include Mental Health, Education and Public Law). Whilst a lower number of categories of law have experienced an increase in average provider revenue per case since LASPO, some categories have seen increases of around 60% or more – such as Clinical Negligence, Immigration & Asylum and Community Care. It should be noted that the data is volatile and these results are highly sensitive to the years chosen for analysis. Further work would also be required to fully diagnose the drivers of the different average case cost trends seen across categories of law.

Overall conclusions

From this detailed category analysis, important conclusions can be drawn out around the health of the market:

- Provider numbers have fallen by the greatest extent in the biggest categories of law such as Family, Immigration & Asylum and Housing & Debt.
- Provision in some categories of law, such as Community Care and Mental Health, has been able to respond to providers exiting through remaining providers delivering higher caseloads.
- Housing & Debt and Immigration & Asylum represent the most pressing areas of concern in the market. In these categories of law, capacity issues have been reported despite both case volumes and average caseloads falling, indicating the presence of “hidden” capacity constraints (such as rising case complexity and durations). These present the biggest risks to the delivery of civil legal aid today, and do not present the conditions for encouraging potential new entrants into the market.

5.7 The number of providers and offices – tenure

Key findings and implications:

- There is a concentration of expertise in existing providers who have operated for a very long time.
- This creates a risk for the market, in terms of replacing the expertise of long-serving providers if they choose to exit the market.

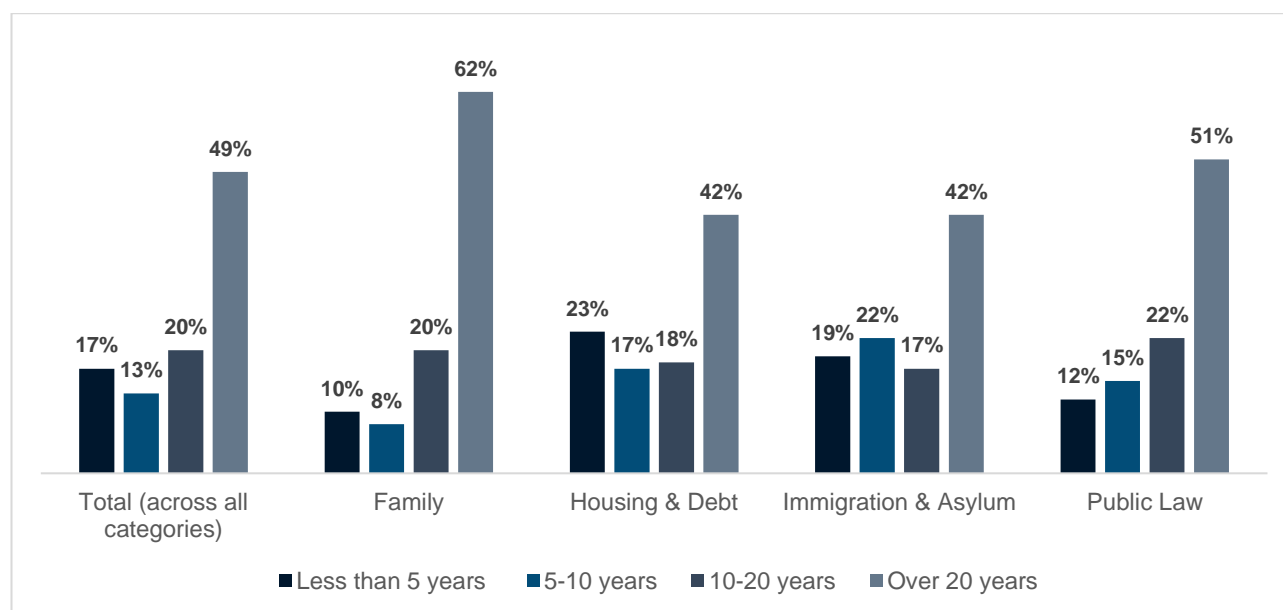
The analysis in this section has examined the different segments of the overall civil legal aid market that providers are serving. To fully understand the nature of provision in the market, it is equally important to assess the characteristics of providers – their tenure in the market, their commercial structure and their geographic location. In this sub-section, we start by analysing the tenure of providers – i.e. how long they have operated in the civil legal aid market.

¹⁰¹ Discrimination data is not included in this statistic as it is highly volatile due to low number of case volumes and only available from 2014-15. Due to low case volumes for Education, this may limit the robustness of inferences on changes to average provider revenue per case.

Assessing the tenure of providers can provide important insights on the level of skills and experience available in the market, providing a foundation for further analysis in Section 6. Our ability to assess the tenure of providers is limited as there is no readily available data on how long providers have operated in the market. However, our Provider Survey provides some relevant evidence here. It is important to note that our survey was conducted on a sub-sample of the entire market. Whilst this sample is broadly representative of the underlying population; some areas of law are more or less representative than others.¹⁰²

A significant number of providers we surveyed have been operating in the market for a long time. Figure 37 below provides a more detailed breakdown showing tenures for the whole sample, and individually for the following areas of law where sub-sample size allows: Family, Housing & Debt, Immigration & Asylum, and Public Law.¹⁰³

Figure 37: Tenure of providers, broken out by type of civil legal aid contract



Source: Provider Survey, Q7: Approximately how long has your organisation held the following types of Legal Aid contracts? Base: Total sample (n=228), Family contract holders (n=141), Housing and Debt contract holders (n=65), Immigration contract holders (n=36), Public Law contract holders (n=41)

This analysis shows that across all providers surveyed, 49% reported that they have held their civil legal aid contracts with the LAA for over 20 years. This proportion increases to 83% for those that have held a civil legal aid contract for 5 or more years.

Family Law has the highest proportion of contracts held for over 20 years, representing 62% of surveyed providers. It also had the lowest proportion of providers holding contracts less than 5 years at 10%, providing further evidence for the greater stability seen in this area of the market, in line with our analysis in Section 4 and Section 5.6. As described in Section 5.2, procurement rounds for civil legal aid contracts are relatively infrequent, with large market-wide exercises happening every 3-5 years on average, and therefore it is unsurprising that there are relatively low numbers of providers reporting tenures of less than 5 years.

Overall, the high proportion of providers that have held contracts for more than two decades illustrates the concentration of civil legal aid skills and expertise which exists in these firms. This may also suggest that there may be insufficient incentives for new entrants to sustain their provision, resulting in a market

¹⁰² More information of the sampling methodology and representativeness is available in the published Provider Survey Report: <https://www.gov.uk/government/publications/review-of-civil-legal-aid-provider-survey-report>

¹⁰³ These areas of law are able to be individually analysed as they had a sufficiently large sub-sample size (n>30) to enable statistically significant inferences. The other areas of law had smaller sub-sample sizes and do not allow for individual assessment.

more heavily reliant on older providers and a potential sign of fragility if these providers were to leave. In this context, it will be critical for the skills base in the market to both retain these providers wherever possible, and to replenish the market where these experienced providers choose to leave the market. We do not have data on the length of tenure of practitioners working in provider organisations, and are therefore limited in our ability to assess, for instance, whether critical members of staff (e.g. caseworkers) also have similarly long tenures as that of provider organisations. In the next section, we explore these issues in more detail when analysing the labour market for practitioners of civil legal aid and highlight the issues that providers face around retaining and attracting suitable skills and talent into the market.

5.8 The number of providers and offices – provider size

Key findings and implications:

- The civil legal aid market has traditionally been made up predominantly of smaller providers.
- Over the last decade there appears to be a growing role for larger providers, who may potentially be able to withstand some of the challenges associated with the market, but this may be at the expense of niche specialist SME providers.

Using MoJ data on provider offices and payments made to providers,¹⁰⁴ we analysed the size of providers in the civil legal aid market and how this has changed between 2010-11 and 2022-23. To do this, we looked at two measures to define the size of a provider: (i) the number of offices per provider, and (ii) total fees earned on closed civil cases. The results are set out in Tables 8 and 9 below.

Table 8: Provider distribution by size 2010-11 compared to 2022-23, measured by number of offices per provider

	2010-11		2022-23	
	Total number of providers	Percentage of total market	Total number of providers	Percentage of total market
Providers with 1 office	2,716	81%	1,172	73%
Providers with between 2 and 4 offices	598	18%	385	24%
Providers with more than 4 offices	54	2%	52	3%

Source: PA analysis of MoJ 'Civil Legal aid statistics England and Wales completions by provider and area'. Note: Percentages for each financial year may not total 100% due to rounding.

Table 8 shows that the market is still made up of a large number of small providers – measured by number of offices per provider, where 73% of providers have only one office undertaking legal aid work, and only 3% have more than four offices in 2022-23. The proportion of providers with only one office has declined from 81% in 2010-11. Although this change in distribution does not represent a significant shift in market structure, it does potentially indicate a growing role for larger providers. If this is true, this may be because smaller providers may be less able to deal with the issues and pain points providers report

¹⁰⁴ GOV.UK. (2023). Legal aid statistics: January to March 2023. [online] Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2023> [Accessed 14 Nov. 2023].

(see Section 5.12 for more details), such as low fee rates and administrative burdens (with the latter increasing fixed costs).

Table 9: Provider distribution by size 2010-11 compared to 2022-23, measured by total provider revenue on closed cases

	2010-11		2022-23	
	Total number of providers	Percentage of total market	Total number of providers	Percentage of total market
Zombie firm (payments less than £1,000)	104	3%	31	2%
Small (payments between £1,000 and £50,000)	949	28%	346	22%
Medium (payments between £50,000 and £150,000)	800	24%	248	15%
Large (payments between £150,000 and £500,000)	958	28%	428	27%
Very Large (payments more than £500,000)	557	17%	556	35%

Source: PA analysis of MoJ 'Civil Legal aid statistics England and Wales completions by provider and area'. Note: The categories have been created specifically for this analysis. Percentages for each financial year may not total 100% due to rounding.

Table 9 shows the distribution of providers by total fees earned on closed cases. In aggregate, this has also shifted over the period from smaller to larger firms (measured by fee revenue). In 2010-11, 45% of providers were classed as either 'Large' or 'Very Large', with the figure growing to 62% in 2022-23. Meanwhile the proportion of providers classed as Zombie or Small declined from 31% in 2010-11 to 24% in 2022-23. A degree of caution should be taken when interpreting this, as average fees vary across different legal aid services (as seen in Section 5.5) and categories of law (as seen in Section 5.6). For instance, in Figures 29-31, we showed that over the period 2010-11 to 2022-23, the average revenue per provider for civil representation cases had risen by 56% (Family) and 45% (non-Family), legal help costs had increased 128% on average, while Mediation costs were down by 22% on average. This trend may therefore, be capturing changes in case mix and average costs over time.

If larger providers are playing a more significant role in the delivery of legal aid, this may also signal some consolidation in the market. In Section 5.3, we showed that of the 761 provider offices that exited civil legal aid contracts and explained their reasons to the LAA, during the period September 2017 to August 2023, 131 (17%) did so due to consolidation with other legal firms. Consolidation would enable providers to exercise economies of scale – which would likely better enable them to handle the level of regulatory administration and recruit and have access to sufficient skilled labour.

It should be noted that findings from our Provider Survey challenges this analysis of a slight increase in the role of larger firms – as respondents with more than 30 employees were more likely to say that they have stopped holding at least one contract. 51% of larger providers stated that they have dropped a civil legal aid contract, compared to just 27% of providers with less than 30 employees. When identifying the reasons for this change, the financial viability of the market was held up as a bigger issue by larger providers. 72% of larger providers stated 'financial viability' to be a key reason for dropping a contract, compared to just 42% of smaller providers (1-30 employees). Larger firms may have more choice in terms of alternative revenue sources, enabling them to withdraw from one unprofitable service area, while continuing to offer other legal aid services.

In Section 5.13 we consider the future direction of supply and the extent to which it is expected to become more or less concentrated given how provider intentions to remain in or leave the market differ by provider size.

5.9 The number of providers and offices – provider structure

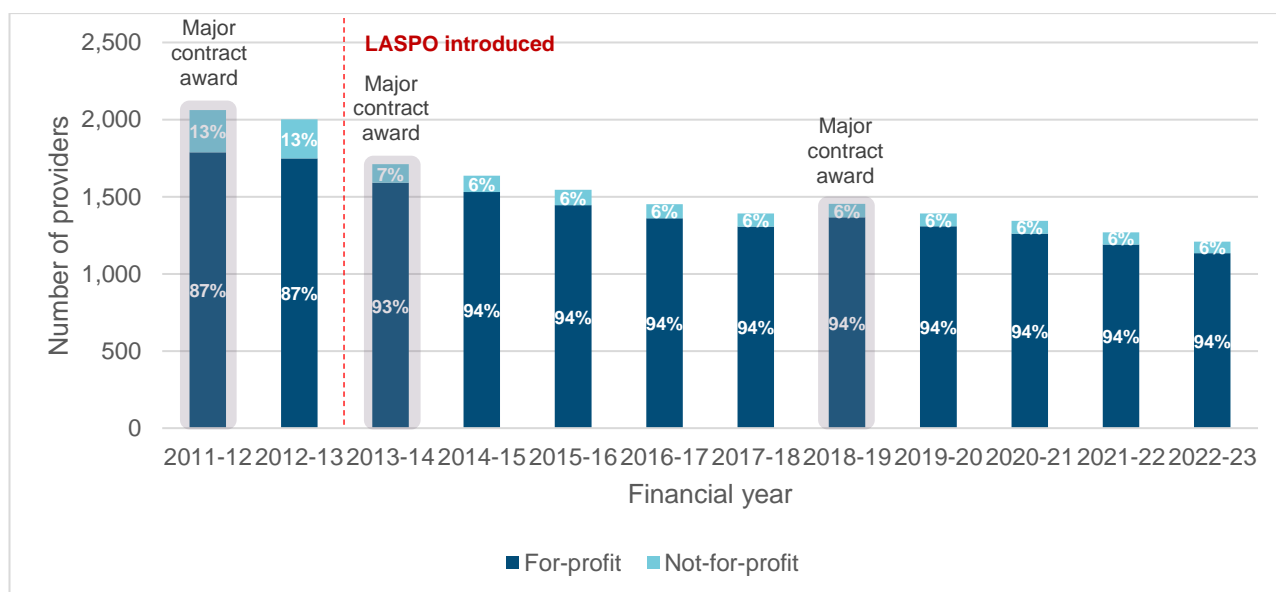
Key findings and implications:

- Over the last decade, not-for-profit (NFP) providers have gradually made up a lower proportion of the provider landscape over time, with for-profit (FP) providers playing a greater role.
- High and sometimes excessive levels of demand, a greater level of dissatisfaction with the market and higher retirement levels of key practitioners are potential reasons for this decline.
- It is important for the health of the market to maintain a NFP presence – these providers play a particularly important role within Welfare Benefits and Housing & Debt categories of law and declining NFP provision may be a key reason behind provider numbers falling in these areas.

In this sub-section, we assess the high-level commercial structure of providers in the market – the mix of for-profit (FP) and not-for-profit (NFP) – and how this has varied over time.

Figure 38, below, uses contractual data provided by the MoJ to show the breakdown of FP and NFP providers for the period 2011-12 to 2022-23.¹⁰⁵ Whilst NFP providers have consistently played a less significant role in the market historically, this analysis shows that NFP provision has gradually reduced over time in favour of a greater role for FP providers. 13% of providers were NFP in 2011-12, compared to 6% in 2022-23.

Figure 38: Number of providers contracted, broken down by provider structure



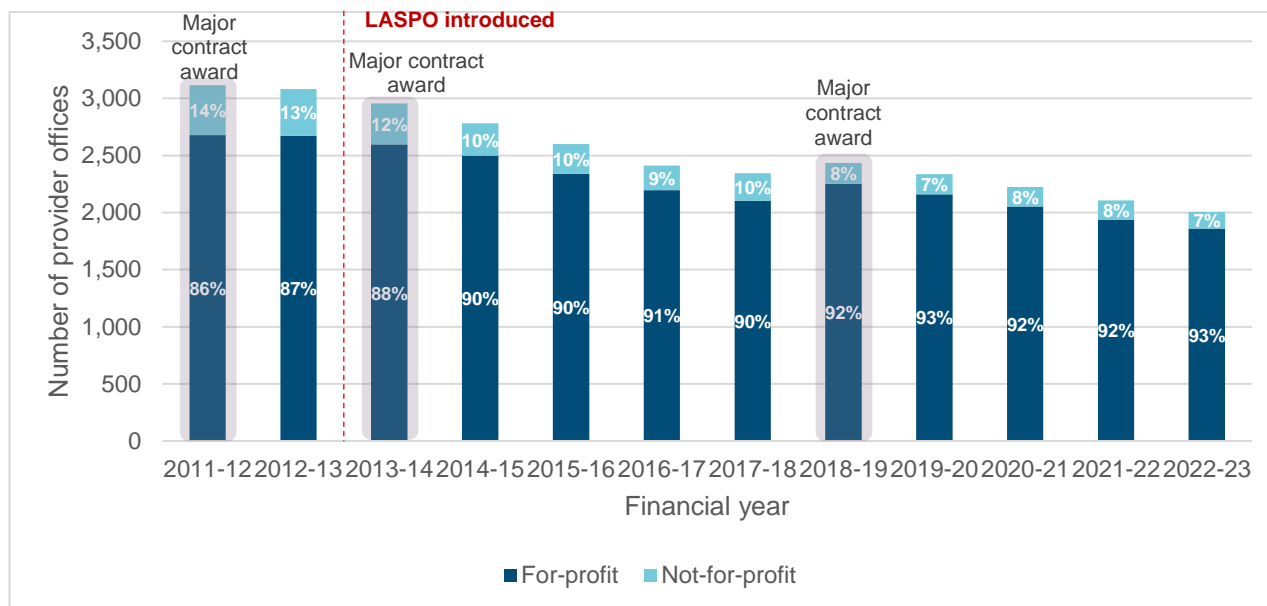
Source: Civil legal aid contracts data supplied by the MoJ. Note: Figures are as of the end of each financial year. Shading highlights major contract procurement rounds.

Figure 39 below shows the same breakdown, but for provider offices. A similar trend is observed to the provider data – with NFP provider offices making up 14% of total offices in 2011-12, with this falling to

¹⁰⁵ Please note the start year is only available from 2011-12 due to data constraints.

7% in 2022-23. This indicates that NFP providers tend to have smaller operations with fewer offices than FP providers.

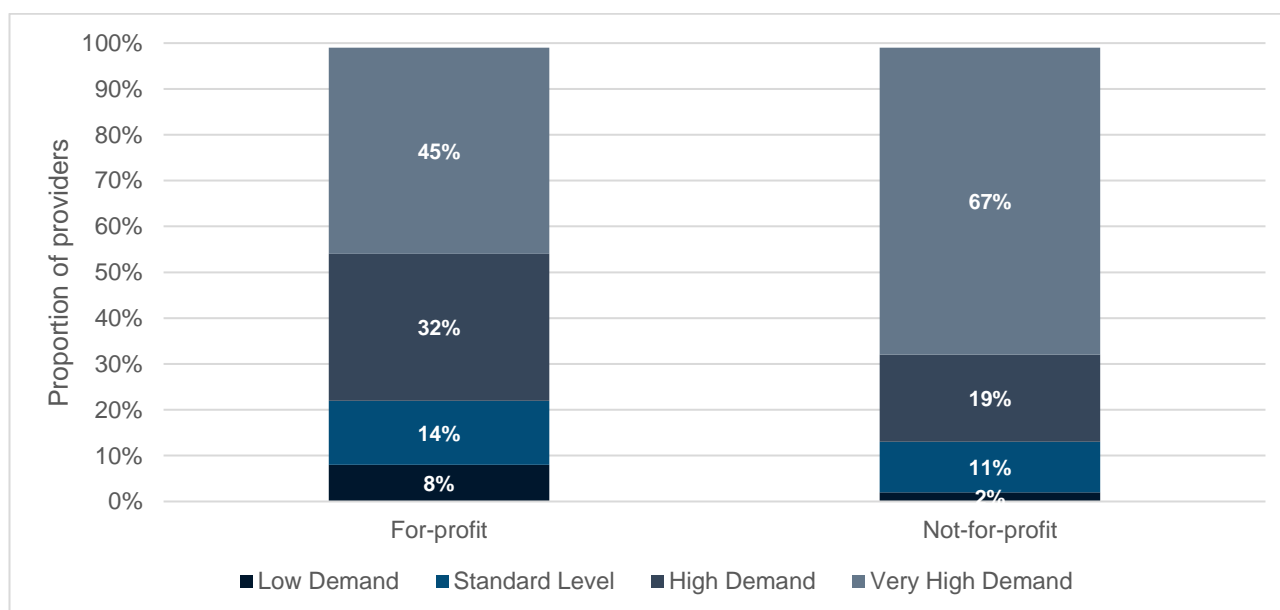
Figure 39: Number of provider offices contracted, broken down by provider structure



Source: Civil legal aid contracts data supplied by the MoJ. Note: Figures are as of the end of each financial year. Shading highlights major contract procurement rounds.

A range of drivers could explain these trends. For example, evidence from our Provider Survey found that NFP providers reported facing higher levels of ‘overwhelming’ demand, which could lead to burnout, turned away more potential cases, and showed higher levels of dissatisfaction with the market overall. 86% of NFPs reported High or Very High demand compared to 77% for FPs (see Figure 40, below), indicating their role as a more visible ‘front door’ for civil legal aid advice, and potentially more at risk of being overwhelmed by demand.¹⁰⁶ It’s also possible that NFP activity was more concentrated on matters and cases that were removed from legal aid’s scope by LASPO, although if this were a significant contributor to the declining role of NFPs in civil legal aid, a more rapid decline would be expected in NFP provider numbers following the implementation of LASPO.

Figure 40: Provider reported demand for civil legal aid, broken down by provider type



¹⁰⁶ The response option ‘Standard’ level of demand can be defined as a level of demand that can be catered for comfortably or is reasonable, but this was left open to provider interpretation.

Source: Provider Survey, Q24: For each Legal Aid area your organisation operates in, how much demand is your organisation currently experiencing for that service? Providers asked to choose a point on a 7-point scale, with 1 being 'overwhelming', 4 being 'standard' and 7 being 'very low'. Base: Private Practices (n=189), Non-Profits (n=39)

It may also be the case that providers in the NFP sector have seen higher level of retirees than the broader market. According to the Survey of Not-for-Profit Legal Advice Providers in England and Wales,¹⁰⁷ conducted in 2015, 49% of NFPs reported providing their services for at least 25 years. Whilst this survey is not directly comparable with our own survey evidence, it does indicate the possibility that many of the practitioners in these providers may have reached retirement age and may have exited the market because of this. Interestingly, this survey also provides evidence that NFPs are particularly concentrated in Welfare Benefits and Housing & Debt areas of law, potentially providing an explanation for why provider numbers have reduced particularly significantly in these areas (as shown in Section 5.6).¹⁰⁸ In this context, it is clear that it is important for the health of the market, and particularly the aforementioned categories of law, to maintain the presence of NFP providers.

NFP providers have very different commercial and funding models than FP providers and we explore the extent to which these differences may have led to more NFPs exiting the market in Section 7.

5.10 The number of providers and offices – geographic distribution

Key findings and implications:

- The current methodologies for determining geographic gaps in provision are imperfect, and MoJ are undertaking new analysis to examine this through travel times to a provider.
- Whilst recognising these limitations, there has been a notable decline in provider office coverage across England and Wales, with disparities between rural and urban areas.
- There are signs of provision gaps, however, further research is required to establish if a lack of local provider offices leads to underserved end users – particularly given the growing use of remote services to serve end-users from a distance.

The final dimension of the provider landscape that we cover in this sub-section is the geographic location of providers. A sustainable market requires enough providers with sufficient capacity to meet end user demand, but this also needs to be available and accessible to end users in their local communities and regions. In this sub-section, we use LAA data on the presence of providers across Local Authorities in England and Wales, as a whole and across different categories of law, to assess trends in local provision. We triangulate this data with the wider literature which has covered this topic extensively in recent years to assess the extent to which this provides evidence of local provision gaps.

It is important to note some key challenges and caveats to assessing geographic spread of provision. Firstly, geographic coverage may not fully reflect the provider options and services available to end users. There may be gaps in provision for certain regions which on the face of it could suggest no support available to local residents there, however, it may be the case that provision in neighbouring regions can serve those individuals. In addition to this, some regions may have higher concentrations of providers for reasons such as proximity to particular court buildings – which will be of particular importance for some case types and services (e.g. civil representation). Finally, some providers may

¹⁰⁷ Ames, A., Dawes, W., Hitchcock, J. and Mori, I. (2015). *Survey of Not for Profit Legal Advice Providers in England and Wales*. [online] Available at: <https://assets.publishing.service.gov.uk/media/5a80bccae5274a2e87dbb884/not-for-profit-la-providers-survey.pdf>.

¹⁰⁸ It must be noted, however, that this distribution could have changed since the survey was conducted, particularly due to the fact that LASPO decreased scope for many of these areas of law.

service end user demand remotely from beyond their local region (i.e. online or via telephone),¹⁰⁹ which will not be reflected in the geographic spread.

Despite the above limitations, analysing the geographic spread can still offer valuable insights into changes in provision over time and indicate which regions may be under-provided for or trending in that direction.

Geographic spread of provider offices

Whilst there has been a growth in remote provision of legal services in recent years in certain sectors, face-to-face legal advice and support remains a critical part of civil legal aid provision. This is particularly true for civil legal aid cases which deal with highly personal and sensitive topics and where digital exclusion and language barriers for end users may be more prominent.

It should be noted that our analysis examines geographic spread by Local Authority, which differs slightly with the approach that the LAA uses to procure legal aid – which is on the basis of ‘Procurement Areas’. These Procurement Areas emphasise delivering services locally to clients wherever possible, as well as ensuring the procurement area is large enough to ensure the work being offered within them provides sufficient work volumes to be financially viable for providers. We use Local Authorities in our analysis to be able to assess all categories of law on a consistent basis at a granular level, whereas some LAA procurement areas are not uniform across all categories of law.

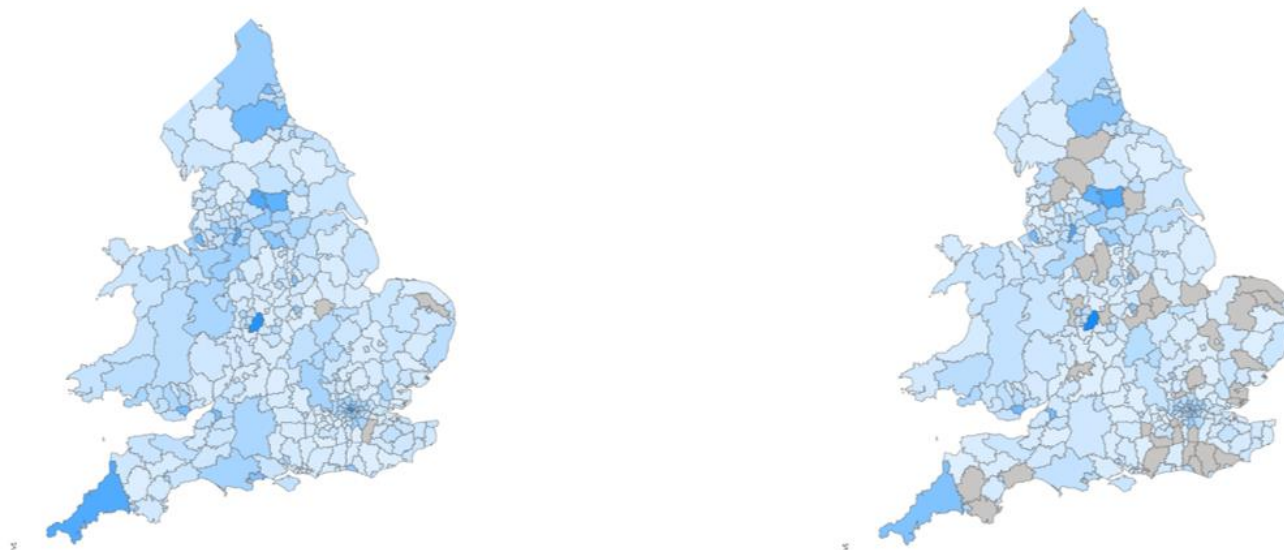
Figure 41 below uses LAA data to show the geographic distribution of provider offices starting work by Local Authority, first as of 2010-11 and then as of 2022-23.¹¹⁰ It is evident from both maps that there's significant variation in how provider offices are dispersed throughout England and Wales – with the darker shading corresponding to a higher number of provider offices and grey representing zero provider offices. **In 2022-23, there were no civil legal aid provider offices located in approximately 40 out of 340 local authorities, and in a further 43 authorities, there was just one provider office. The incidence of zero or one provider office in a local authority in 2010-2011 was far lower at 15.**

¹⁰⁹ Until recently there was a mandatory telephone gateway for Discrimination and Education cases, for example.

¹¹⁰ app.powerbi.com. (n.d.). Microsoft Power BI. [online] Available at:

<https://app.powerbi.com/view?r=eyJrIjoieYiI5ZiUxNjktODAxYS00ZTQ3LTliMTUtZGlyYjA2MjkwZDQ3IiwidCI6ImM2ODc0NzI4LTcxZTYtNDZmZS1hOWUxLTJlOGMzNjc3NmFkOCIsImMiOiIh9.>

Figure 41: Geographic distribution of provider offices starting work by local authorities - 2010-2011 (left map) and 2022-2023 (right map)



Source: MoJ/LAA statistics. Note: The darker the shade of blue, the higher the number of providers per authority. Grey indicates no provider in an authority.

Further observations from this data include:

- Provider offices tend to “cluster” in densely populated regions – perhaps due to greater availability of practitioners in those regions and greater demand for services. For example, Birmingham has 54 provider offices and a ratio of approximately 4.7 offices per 100,000 residents.¹¹¹ Similarly, Leeds hosts 38 provider offices with 4.6 offices per 100,000. Meanwhile, areas like Sheffield and Manchester maintain office-to-population ratios of 3.2 and 6.9 respectively.
- Certain areas stand out with a very high number of offices per population, for example in the City of London, which is likely to reflect its role as a legal services hub serving people living across Greater London and beyond. The City of London has 20 provider offices serving a population of approximately 10,800 (a ratio of 184.4 offices per 100,000 inhabitants). This ratio is heavily skewed by the relatively low population of this region – notably more non-residential than some other regions.
- In contrast, certain regions are facing a noticeable lack of provider offices. For example, Basildon, with a relatively sizeable population of approximately 189,000, has just one provider office, equating to only 0.5 offices per 100,000 inhabitants – the lowest ratio of all the authorities with a provider office. In total, 22 local authorities have an office per 100,000 population ratio of under 1.0. West Devon, as of February 2023, was reported to have no provider offices.¹¹²
- The trend for falling regional presence of provider offices has also been seen in the NFP sector. From 2013-14 to 2019-20, the number of local areas with NFP provider offices dropped by 47%, falling from 94 areas to 47.¹¹³

By using the provider starts data, it is possible to assess the rural or urban nature of local authorities in England that had one provider office. Table 10 provides the summary results for 2010-11 and 2022-

¹¹¹ ONS (2023). *Mid-2022: 2023 local authority boundaries edition of this dataset*. [online] Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/estimatesofthepopulationforenglandandwales>. Note: population figures used to estimate density of provider offices per 100,000 residents is as of mid-2022 – see tab ‘MYE4’.

¹¹² Tavistock Times Gazette. (2023). *West Devon ‘legal aid desert’*. [online] Available at: <https://www.tavistock-today.co.uk/news/west-devon-legal-aid-desert-604792>.

¹¹³ Denvir, C., Kinghan, J., Mant, J., Newman, D. and Aristotle, S. (2022). *WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS Report* Prepared by. [online] Available at: https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid-Findings-from-the-2021-Legal-Aid-Census_Final.pdf.

23.¹¹⁴ In both of the assessment years, the majority of local authorities with just one provider office were 'mainly rural' or 'largely rural'. It shows that 62% of local authorities with one provider office were classified as these types of rural area, which fell to 43% in 2022-23. In 2022-23, a larger number of local authorities with one provider were 'urban with significant rural' or 'urban with city and town'. Lower provider coverage would be expected in areas of lower population density, but this data illustrates that coverage is also reducing in larger urban areas. Please note that this analysis should be treated with a degree of caution, given it has not been possible to replicate for local authorities with no providers within it, or for Wales.

Table 10: Number of local authorities, by rural urban classification, that had either 1 or 0 provider offices located there, as of 2010-11 and 2022-23 respectively

Rural urban classification	2010-11	2022-23
Mainly Rural (rural including hub towns >=80%)	5	13
Largely Rural (rural including hub towns 50-79%)	3	5
Urban with Significant Rural (rural including hub towns 26-49%)	1	8
Urban with City and Town	3	14
Urban with Minor Conurbation	0	1
Urban with Major Conurbation	1	1
Total	13	42

Source: GOV.UK. (2023). *Legal aid statistics: January to March 2023 data files. legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023*. Classification of local authorities sourced from: GOV.UK. (2011). *2011 Local Authority Rural Urban Classification*. Note: In 2010-11 there were 327 recorded local authorities with at least 1 provider office and in 2022-23, there were 290. This dataset is only for England, and it was not possible to classify local authorities in Wales.

Geographic spread of provider offices by category of law

We have also sought to analyse the geographical distribution of provider offices starting work by categories of law. Tables 11 and 12 show the number of provider offices starting work by region, broken down by categories of law, as of 2010-11 and 2022-23 respectively. As noted previously for Figure 34, the Discrimination category of law has no values for 2010-11 because it was not a distinct category at that time, and therefore no comparison is made and the category is omitted.

Comparing the two Tables shows that all categories of law except Immigration & Asylum experienced decreases in provider offices starting work in every region – with some becoming zero in 2022-23. In 8 of the 12 regions, the number of provider offices starting work in Immigration & Asylum either remained the same or increased. Increases ranged from 1 to 4 offices. In the 4 regions where offices decreased, 3 fell by 5 offices or less, while London (the region with the highest number of offices) experienced a substantial decrease of 102, falling from 191 to 89. This significant shift in geographic distribution may be a response from providers to the Home Office's 'dispersal policy', which sees asylum seekers housed across the country.

In some areas of law, such as Family and Housing & Debt, whilst numbers of provider offices starting work have fallen substantially, there is still a relatively broad presence across England and Wales. However, as shown in Table 12, some categories of law have zero provider offices as of 2022-23.

¹¹⁴ GOV.UK. (n.d.). 2011 Local Authority Rural Urban Classification. [online] Available at: <https://www.gov.uk/government/statistics/2011-rural-urban-classification-of-local-authority-and-other-higher-level-geographies-for-statistical-purposes#full-publication-update-history>.

Amongst all the categories of law, London, the West Midlands and Yorkshire & Humberside experienced the lowest rates of decline in the number of provider offices based in the area between the two periods, with drops of 56%, 62% and 63%, respectively. This compared to an average decrease of 66% for all categories of law and regions. It is perhaps unsurprising to see London experienced one of the lowest rates of decline, given that analysis in Section 5.6 indicated that providers in this region report amongst the highest levels of demand. London's provider base may also be more resilient due to the relatively high number of courts located there and being one of the most densely populated regions in England and Wales.

The trends are broadly similar when comparing geographic distribution of providers offices to the changes between 2013-14 and 2022-23, to that of 2010-11 and 2022-23. However, more than twice as many provider offices (56%) across all regions and categories of law exited in the period 2010-11 to 2013-14, compared to those that subsequently left from 2013-14 onwards, likely reflecting the immediate response of providers to LASPO. Between 2013-14 and 2022-23, there were 4 categories of law which did not see reductions in every region (whereas we explained above that this was only the case for 1 category between 2010-11 and 2022-23), and this includes Community Care, Education, Mental Health and Welfare Benefits.

Table 11: Geographic distribution of provider offices starting work by area of law, 2010-11

Region	Claims Against Public Authorities	Clinical negligence	Community care	Debt	Education	Family	Housing	Immigration and Asylum	Mental health	Public law	Welfare benefits
East Midlands	19	20	9	65	2	197	66	10	22	27	42
Eastern	10	16	11	80	4	228	88	8	23	16	53
London	63	34	85	151	27	402	275	191	67	129	151
Merseyside	11	11	9	29	1	69	28	2	9	18	25
North East	31	14	11	83	2	187	84	8	21	26	53
North West	27	32	28	71	6	319	97	15	29	37	60
South	14	19	10	37	6	149	46	11	11	21	21
South East	11	12	11	46	3	144	59	8	20	17	36
South West	21	29	17	93	8	298	104	7	24	31	55
Wales	25	19	9	98	3	209	114	9	19	18	66
West Midlands	26	14	19	71	8	223	73	30	19	31	53
Yorkshire & Humberside	27	39	20	62	7	269	99	18	33	37	47

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023](#).

Note: this data does not include mediation starts

Table 12: Geographic distribution of provider offices starting work by area of law, 2022-23

Region	Claims Against Public Authorities	Clinical negligence	Community care	Debt	Education	Family	Housing	Immigration and Asylum	Mental health	Public law	Welfare benefits
East Midlands	5	2	5	6	0	111	14	10	8	5	0
Eastern	2	4	3	1	0	95	14	8	10	3	1
London	40	7	39	10	6	244	155	89	37	60	7
Merseyside	5	1	2	0	0	31	9	5	5	2	0
North East	5	2	4	3	1	96	16	12	13	1	0
North West	12	6	7	1	1	148	20	16	16	7	2
South	0	2	3	2	0	75	11	6	10	2	0

South East	3	1	2	1	2	65	15	4	7	0	0
South West	4	10	9	1	1	115	9	8	10	2	2
Wales	2	5	2	8	2	109	27	10	12	3	1
West Midlands	4	4	5	3	1	130	16	29	11	6	4
Yorkshire & Humberside	10	8	8	4	1	155	18	20	15	4	2

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/legal-aid-statistics-civil-starts-provider-area-data-to-mar-2023).

Note: this data does not include mediation starts

It should also be noted that the MoJ are currently undertaking analysis which builds a more granular picture of geographic distribution – which will highlight the proportion of population across England and Wales that are within certain set distances and travel times of provider offices. This would allow for a more detailed assessment of which locations end users may find most challenging to access a provider for face-to-face legal advice.

The potential for gaps in provision

The trends described in this sub-section highlight the potential for gaps in local provision to arise with some regions becoming ‘underserved’, with too few civil legal aid provider offices able to provide face-to-face advice to individuals in local communities. From our analysis, the regions of greatest concern are likely to be those that either don’t have a single provider in a certain category of law, or where the total number of providers have contracted most significantly. On this former measure, evidence from Table 11 above shows that 6 of the 12 regions don’t have provider offices covering every category of law. For instance, Merseyside and the South don’t have any provider offices in three categories of law. On the latter measure, the regions which saw the biggest decline in provider offices are the Eastern, South West and the South East regions where total provider offices all contracted by c.75%.

A growing body of literature published by industry bodies has sought to identify provision gaps in legal aid across different geographies – where provision gaps are particularly stark these have been coined “legal aid deserts”. Both the Law Society¹¹⁵ and LexisNexis¹¹⁶ have analysed this topic. These studies define access to providers in different ways, and we have not sought to replicate or validate this analysis, but their findings broadly corroborate the trends set out above. For example, the Law Society found that nearly one third of the population in England and Wales do not have a local Housing civil legal aid provider, or only one provider.¹¹⁷ Large regions such as Shropshire and Suffolk were also found to have no Housing civil legal aid providers. Having a small number of providers in a local area may cause other problems that restrict available legal assistance further – for example, in instances where conflicts of interest may prevent a single law firm from representing both landlords and tenants in Housing disputes.

Several reasons may explain a provider deciding not to serve a local area. It may not be economical for providers to maintain services in particular areas, given potential demand, fee levels¹¹⁸ and profitability levels.¹¹⁹ Suitable skills may not be available in the local area, or a locally based expert may retire.¹²⁰ Regions such as Norfolk, Suffolk, Cornwall, and Worcestershire have reported distinct shortages of legal professionals with suitable skills able to provide legal aid services.¹²¹

¹¹⁵ www.lawsociety.org.uk. (n.d.). Legal aid deserts. [online] Available at: <https://www.lawsociety.org.uk/campaigns/civil-justice/legal-aid-deserts>.

¹¹⁶ LexisNexis. (n.d.). The LexisNexis Legal Aid Deserts report. [online] Available at: <https://www.lexisnexis.co.uk/research-and-reports/legal-aid-deserts-report.html>.

¹¹⁷ www.lawsociety.org.uk. (n.d.). LASPO 4 years on. [online] Available at: <https://www.lawsociety.org.uk/topics/research/laspo-4-years-on>.

¹¹⁸ The Westminster Commission on Legal Aid INQUIRY INTO THE SUSTAINABILITY AND RECOVERY OF THE LEGAL AID SECTOR. (2022). Available at: https://lapg.co.uk/wp-content/uploads/The-Westminster-Commission-on-Legal-Aid_WEB.pdf.

¹¹⁹ Transforming Legal Aid: Next Steps A Report for The Law Society of England and Wales and the Ministry of Justice. (2014). Available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/otterburn-legal-consulting-a-report-for-the-law-society-and-moj.pdf>.

¹²⁰ Denvir, C., Kinghan, J., Mant, J., Newman, D. and Aristotle, S. (2022). WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS Report Prepared by. [online] Available at: https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Findings-from-the-2021-Legal-Aid-Census_Final.pdf.

¹²¹ www.lawsociety.org.uk. (n.d.). LASPO 4 years on. [online] Available at: <https://www.lawsociety.org.uk/topics/research/laspo-4-years-on>.

Studies identifying and analysing provision gaps employ different methodological techniques, with their own limitations. It is important that subsequent analysis of provision gaps captures several important considerations, including:

- *The appropriate definition of 'local' providers* – as described earlier in this sub-section, using distance to measure access to providers may be more appropriate than local authority boundaries given end users may have reasonable access to providers in neighbouring local authorities.
- *The linkage between the accessibility and the broader fees and incentive structure for civil legal aid* – for example, distance to a civil legal aid provider may be less of an issue for overall provision if travel time is sufficiently remunerated and incentivised.
- *Market structure trends should also be considered alongside gaps in provision* – if consolidation in the market increases the size of providers, bigger providers may be able to cover the same or a larger area.
- *The distinct characteristics of civil legal aid cases* – a lack of locally-based providers may not be an issue if civil legal aid services could be provided remotely through virtual means (legal aid contracts stipulate how much remote advice providers can offer). However, civil legal aid cases are likely to involve highly personal and emotive issues necessitating face-to-face advice – end users in this market may also be more likely to have distinct issues around accessibility, language barriers and digital exclusion.
- *The interaction with demand* – eligibility criteria defined by LASPO results in some civil legal aid sectors operating as highly niche and specialised markets, involving small numbers of cases across England and Wales per year. These markets may not be able to sustain local-based provider offices in all areas on an equal basis.
- *Alternative forms of provision* – how far alternative provision may fill in any of the gaps left by traditional providers (such as law centres and others identified in Section 3).

5.11 Quality of provision

Key findings and implications:

- It is difficult to precisely measure the quality of service delivered by providers to end users.
- The LAA does this, on a small scale, through Peer Reviews – whereby providers review a sample of cases carried out by a provider. Most providers score a 3 rating (1-5) in their Peer Review – which is the minimum sufficient score to pass the review.
- Another way to assess quality is through the prevalence of complaints made by end users. We do not have data on levels of complaints made directly to providers, however, data from the Legal Ombudsman suggests relatively low prevalence.

As part of our assessment of the provision of civil legal aid services, we consider the quality of the provision. Legal services, more broadly, is a sector in which there is a distinctly high disparity in technical knowledge between users and practitioner – i.e., it is not easy for users themselves to assess if the service they receive from a law firm or lawyer is of high quality – particularly in advance, and the quality of advice may only become clear after engaging a law firm. In 2021, The Legal Services Board (LSB) – the oversight regulator of legal services in England and Wales, researched quality indicators in legal

services.¹²² The research involved 69 consumers from across England and Wales. When participants were asked how they gauged quality, participants said that gauging quality was exceptionally hard when comparing and choosing a legal services provider. They gave two main reasons for this:

- They lack the knowledge, skills, or confidence in how to choose legal services providers (particularly in higher stakes and more complex issues); and
- The information they need to ascertain quality is hard to find, inconsistent between providers, or does not exist.

Quality of service would typically be a key factor in the choice process clients would make when selecting which law firm to seek services from. However, in the civil legal aid market, choice of provider seems to be less available when considering the capacity constraints providers face – described earlier in Section 5.5. This means eligible end users will likely have few options to choose from. It is therefore fundamental that quality standards by providers are mandated and regulated by public bodies, e.g., the LSB and LAA. Without oversight, quality standards may decline in the face of low ‘competition by quality’ between providers.

One way quality is assessed by the LAA is through the use of Peer Reviews. The Independent Peer Review process¹²³ implemented by the LAA involves a detailed evaluation of legal aid providers' work by a panel of independent, experienced legal practitioners (Peer Reviewers). This process, overseen by an Independent Consultant from the Institute of Advanced Legal Studies, uses Peer Reviewers to assess a sample of case files in specific legal categories against established criteria and quality guidelines.¹²⁴ Peer Reviews rank providers from 1-5, with a score of 1-3 being a requirement of the contract. If providers are scored a 4, a second Peer Review will be done shortly after the first. If that second Peer Review also doesn't achieve a rating of 1-3, then a decision will be made by the LAA regarding the potential termination of the provider contract. After receiving a 5 in a provider's first Peer Review, the same decision regarding termination can be made.

In 2014, the National Audit Office (NAO) carried out a review as to whether the LAA's implementation of reforms from LASPO provided value for money.¹²⁵ In the report, they assessed the quality of provision, considering both targeted and random Peer Reviews. It found that a ‘high’ proportion of the firms fail these (i.e., get a 4 out of 5 score), with 32% of targeted firms and 23% of firms selected at random failing in 2013-14.

More recent data provided by the LAA is shown in Figure 42 below, which sets out the breakdown of scores from Peer Reviews conducted over the period 2014-15 to 2022-23. It is important to note that the number of Peer Reviews conducted each year is not consistent and can vary quite substantially, for instance it ranged from 84 to 260 across the period assessed below. It can be seen that the proportion of Peer Reviews failing (achieving a score of 4 or 5) has trended down over the period. This might also be expected, as over time, poorer performing providers may exit the market.

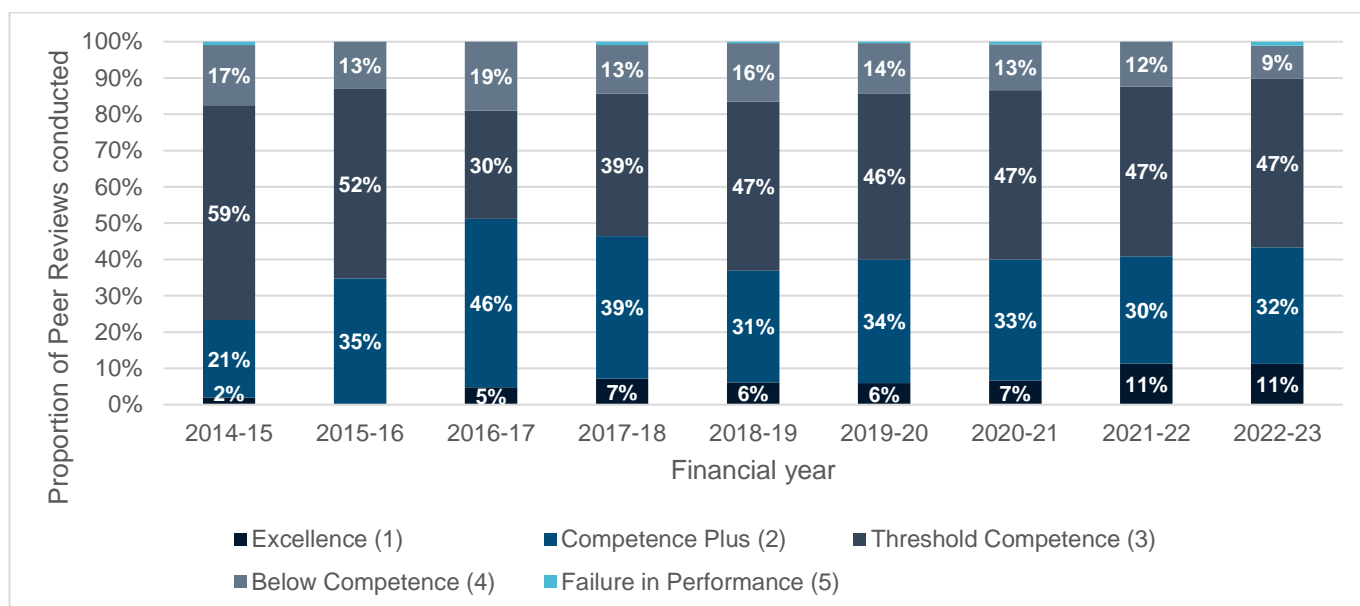
¹²² Quality indicators in legal services. (n.d.). Available at: <https://www.legalservicesboard.org.uk/wp-content/uploads/2021/02/LSB-Public-Panel-Quality-Indicators-Research-Report-Accessible.pdf> [Accessed 18 Jan. 2024].

¹²³ Independent Peer Review Process Document. (2021). Available at: https://assets.publishing.service.gov.uk/media/618d428bd3bf7f055b293336/Peer_Review_Process_Document.pdf.

¹²⁴ Sections 3 and 4 of the Peer Review Process Document (see above FN) details the way the LAA prioritises providers for Peer Review having regard to its limited resources.

¹²⁵ Implementing reforms to civil legal aid. (2014). National Audit Office. Available at: <https://www.nao.org.uk/wp-content/uploads/2014/11/Implementing-reforms-to-civil-legal-aid1.pdf>.

Figure 42: Breakdown of scores in Peer Reviews conducted by LAA, 2014-15 to 2022-23



Source: Peer Review data provided by the LAA. Note: Percentage callouts for the score 'Failure in Performance (5)' are not shown in the Figure as the proportion was either 0% or 1% across the whole period. Similarly, the percentage callout for 'Excellence (1)' score is not shown for 2015-16 as it was 0%. The absolute number of Peer Reviews conducted in each financial year is not consistent. Second round Peer Reviews conducted on the same providers will appear as separate data points.

Another way that we can assess the quality of provision is through user complaints. Data, however, is very limited in this area. If users are not happy with the legal services they have received, across all types of cases, they have the right to make a complaint to the Legal Ombudsman.¹²⁶ Analysis of Legal Ombudsman complaints data reveals that of the 34,423 total complaints since 2018, 539 (1.5%) were relating to publicly funded (i.e., legal aid) cases, both criminal and civil. This translates to approximately 0.03% of total legal aid cases progressed over this period.¹²⁷ We do not have data to compare against to test how far this is representative – but in principle, 0.03% represents a very low proportion. It's important to flag that end-users can also complain about the service they're receiving directly to their provider – however, we do not have access to that information – which we understand is not collected centrally by the LAA or the MoJ. We can therefore assume that there are likely higher numbers of complaints that are not captured by the available data. It may also be the case that legal aid users may be less likely to complain than other consumers of legal aid services – for example, information gaps may be more prevalent, and vulnerable users may be less able to access complaints services.

5.12 Issues and pain points reported by providers

Key findings and implications:

- There is broad dissatisfaction amongst providers, contributing to market exits.
- A range of issues were reported by providers – fees were reported as the biggest issue, followed by access to skills and administration requirements.

Our Provider Survey sought respondents' views on the key issues and 'pain points' they face. Figure 43 below shows the frequency with which they experienced the various issues. This highlighted a range of challenges that almost all providers have faced at some point when providing their services, as well as a set of issues that are frequently experienced by providers on a weekly basis.

¹²⁶ <https://www.brightwire.net> (n.d.). Home. [online] Legal Ombudsman. Available at: <https://www.legalombudsman.org.uk/>.

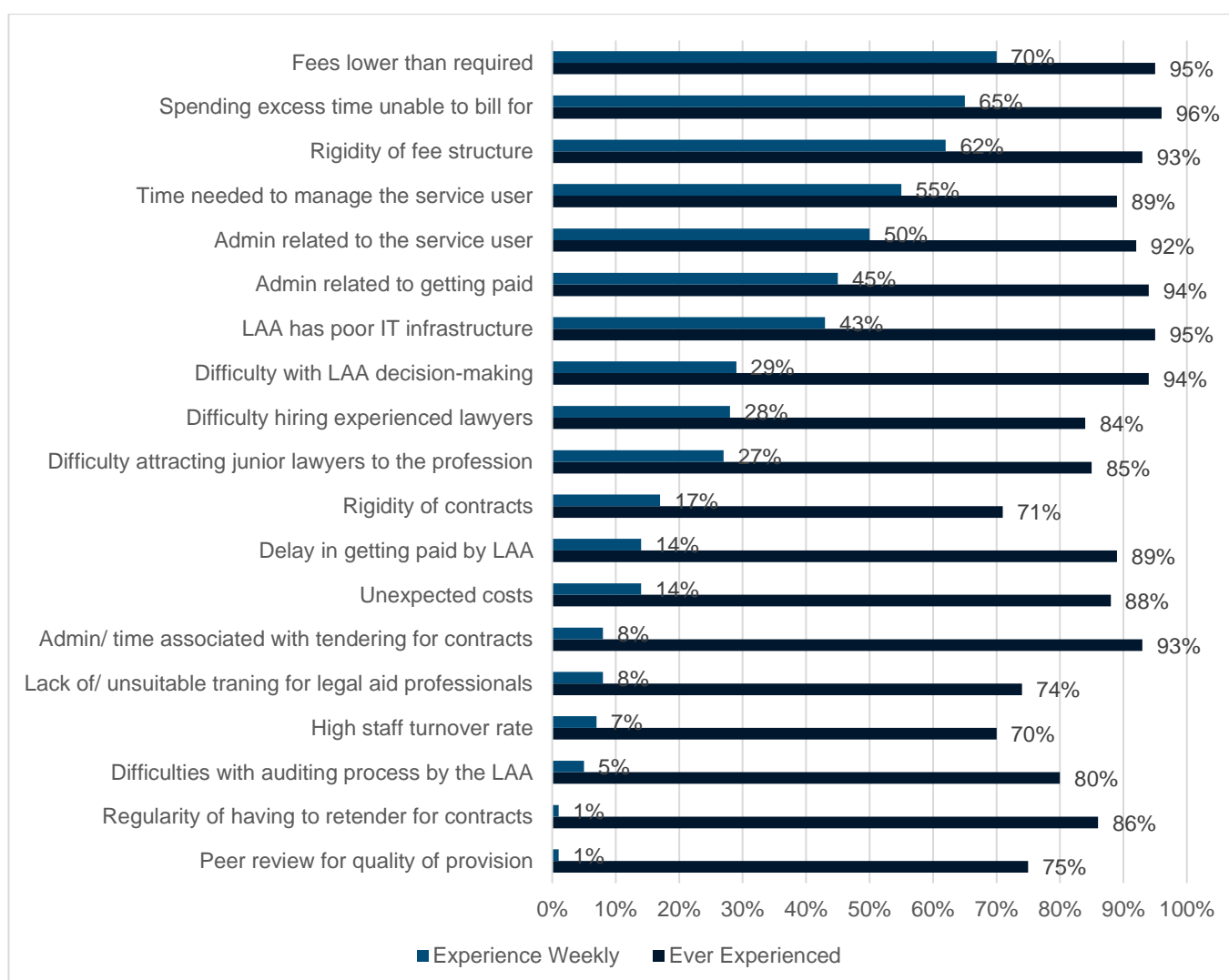
¹²⁷ According to LAA case volumes statistics, there were 1,455,429 cases across all areas and categories of law since 2018.

Over 9 in 10 providers reported experiencing the following issues **at some point** when providing their services:

- **Fees:** Fees being lower than required, spending excess time unable to bill for, and rigidity of the fee structure
- **Administration requirements:** Admin related to the service user, getting paid, and tendering for contracts
- **Interactions with the LAA:** LAA IT infrastructure and decision making

Over 6 in 10 providers reported experiencing issues with fees on a **weekly basis**, and over half of providers experienced weekly issues with administration and the time required to manage the service user.

Figure 43: Number of providers who experience various issues with civil legal aid on a weekly basis and have ever experienced these issues



Source: Provider Survey, Q16: On average, how often, if at all, does your organisation experience the following pain points/ frustrations when delivering civil legal aid provision (Experienced at least weekly + Have ever experienced)? Base: Total sample (n=228).

Certain issues were particularly prevalent for different types of provider. For example, for NFPs, the time required to manage the service user was a particular issue, with every NFP provider responding to the survey reporting that they have experienced this issue at some point, and 79% experiencing these

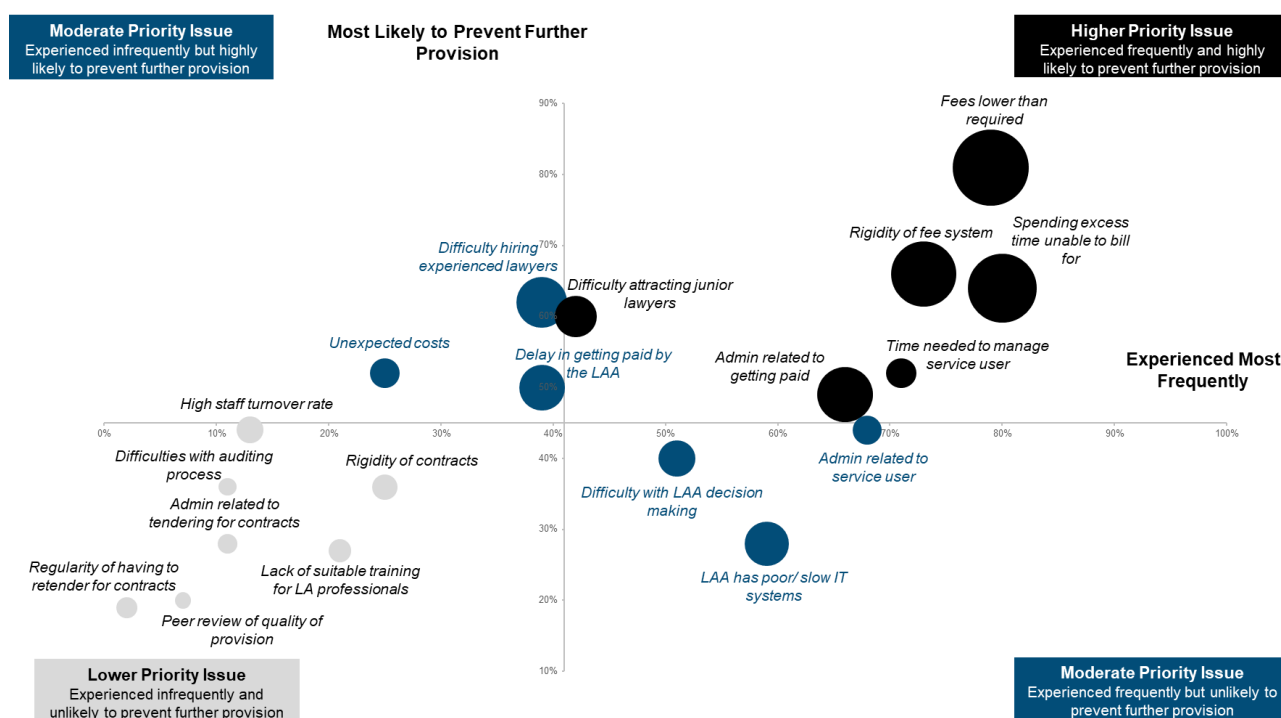
issues on a weekly basis – far higher than the overall average of 89% and 55%, respectively. This may reflect the more complex needs or more vulnerable status of individuals referred to NFP providers.

There were also some notable differences between larger and smaller providers, with larger organisations (employing more than 30 people) significantly more likely to experience, on a weekly basis, issues with the admin related to getting paid (54% compared to 45% for all sizes) and spending excess time unable to bill for (72% compared to 65% for all sizes). It’s possible this is because larger providers deal with a higher number of cases.

It is also possible to prioritise the importance of these issues by considering the significance of the issue to providers (severity) and the potential for this issue to lead to the provider withdrawing from the market (impact). Figure 44, below, shows a prioritisation of these issues across the three dimensions of frequency, severity, and impact.

The issues featured in the top right quadrant can be considered the highest priority issues, as they are the issues experienced most frequently and most likely to cause a provider to withdraw from the market. Conversely, the issues in the bottom left quadrant are those that are experienced least frequently and least likely to cause a provider to withdraw from the market. The size of the bubble indicates how severely the pain point is reported to be experienced by providers – defined as causing the most frustration to providers when delivering civil legal aid services. The larger the bubble, the higher the reported severity.

Figure 44: Prioritisation of issues based on the frequency, severity and impact



*Bubble size represents the average severity of the issue as felt by providers

Source: Provider Survey, Q16: On average, how often, if at all, does your organisation experience the following pain points/ frustrations when delivering civil legal aid provision (Experienced at least weekly + Have ever experienced)? Q17a: With which pain points does your organisation feel the most frustration when delivering civil legal aid provision (Rank 1-5)? Q18: For each pain point, if it were to continue being a frustration to your organisation, how likely or unlikely is it to prevent your organisation from continuing their civil legal aid services (T3B Likely)? Base: Total sample (n=228).

This analysis shows that:

- **High Priority issues:** The priority issue in the market for providers is fees – with the top three priority issues relating to the level of fees, coverage of fees (time unable to bill for), and rigidity of the fee

system. These issues are the most likely to be significant, experienced frequently, and likely to prevent further provision.

- **Moderate Priority issues:** Issues accessing suitable talent and skills, both experienced and junior lawyers, are also likely to prevent further provision in the market but are experienced more infrequently and are less severe. Administrative burdens such as those relating to managing the service user, LAA decision-making, and LAA IT systems are equally likely to be seen as Moderate Priority issues.
- **Lower Priority issues:** A large number of other issues relating to contracting, training, and regulatory processes are relatively less important for providers, are experienced more infrequently and are less likely to prevent further provision, but may impact overall provider satisfaction with the market.

These issues will likely not be experienced uniformly across providers operating in different categories of law. For instance, in Section 7.3 we show that regulated fees differ by category of law, and additionally, cases that are typically billed on an hourly basis rather than fixed fees will also incur greater administrative burdens for reporting the hours worked.

As well as these issues representing barriers for providers to remain in the sector, they are also likely to impact provider incentives to enter the sector, increase their output, and invest in their operations.

5.13 Overall assessment of the current supply picture

Our analysis across a broad range of dimensions has presented a challenging picture of the supply-side of the civil legal aid market.

The contraction in provider numbers

There has been a 41% decline in provider numbers since 2011-12. LASPO drove an expected sharp contraction in the market, but providers have continued to exit the market since this point at a relatively constant rate, with provider numbers falling by 15% between 2013-14 and 2018-19. New providers have been willing to enter the market in major LAA procurement rounds, but those increases were eroded within one or two years. Between 2018-19 and 2023-24, 761 provider offices withdrew from offering civil legal aid services – equivalent to 30% of the civil legal aid provider office base in 2018-19.

Market provision has broadly been able to be maintained in the wake of providers exiting, with remaining providers delivering higher caseloads and larger providers playing a more significant role in the delivery of legal aid.

Challenges from rising caseloads

However, there are signs providers are struggling to manage these higher caseloads in a sustainable way – half of providers responding to our Survey reported experiencing ‘very high or overwhelming’ demand. This is resulting in significant capacity issues, with providers saying that they are forced to turn away large numbers of potential cases on a monthly basis and NFP providers saying that they are forced to choose the clients with the greatest need. Our Provider Survey found that the providers reporting excessive demand turned away an average of 26 cases in the last month (when asked specifically about eligible cases) – with NFP providers struggling in particular (turning away 39 cases on average).¹²⁸ This is supported by emerging insights from the User Journey Social Research workstream, which indicate end users are making multiple attempts to secure a provider, and some may not succeed.

¹²⁸ It should be noted that we do not know for certain if all those cases would have been eligible or whether they subsequently found a lawyer with capacity.

The root causes of capacity issues

Our analysis has found broad dissatisfaction amongst providers contributing to market exits – the message from providers is consistent across different sources. The most common reasons for giving up a contract, as reported by providers to the LAA, were commercial viability (43%), loss of key fee earners/supervisors (18%), and consolidation (17%). In our Provider Survey, over 9 in 10 providers reported experiencing issues with fees, administration, and interactions with the LAA on a weekly basis. Fees is their most pressing concern, and the main issues include the level of fees, coverage of fees (time they are unable to bill for), and rigidity of the fee system. These issues are the most likely to be reported as significant, experienced frequently, and likely to prevent further provision.

Our analysis has also shown that capacity issues may, in part, be exacerbated by more complex and expensive cases that take longer to resolve within a civil justice system recovering from disruption during the pandemic. Reforms to the broader civil justice system – for example, speeding up cases and reducing backlogs – could therefore unlock additional capacity in civil legal aid providers.

The most concerning areas of the market

These issues are particularly acute in certain areas of the market, raising questions about the continuing availability of legal aid services for end users, including:

- In Debt & Housing and Immigration & Asylum categories of law, which represent large parts of the market and have seen the most pronounced reductions in provider numbers and the biggest capacity issues emerging;
- In legal help services, which do not appear to be attractive to providers in their own right – rather many providers are potentially only serving this market as a stepping stone to provide more affordable civil representation services;
- In the NFP sector, which has contracted markedly compared to the FP sector but remains an important source of advice in key areas of law; and
- In the Eastern, South West and South East regions, which have seen the biggest decline in provider presence, and in large regions such as Merseyside and the South which do not have any providers in certain categories of law.

Potential supply-side interventions

These findings raise a number of concerns about the health and effective functioning of the market. Despite these challenging dynamics, the quality of provision appears to have been maintained, according to LAA Peer Review and Legal Ombudsman data.

Reforms to civil legal aid since LASPO, and additional procurement activity, market engagement activity, and stewardship from the LAA do not appear to have significantly altered the attractiveness of the market. Improving the health of the market may instead require interventions addressing market fundamentals, primarily commercial viability and the availability of a skilled workforce.

The LAA recently ran a major procurement round in 2023-24, the outcome of which is not yet known at the time of producing this report. It will be a key test to see if there are still providers willing to enter the market, although previous procurement rounds have only temporarily stemmed the largely continuous fall in provider numbers.

In the following sub-section, we adopt a forward-looking view to assess how these dynamics might play out over the next 5-10 years and the potential implications for market sustainability.

5.14 Future direction of supply

In Section 4.6, we explored future scenarios for market demand. It is critical to also consider the supply side, particularly having regard to what we've found in the earlier sub-sections above.

For example, our Provider Survey found that providers that experienced very high demand levels reported turning away an average of 26 cases in the preceding month. The survey also gave us insights on providers' future plans. It indicates it is likely that provider numbers will continue to contract over the coming years (see Table 13 below). 40% of providers stated that they will leave the market over the next five years if it remains unchanged. Whilst we cannot see expectations of law firms or organisations that do not currently operate in the civil legal aid market (i.e., new entry), the statistics below are cause for concern – particularly given the current levels of provider capacity issues experienced as of 2022/23 (as discussed in Section 5.5).

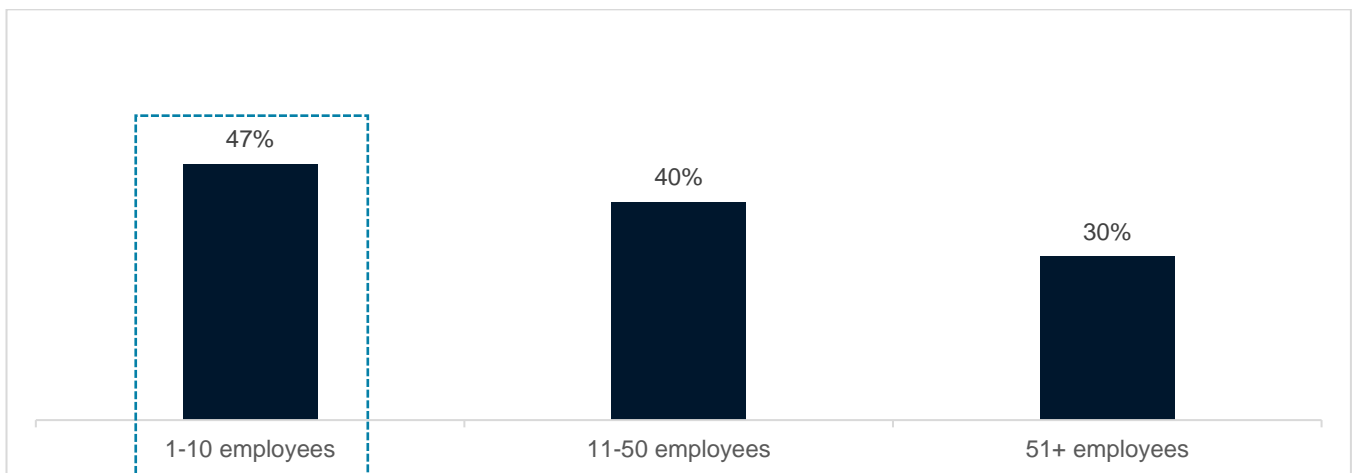
Table 13: Proportion of providers that report they will leave the civil legal aid sector, if it remains unchanged, over various timeframes

Next year	Next 2 years	Next 5 years
12%	17%	40%

Source: Provider Survey, Q25: If the civil legal aid sector continues to operate in its current state (i.e., no changes are made), what action is your organisation most likely to take in the following time frames? Base: Total sample (n=227).

Drilling into these exit predictions, we can break down the responses by provider size (defined by number of employees). Figure 45 below shows the proportions of providers that report they will leave the civil legal aid sector in the next 5 years, for providers in 3 size segments: 1-10 employees, 11-50 employees and 51+ employees. The data shows that smaller providers report higher rates of expecting to exit the market (47%). If these predictions were to come true, the market would become more concentrated with larger providers.

Figure 45: Proportion of providers who will leave the civil legal aid sector in the next 5 years, if it remains unchanged (broken out by organisation size)



Source: Provider Survey, Q25: If the civil legal aid sector continues to operate in its current state (i.e., no changes are made), what action is your organisation most likely to take in the following time frames? Base: Providers with 1-10 employees (n=72), providers with 11-50 employees (n=100), providers with 51+ employees (n=56).

Our Provider Survey also indicates the potential for providers to stop short of exiting the market but further reduce provision levels over the short-term. For example, if no further changes were made to the market over the next year, 42% of providers report that they will leave the civil legal aid market or decrease their amount of provision. 44% will keep their provision level the same, while only 15% report that they will increase the number of civil legal aid services they offer.

It is unlikely that every provider statement will translate into concrete actions to leave the civil legal aid market. Survey responses indicate that providers tend to favour delaying this decision beyond the next one or two years – which may be due to the strength of feeling and commitment practitioners have in the purpose of their work, the presence of significant barriers to exit – for instance, being mid-contract – or potentially to await any changes to legal aid policy and/or fees that may come out of RoCLA.

However, the extent of the dissatisfaction with the functioning of the market does indicate a high probability that a significant number of providers will leave within five years. This would also be in line with recent trends – exit data analysed in Section 5.3 highlights how around 12-13% of providers exited the market in each of the last three years, broadly in line with the 12% reported in our Provider Survey. Over a longer-term period, 761 provider offices withdrew from the market over the last five years – equivalent to 30% of the civil legal aid provider office base in 2018-19, which is only slightly lower than the 40% of providers that report they will exit over the next five years in our survey.

We explore in Section 10.2 how these insights inform supply scenarios for civil legal aid over the next 5-10 years.

5.15 The intersections between demand and supply

The analysis in Sections 4 and 5 has established the fundamental demand and supply dynamics impacting the civil legal aid market, illustrating the complex and inter-linked factors driving these trends that operate in different ways across the wide range of civil legal aid services and categories of law. How demand and supply trends intersect is vital for understanding the outcomes the market delivers for end users and its future sustainability. In this final sub-section, we present a summary assessment of the intersection of demand and supply, which is expanded upon through more detailed analysis of the market drivers in subsequent sections of this report and is brought together comprehensively in Section 10 on market sustainability.

The ‘demand’ picture

Section 4 highlighted that the significant narrowing of the scope of legal aid brought about by LASPO has led to an initial, immediate decrease in case volumes. Since this point, civil representation and mediation cases have largely evened out at this lower level, while legal help has continued to decline (potentially because providers find it less profitable).

There is a mixed picture across different categories of law:

- Some large categories of law have continued to decline in the last decade, such as Debt & Housing and Immigration & Asylum.
- Civil representation case volumes in Family, the largest category of law, have broadly stabilised.
- Other smaller areas of law, such as Mental Health and Community Care have seen case volumes increase.

Our analysis identifies varied and nuanced underlying drivers of these trends. The civil legal aid market has had to respond to a wide range of factors, including changes in eligibility rules, wider policy and legislative changes, the evolution of the broader legal system, external economic and demographic factors, and a pandemic.

Some factors have increased demand, and others have suppressed it. Leaving the means test unchanged from 2009 to the 2023 review will have excluded some people who would have been entitled to civil legal aid, even with the introduction of passporting for people on certain benefits as a simplified

path to legal aid. Civil legal aid is 'downstream' of wider policy changes across multiple departments, and consideration of the legal aid impacts is variable when assessing policy changes, despite the Justice Impact Test process.

While these complexities make the market dynamic and unpredictable, our core expectation is that recently announced increases to means test thresholds and population growth, supported by legislative changes, are likely to lead to moderately higher demand for civil legal aid over the next 5-10 years.

The 'supply' picture

Set against this is a supply-side of the market that has contracted significantly in the wake of this lower demand. LASPO drove an expected sharp contraction in the market, but providers have continued to exit the market since this point at a relatively constant rate. New providers have been willing to enter the market in major LAA procurement rounds, but those increases have been eroded away within one or two years.

Market provision has broadly been able to be maintained in the wake of providers exiting, with remaining providers delivering higher caseloads and larger providers playing a more significant role in the delivery of legal aid. However, there are signs that providers are struggling to manage this in a sustainable way, and many report significant capacity issues, with providers saying that they are forced to turn away large numbers of potential cases on a monthly basis and NFP providers saying that they are forced to choose the clients with the greatest need.

Our analysis has found broad dissatisfaction amongst providers contributing to market exits – providers reported experiencing issues with fees, administration, and interactions with the LAA on a weekly basis – and fees are their most pressing concern. Our analysis has also shown that capacity issues may, in part, be exacerbated by more complex and expensive cases that take longer to resolve within a civil justice system recovering from disruption during the pandemic.

These issues are particularly acute in certain areas of the market, making these areas vulnerable in terms of ongoing service availability, including: in Debt & Housing and Immigration & Asylum areas of law (which have seen the most pronounced reductions in provider numbers and the biggest capacity issues emerge); in legal help services (which do not appear to be attractive to providers in its own right), in the NFP sector (which has contracted markedly compared to the FP sector) and in a number of regions such as the East, South and Merseyside which have seen big declines in provider presence, leaving gaps in provision in certain categories of law.

The intersection of supply and demand

The challenging supply picture and reports of providers frequently turning away large numbers of cases raise questions about the current health and effectiveness of the market and the ability to service demand. **The continued erosion of provider numbers appears to suggest that supply in the market has now contracted beyond 'adjusting' to a new level of demand established by LASPO, and may now be struggling to meet the demand that remains from end users.** We think it is plausible that this is translating into unmet legal need.

One potential consequence of this situation might be higher rates of litigants in person (LiP) in civil representation cases – and this is explored in Box 3 below.

Box 3: The potential for latent demand

In Sections 5.5 and 5.6, we discussed the high reported capacity constraints experienced by providers doing civil legal aid work. The impact of capacity constraints may flow through to higher rates of LiP if individuals are unable to appoint a provider. Anecdotal evidence from industry stakeholders points to a rise in LiPs in recent years – for example, in our Barrister Roundtables, participants noted that there had been a rise in LiPs – where end users are unable to obtain civil legal aid or are ineligible for it (the latter are outside the scope of this review) and subsequently represent themselves in court. A rise in LiPs could lead to worse outcomes for those individuals in their proceedings, without the benefit of expert advice and support. It would also lead to greater inefficiencies in the functioning of the civil courts, leading to higher costs.

There is currently no data source that definitively shows levels of LiPs that would've been eligible for civil legal aid, which are in effect latent demand. Civil Justice statistics from National Statistics provide a proxy for the broader civil legal system. The data gives a breakdown by type of representation for civil cases (excluding Family) and Judicial reviews over the period of 2013 to 2022. It shows that over the 10-year period, the proportion of those cases where both sides (i.e., claimant and defendant) were represented stayed relatively stable at around 55-65%, the proportion where only one side was represented was around 22%-29% and the proportion of cases where no side was represented was around 14-20%. Further research would, however, be needed to better understand the level of LiPs specifically involving cases featuring parties that would be eligible for civil representation services through civil legal aid.

This is likely to get worse, with increases in case volumes from higher demand at risk of being unfulfilled in the future without a corresponding rise in provider capacity. In fact, evidence from our Survey suggests a high probability that providers will continue to leave over the next five years. 40% of providers responding to our Survey stated that they will leave the market over the next five years if it remains unchanged, which, if this transpires would be broadly in line with recent trends. While we cannot see expectations of law firms or organisations that do not currently operate in the civil legal aid market (i.e., new entries), these figures are a cause for concern. This presents risks to market sustainability that is analysed in more detail in Section 10.

Interventions may be considered by the MoJ to address structural issues underpinning this – retaining the skills and expertise of the highly experienced providers remaining in the market, and retaining the presence of a viable NFP sector are likely to be key policy challenges.

6. Civil legal aid practitioners

6.1 Introduction

In Section 5, we explored the supply of civil legal aid services by providers. This demonstrated a sustained contraction in provider numbers that has continued following LASPO.

In this Section, we will examine the motivations of individuals entering the legal aid market as practitioners, both as solicitors and barristers. We also explore the issues they experience, and how this impacts the market (i.e., providers' ability to recruit and retain experienced practitioners and the supply of barristers). Given data limitations related to solicitor information (as noted in Section 1.2), the analysis focuses on a current snapshot of practitioners in the market, in particular drawing on evidence from our Provider Survey, the 2021 Legal Aid Census, and recent wider literature. It should also be noted that more detailed data on civil legal aid labour market characteristics and incomes/salaries is in the process of being gathered by the MoJ and the Law Society. Further, we consider how providers source, retain and train their staff and how this may relate to the skills and talent available in the market.

For many civil legal aid cases, particularly civil representation, barristers play a key role in proceedings, and we also consider this important element of supply in this Section. To assess this part of supply, we use data from the MoJ and Bar Council, along with insights from two barrister roundtables, to explore their motivations for doing legal aid work, their career opportunities, the profile of current and past barrister supply, the incomes they earn, capacity constraints, and their future outlook.

This section is structured as follows:

- 6.2 examines some broader labour market issues and factors that attract graduates to join the civil legal aid sector and addresses some of the challenges in recruiting and retaining legal aid practitioners.
- 6.3 focuses in more detail on providers and the barriers they face in terms of recruitment and retention. There are some overlaps with the issues that barristers face and where these exist we highlight them accordingly.
- 6.4 examines the issues that barristers are experiencing regarding recruitment and retention. These findings are evidenced by the data provided by the MoJ and two roundtable discussions held with senior and junior barristers in England and Wales. In this Sub-Section we examine the operating profile, career pathways, income and capacity constraints on barristers.

Labour market issues affecting civil legal aid

Key findings and implications:

- Those who are drawn to the legal aid sector are motivated by tackling injustice, rather than financial reward, but pay levels are a major concern and will be a key barrier for many thinking about a legal career.
- Civil legal aid providers report significant challenges in accessing talent while also retaining newly qualified solicitors.
- Upcoming retirements of experienced individuals from the sector present a clear risk to the sustainability of future provision in terms of capacity and fulfilling supervisory responsibilities.
- Staffing issues are creating significant capacity issues, which are serious enough to lead to providers exiting specific contracts or the market entirely.

Motivations for joining the civil legal aid sector

There are a range of studies that examine why people choose to enter the legal aid sector or continue to work in it. These studies are all survey based and by far the most robust, comprehensive and recent is the Legal Aid Census (Denvir *et al.* (2022))¹²⁹, which surveyed students wishing to enter the civil legal aid sector, the existing workforce (solicitors and barristers) and former legal aid practitioners. Key findings from this study relating to recruitment and retention in the sector are summarised below.

Denvir *et al.* report that the motivation to seek a career in legal aid is primarily driven by a desire to improve access to justice and support those experiencing disadvantage. Among the whole sample (prospective, current and former practitioners), 76% wanted to help those facing economic, cultural or social disadvantage, and 71% wanted to ensure more equitable access to justice. Only 0.5% were motivated by financial reasons.

Among 175 surveyed students with an interest in a career in legal aid, 88% confirmed that their background or life experiences had significantly influenced their career choice (e.g., direct experiences of injustice or poverty (45%); or witnessing/learning about injustices faced by others (46%)).

This combination of motivation and experience does not appear to be sufficient to overcome the practical concerns about a career in legal aid. Feedback via our Provider Survey is that some providers struggle to recruit and retain junior talent (which was noted in Section 5.12 and will be assessed in greater detail in Section 6.3), although experiences reported in our Provider Survey are not uniform:

“The quality of new entrants into the profession is compromised due to the fundamental problem with recruitment and retention of staff.” Private practice organisation, London

“Procuring young lawyers with a great deal of enthusiasm and dedication is not a problem. Retaining them is a whole other story. When they leave, their expertise and knowledge is not replaced because we can’t afford it.” Non-profit organisation, London

Our Provider Survey also quantified how widespread the challenges of recruiting and retaining legal aid practitioners are:

¹²⁹ Denvir, C., Kingham, J., Mant, J., Newman, D. and Aristotle, S. (2022). *WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS Report Prepared by.* [online] Available at: https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid-Findings-from-the-2021-Legal-Aid-Census_Final.pdf.

- 85% of providers reported they had experienced challenges related to attracting junior lawyers into the profession.
- 61% of providers were unsatisfied by their “ability to build a quality workforce” (rising to 77% for NFPs in particular).
- 70% of providers reported experiencing a high staff turnover rate.

In the remainder of this sub-section, we explore some of the key barriers typically facing prospective legal professionals when considering a career in the civil legal aid sector.

Barriers to recruitment and retention

Lack of a funded pathway into civil legal aid work

The National Careers Service sets out there are 4 routes available to qualify as a solicitor¹³⁰:

- **A university course** – an undergraduate degree or equivalent qualification, in any subject
- **An apprenticeship** – solicitor degree apprenticeship
- **Working towards the role** – complete on-the-job training like the Chartered Institute of Legal Executives (CILEx) Level 6 Professional Diploma in Higher Law and Practice
- **The traditional solicitor qualifying route** – completing the Legal Practice Course (LPC), however, this is being phased out with the introduction of the Solicitors Qualifying Exam (SQE) in 2021.

After completing any one of the above options, candidates must then complete all of the following steps: pass parts 1 and 2 of the Solicitors Qualifying Exam (SQE)¹³¹; complete 2 years (or equivalent if part-time) of qualifying work experience¹³²; and meet the character and suitability requirements of the Solicitors Regulation Authority (SRA).

Increasingly, the ‘working towards the role’ route is being used in civil legal aid as competition for funded places to gain the experience needed to pass the SQE is intense. For many students, their motivation is to practice within particular areas of law, and whether the work is legal aid funded or not might be a secondary concern.

Legal aid does not typically offer a financially supported career pathway, and students reportedly must navigate their own path, which can include a mix of unpaid internships, volunteer work, and paralegal positions, often combined with a part-time job. However, anecdotal evidence suggests there is some availability of solicitor apprenticeships in legal aid, although this analysis hasn’t quantified the extent of their availability.

The cost of training is substantial. Denvir *et al.* (2023) cites ranges of costs for studying and LPC to be between £9,000 and £17,000 and the costs of SQE preparation courses are in the range of £3,000 to £16,000. Funding these additional costs without a training contract or solicitor apprenticeships (which typically cover some or all of the costs of qualification) is a substantial barrier to studying beyond the graduate degree level. In addition, some training contracts offered by legal aid providers do not offer

¹³⁰ Service.gov.uk. (2019). *Solicitor | Explore careers*. [online] Available at: <https://nationalcareers.service.gov.uk/job-profiles/solicitor>. We explore the route to

¹³¹ Previously, the traditional route involved completing a law degree followed by the Legal Practice Course (LPC) and a training contract. However, this changed in 2021 with the introduction of the Solicitors Qualifying Examination (SQE), replacing both the LPC and the Graduate Diploma in Law (GDL). GDL was a conversion course for students that had not previously studied law at undergraduate level.

¹³² See the Solicitors Regulation Authority (SRA) website for further information: <https://www.sra.org.uk/become-solicitor/sqe/qualifying-work-experience-candidates/>

funding for these professional qualifications and require applicants to self-fund. This reduces the pool of applicants who will be eligible to apply even further.

This is a particular challenge for NFP providers. In evidence to the Westminster Commission on Legal Aid (2021), the Law Centres Network cited that “*Law Centres used to have 80 or 90 applicants for each role advertised. Now law centres, even those in London, will be lucky to get five or 10 applicants. Law Centres do still take on trainees but the number is falling and there is a huge issue with retention*”.

In 2010, the MoJ stopped a training grant scheme that effectively sponsored graduates into the legal aid sector. Removal of this scheme saved approximately £2.6m at the time. The grants were managed by the Legal Services Commission (the precursor to the LAA) and funded 100% of tuition fees for the Professional Skills / Legal Practice Course (now replaced by the SQE) and 2 years of salary to cover the training contract. There were approximately 70-80 training grants per annum, but at the time, it was judged to have led to an oversupply in the market. This was at a time pre-LASPO when legal aid work was more profitable for law firms and barristers.

Some schemes for supporting law graduates into careers in legal aid are starting to emerge. For example, the Justice First Fellowship (JFF) Scheme, established by the Legal Education Foundation, funds training contracts and qualifying employment placements for law graduates pursuing a career in social welfare law. However, this is not an easy access route. Only 15 fellows are funded each year, and prior completion of the LPC/SQE is a requirement. The profiles of recent fellows show that many have worked for charities or legal providers for a number of years before being accepted into fellowship, suggesting the scheme may need to be widened extensively if it is to stem some of the recruitment challenges legal aid providers are experiencing. Other schemes that allow individuals to gain work experience in legal aid cases include the Human Rights Lawyer Association Bursary Scheme¹³³.

In contrast, students interested in a career in commercial law, have multiple opportunities to gain experience in the sector. Many large firms offer open days, vacation schemes, networking events aimed at encouraging students to consider specific areas of law, and well paid training contracts that cover the cost of qualification and living expenses. The majority of commercial firms are focused on areas of law that do not have legal aid funding available.

Career expectations

According to conversations with the Young Legal Aid Lawyers (YLAL), and further highlighted in their Social Mobility Report¹³⁴, the legal education system in the UK is ‘predominantly geared towards commercial law, resulting in less exposure to legal aid. Several examples of this are supplied by Denvir *et al.* with 18.3% of students responding to their survey, suggesting that messaging from staff and the institutions of study suggested that there ‘*was no future in legal aid and that students were dissuaded from pursuing a career in the field*’. One issue that is identified as part of the Denvir *et al.* study is that legal aid is presented to students as a means to fill up their CV to make them more attractive to corporate law firms, rather than as a career in itself.

Denvir *et al.* also highlights a lack of information regarding what a career in the civil legal aid sector might look like (40.2% n=72 of survey respondents who are considering working in the sector cite this as a problem).

The burden of student debt

Compounding these challenges, many graduates entering the legal aid sector will join with significant student debt, which will limit disposable income. Denvir *et al.* flags study costs as a barrier to entry for individuals as it suggests that alternate income is needed to support early stage career

¹³³ [Bursary | HRLA - Human Rights Lawyers Association](#)

¹³⁴ Young Legal Aid Lawyers (n.d.). Young Legal Aid Lawyers: Social Mobility in a Sector on the Brink.

solicitors/barristers who enter the sector. This is evidenced by respondents referencing a belief that they lacked the financial resources to work in legal aid (39.7%, n=71 and 42.4%, n=75 for those considering and not considering a legal aid career, respectively).

According to Denvir *et al.* a third of current practitioners (38.4%, n=431 of 1,123) indicated that they had accrued debt, while 61.6% (n=692) indicated that they had no debt. In comparison, the majority of law students studying for their LLB/GDL/LPC/Bar Course¹³⁵/SQE (85.1%, n=148 of 174) indicated that they did or would have debt at the end of their legal education. 32.7% of current students expect to have more than £50,000 of debt by the time their studies have been completed. High levels of debt incurred through studying will make lower salaries realised in civil legal aid more difficult to accept.

Capacity to support professional development for trainees

Training opportunities are also reported to be more limited within civil legal aid firms, with mentoring and coaching highly dependent on the individual partners and senior lawyers who are working within firms.

Denvir *et al.* reported that many legal aid providers have ‘neither the time or money to train new entrants into the profession’. 73% (n=93 out of 128) of respondents said they were not recruiting or expanding, and 44% flagged that training was not cost effective or they could not afford it.

Potential salary differentials

As referenced above, Denvir *et al.* reported that pay and working conditions are seen as significant deterrents for working in the legal aid sector. They are also a barrier to retention for qualified lawyers, given the increasing divergence between salaries in legal aid and private practice. Feedback via our Provider Survey confirms that this is a particular issue in the not for profit sector:

“Trainees leave when qualified as they can double pay immediately.” Non-profit organisation, London

While a legal aid lawyer might start with a salary of around £28,000-£35,000 per annum¹³⁶ - which varies by location in England and Wales - those in commercial law often enjoy substantially higher starting salaries. According to “the Lawyer”¹³⁷ trainee salaries in London can range from £40,000 to £60,000 per annum, with newly qualified solicitors sometimes earning in excess of £100,000. Salaries outside London are lower (e.g., £70,000+ for newly qualified solicitors in commercial firms).¹³⁸ It is not possible to present a robust comparison of pay between legal aid solicitors and those doing private work in the same areas of law, however, we would expect to still see divergence, as described above, between the legal aid solicitor pay and that of those working in private roles. These gaps in earnings likely increase over time, impacting total career earnings.

Denvir *et al.* report that salaries in the civil legal aid sector range from under £9,999 to more than £240,000. The bottom end of the range relates to individuals who work part-time on civil legal aid, while the top end of the salary range is only reported by one single barrister who practices solely legal aid services. 58% (n=682) earn £49,999 or less. Most practitioners report a salary in the range of £30,000 to £39,999 (19.3% n=228).

This figure can be compared with the ONS aggregate legal activities data (which in itself poses some challenges due to the fact that it includes the entire legal services sector – not just legal aid). In the ONS

¹³⁵ Bar courses equip students with the skills they need to become pupils and then fully-fledged barristers.

¹³⁶ Young Legal Aid Lawyers. (2022). LC jobs page. [online] Available at: <https://younglegalaidlawyers.org/jobs>.

¹³⁷ <https://www.thelawyer.com/trainee-newly-qualified-salaries-uk-law-firms/>

¹³⁸ PA desk-based research of starting salaries for trainees in legal aid (in and outside of London) versus starting salaries in commercial law. Legal aid starting salaries were gathered by averaging the starting salaries of the job posts on the YLAL website at the time of research (November 2023), while commercial law starting salaries were gathered by averaging starting salaries of roughly 20 job postings on Bright Network for London law firms at the time of research (November 2023). Please note that this is a relatively unscientific exercise which would need further validation with further analysis.

data, the annual average pay for the “legal activities” sector in the UK in 2022 was £44,000. This comparison is somewhat imperfect as the legal activities sector is very wide ranging, and will include the legal aid sector. Nonetheless, we feel it is important to report this figure for completeness.

However, there is a strongly held view in the legal aid sector, reported by Denvir *et al.*, that levels of pay are ‘unacceptable/insulting’- 31.4% of respondents (n=164). Only 5% felt that they were paid well. A key issue flagged is the relationship between pay and stress/burnout and the level of responsibility associated with their respective pay levels vs. other professions.

Building a career in Legal Aid

Despite these barriers, young lawyers who are motivated to pursue careers in legal aid report opportunities to deal with complex cases from the start of their careers, holding significant responsibilities, and making a tangible difference in the lives of individuals who might otherwise not be represented within the justice system, as some of the main reasons to do the work.

However, Denvir *et al.* (2022) noted that survey respondents felt it was difficult to grow a career specialising in legal aid. 88% of practitioners that worked in legal aid also undertook work that was not legal aid funded, with only 11% of practitioners doing solely legal aid work. While this allows legal aid practitioners to gain additional skills, it may also be a more concerning symptom of the need to “cross-subsidise” legal aid work from other areas of legal practice. We explore in Section 7 some of the reasons providers may choose to do private work alongside civil legal aid funded work.

One of the issues is the highly specialised knowledge and accreditations required. While all areas of legal practice require specialist knowledge, the LAA’s Standard Civil Contract sets out rigorous accreditation requirements for civil legal aid lawyers to maintain the quality of service, although those requirements vary by category of law.

For instance, in Family law, supervisors must be accredited through schemes such as the Law Society’s Family or Children Law Accreditation Scheme. As a demonstrative example, the former requires 1,000 chargeable hours of general litigation experience in the last three years, 350 chargeable hours of family law experience in the last five years, and costs £618 for initial accreditation. In certain fields, like Immigration & Asylum or Mental Health, caseworkers and supervisors are required to hold relevant accreditations and demonstrate significant expertise and experience. For example, in Mental Health law, solicitors must hold membership in the Law Society Mental Health Accreditation Scheme, while in Immigration & Asylum work, caseworkers progress through defined stages of the Immigration & Asylum Accreditation Scheme (IAAS). The government recently announced plans to fund the accreditation costs of becoming a senior caseworker in Immigration & Asylum work, which should help alleviate barriers in that particular area of law.

Some areas, such as Community Care, Welfare Benefits, and Housing & Debt don’t specify accreditations for caseworkers and supervisors but require the submission of a portfolio of case files to demonstrate legal competence. In contrast, fields like Clinical Negligence and Mediation demand highly specialised accreditations and memberships, reflecting the sophisticated nature of work in these areas.

While these accreditations ensure that legal aid lawyers are competent and services are of high quality, they can also create a potential barrier to entry or progression in the civil legal aid labour market. Meeting these stringent requirements demands a significant investment of time and resources, which can be challenging, especially for practitioners at the start of their careers.

Ageing workforce

Denvir *et al.* (2022) noted that for practitioners remaining in the market, a significant portion may be reaching the latter parts of their careers – the average age of a legal aid practitioner is 43, and 30% are

over the age of 50. A third have 20+ years of experience in the sector. While this demography is broadly in line with the wider legal services market, verbatim responses to our Provider Survey highlighted the particular reliance on these professionals for delivering legal aid advice. This shows the widespread concerns that providers have about the future of their provision and of the sector once long-standing employees retire:

“There is an ageing work force, people who have always worked in this area and therefore carried on [despite the reduction in fees] are now retiring but you are not getting new people into the area” Private practice organisation, Midlands

“We will shortly have issues with Member Partners as our current Member Partners will all wish to retire at some point in the medium term (most are in their late 50s) and our profit share is not commensurate with other professionals, so we will have significant difficulties attracting Member Partners. This is the overriding issue – without providers, all the tweaks in the world to eligibility and scope are in vain” Private practice organisation, London

“Most providers are [near] retirement and frankly I have no idea what we will then do. [We] will probably end up having to reduce the number of offices where we offer legal aid” Private practice organisation, London

“When lawyers in our sector retire, they are seldom replaced. So the pool of lawyers is shrinking and most of us in our region are at least mid-50s, so there is a crisis of expertise only a few years away” Private practice organisation, South of England

“Surviving firms are resting on staff in their 50s and 60s. As soon as they retire, the collapse is inevitable” Private practice organisation, London

Capacity constraints

Section 5.6 outlines that average caseloads have increased overall, and providers are reporting widespread capacity issues. Problems recruiting and retaining staff are a major driver of these capacity issues, which also translate into increased workloads for legal aid practitioners, making the situation worse.

Two verbatim quotes from the Provider Survey highlight the seriousness of the problems:

“Due to frozen incomes and increasing over-heads there is a steady decline in the number of solicitors who provide legal aid work. As solicitor numbers decline, firms who continue to provide legal aid provision have to take on increased workload to be undertaken by fewer staff. The quality of work-life is in decline due to the stress of managing increased workloads with declining profitability. I earn less now than I did 10 years ago, but work much harder.” Private practice organisation, North of England

“To see the number of lawyers [in the civil legal aid market] shrink over the last decade has been devastating. In 20 years of practice, I have rarely come across a legal aid lawyer who would encourage their children to follow in their career footsteps because the work is poorly paid, and the emotional toll is not for the faint-hearted” Non-profit organisation, London

Not all providers are able to sustain their contracts with reduced capacity. In our Provider Survey 27% of providers reported that they have stopped holding some of their civil legal aid contracts due to difficulties in recruiting the necessary staff.

Sustainability of the civil legal aid market

The sustainability of the market for civil legal aid could be at risk due to upcoming practitioner retirements and firms exiting the market.

We showed in Section 5 that there is a significant churn of providers entering and exiting the market – particularly at times of LAA procurements, however, any gains from procurement rounds were soon eroded away within one to two years.

In addition to this, as experienced practitioners retire, there is concern about who will replace them, as the civil legal aid sector struggles to attract and retain practitioners. This poses a risk to the sector's sustainability, as the sector's workforce is likely to contract in the coming years.

6.2 Impact of workforce issues

Key findings and implications:

- Skills and talent issues are not experienced uniformly across all providers. Distinctions exist by region and provider type. Targeted interventions may be needed to ensure the skills base is sustainable in these areas of legal aid – e.g., in NFP providers.
- Notwithstanding the principled motivation to do legal aid work, there are a range of practical barriers that persuade practitioners to practice in other areas of law, including reward and career development.
- Improving the sustainability of the skills base will require action on these underlying barriers, particularly in the context of a buoyant wider market for legal services.

In this sub-section, we explore how the issues and barriers discussed above for practitioners affect providers and, therefore, the supply of civil legal aid services. This builds on earlier points raised in Section 5.12 that identified issues reported in the Provider Survey, e.g., around recruitment and retention. We explore these different issues in greater detail here, including breaking them down by geography and provider organisation type.

Skills and talent within different segments of civil legal aid

In Section 6.1 we explored barriers that civil legal aid providers face with regards to the labour market, particularly focusing on issues highlighted in our Provider Survey regarding staff recruitment and retention.¹³⁹ In this sub-section, we take a deeper look into how four key issues are felt across different dimensions, including geography and provider types.¹⁴⁰ These are:

- Difficulty hiring experienced lawyers;
- Difficulty attracting junior lawyers into the profession;
- High staff turnover rate, and
- Lack of suitable training for legal aid professionals.

Relevance of barriers by geographical area

Our analysis of the geographic provision of legal aid services in Section 5.10 showed a number of regions where access to a legal aid provider has reduced. While there is a significant concentration of

¹³⁹ We explore salaries in the Section 6.2 as they are not covered explicitly by our provider survey.

¹⁴⁰ We cannot provide specific stats for individual categories of law due to small sample response sizes.

providers in urban hubs such as London, the biggest capacity issues are also reported in these areas. In this section, we seek to understand the role of skills and talent in driving any of these trends. Table 14 below shows the proportion of providers that reported each of the above barriers by region.¹⁴¹

Table 14: Proportion of providers reporting barrier by geographical area, as of 2023.

Barrier	Metric	Geographical area						
		North	Midlands	South	England	London	Not London	All regions
Difficulty hiring experienced, quality lawyers	Percentage of providers facing the issue at least weekly	19%	35%	33%	29%	35%	24%	28%
	Percentage of providers who have ever experienced problem	82%	81%	84%	84%	83%	84%	84%
	Percentage of providers believing that the problem will be likely to prevent continued operation	66%	59%	66%	63%	64%	61%	62%
Difficulty attracting junior lawyers into the profession	Percentage of providers facing the issue at least weekly	22%	27%	32%	28%	35%	24%	27%
	Percentage of providers who have ever experienced problem	87%	84%	87%	84%	81%	87%	85%
	Percentage of providers believing that the problem will be likely to prevent continued operation	59%	50%	67%	60%	71%	55%	60%
High staff turnover rate	Percentage of providers facing the issue at least weekly	3%	11%	9%	7%	11%	4%	7%
	Percentage of providers who have ever experienced problem	69%	62%	77%	72%	75%	68%	70%
	Percentage of providers believing that the problem will be likely to prevent continued operation	53%	45%	47%	45%	52%	39%	44%
Lack of/unsuitable training for	Percentage of providers facing the issue at least weekly	9%	3%	7%	7%	4%	10%	8%

¹⁴¹ We cannot provide specific stats for Wales due to small sample response size.

legal aid professionals	Percentage of providers who have ever experienced problem	72%	62%	76%	73%	74%	74%	74%
	Percentage of providers believing that the problem will be likely to prevent continued operation	33%	23%	23%	26%	25%	28%	27%

Source: Our Provider Survey. Q16 On average, how often, if at all, does your organisation experience the following pain points/ frustrations when delivering civil legal aid provision (Experienced at least weekly + Have ever experienced)? Q18. For each of the following pain points, if it were to continue being a frustration to your organisation, how likely or unlikely is it to prevent your organisation from continuing their civil legal aid services? Base: Total sample (n=228)

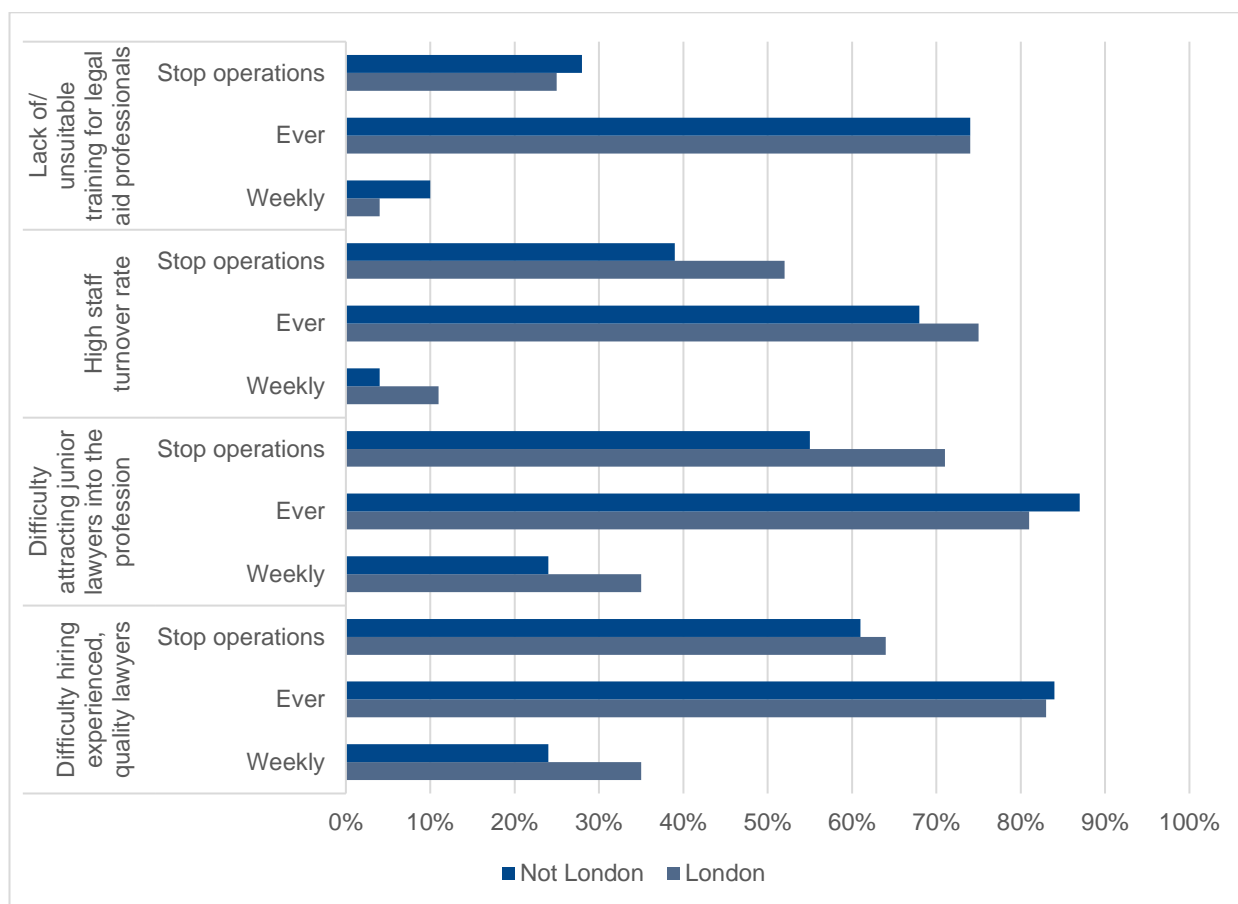
Based on the differences in the responses to the survey, we can draw the following initial conclusions:

- The **Midlands** region reports the highest weekly difficulty in hiring experienced lawyers (35%) and also reports high rates of difficulty in attracting junior lawyers (27%). However, the perception that these issues will lead to stopping operations is not as high as in other regions. In Section 5.10, specifically Figure 41, we can see that the Midlands appear to have clusters of local authorities with no provider offices as of 2022-23. The difficulty in recruitment will likely be a key factor.
- The **South** region exhibits high percentages across all pain points for having ever experienced them and on a weekly basis. A comparatively high proportion also indicated that these issues could lead to stopping operations, especially attracting junior lawyers (67%) and hiring experienced lawyers (66%). Similarly to above, Figure 41 in Section 5.10 shows several clusters of local authorities with zero provider offices along the South coast.
- The **North** region, while not having the highest weekly percentages across the different barriers, shows a significant number of organisations that have ever experienced these issues, with a high likelihood of these issues stopping operations, particularly in hiring experienced lawyers (66%). Section 5.10 showed that there has been a significant reduction in provider presence in the North East and North West regions over the last decade, and in the North West in 2022-23 there was only one provider present within both Education and Housing & Debt categories of law.

The above points on recruitment and retention will likely be key drivers of the pattern of low provider office distribution we saw in those regions in Figure 41 (Section 5.10). For instance, all three regions have clusters of local authorities with no provider offices as of 2022-23.

Section 5.10 also highlighted that access to civil legal aid services for end-users in London appears to be more challenging (with London-based providers turning away an average of 47 cases – for which eligibility may not have been assessed – in the month preceding the survey, compared to 17 for providers that were not based in London). This high disparity may reflect higher demand experienced in London – due to its high local population. Figure 45 below shows that providers in London reported broadly higher rates of experiencing issues across the four barriers than providers outside London. In particular, providers in London seem to experience significant challenges with staff turnover, as well as difficulties hiring experienced lawyers. For all the pain points (except for the lack of training), London providers report that they are more likely to lead to stopping operations compared to providers based outside of London. These findings reflect London’s role as a hub of legal skills, where there are likely to be more attractive alternative career paths available and it may be more difficult to attract individuals to work in the legal aid sector. Additionally, higher housing costs and cost of living issues may make it difficult to attract individuals at the prevailing salaries.

Figure 46: Proportion of providers reporting barrier London vs rest of England and Wales



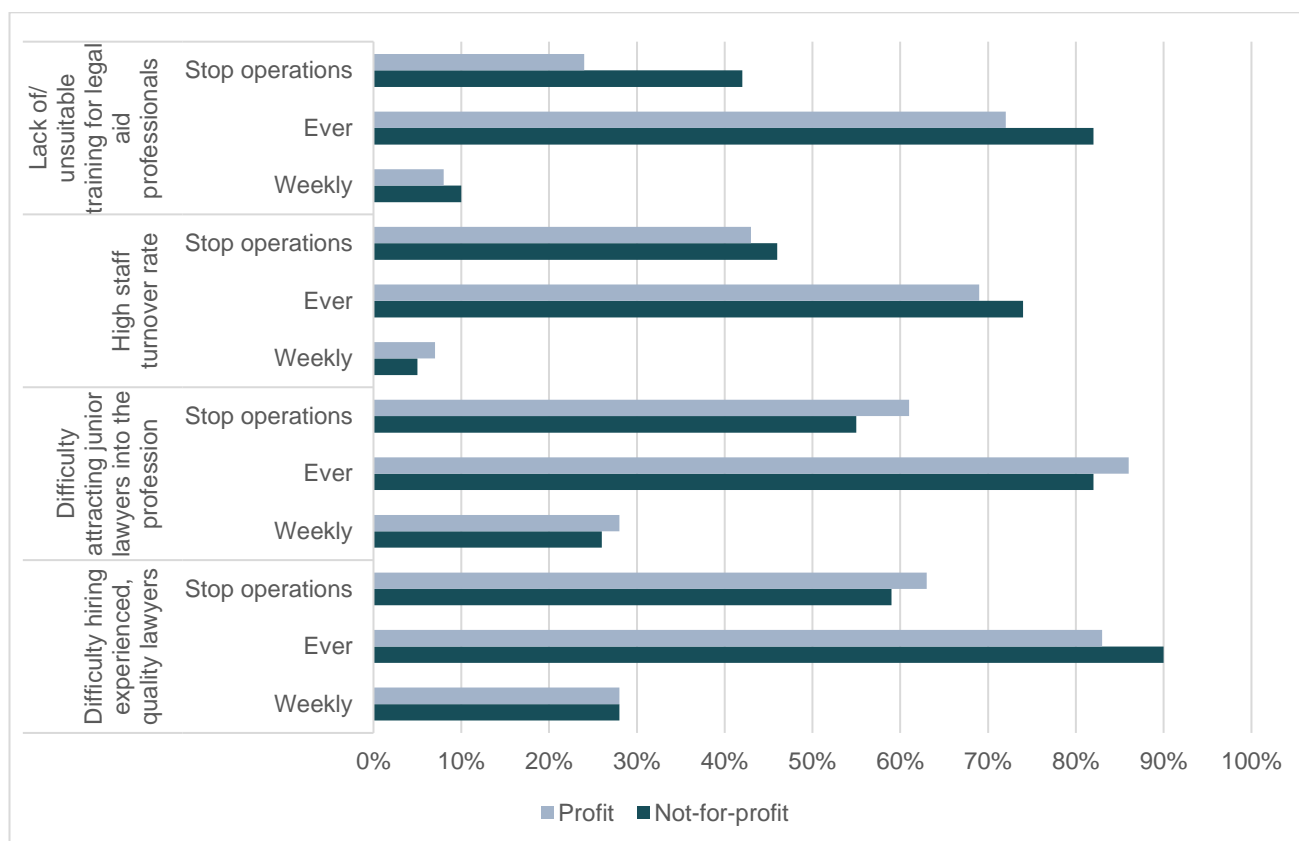
Source: Our Provider Survey. Q16 On average, how often, if at all, does your organisation experience the following pain points/ frustrations when delivering civil legal aid provision (Experienced at least weekly + Have ever experienced)? Q18. For each of the following pain points, if it were to continue being a frustration to your organisation, how likely or unlikely is it to prevent your organisation from continuing their civil legal aid services? Base: Total sample (n=228)

Relevance of barriers by provider type

In Section 5.9, we find that over time, NFP provision has gradually decreased in favour of a greater role for FP providers. 13% of providers were NFP in 2011-12, compared to 6% in 2022-23, indicating potential greater issues faced by these organisations. Similarly, in Section 5.5 of the Report, we find that NFP providers turned down an average of 39 potentially eligible cases in the month preceding the survey, compared to 22 cases by FP providers. Therefore, in this sub-section, we dive deeper into the possibility of NFP providers experiencing greater issues surrounding the labour market, which may help explain the difficulties set out in Section 5.12, such as difficulty attracting junior talent and experienced practitioners, high staff turnover and a lack of suitable training for legal aid practitioners.

In Figure 47 below, we explore the proportion of providers that reported facing each of the above barriers by provider type. The data shows broadly similar response rates between FP and NFP organisations to the different issues. However, the lack of training for legal aid professionals is an issue that NFPs report facing more severely. For example, 42% of NFPs report that they are likely to stop operations because of this, in comparison to 24% of FP firms. Moreover, NFP organisations experience high staff turnover less frequently on a weekly basis but have a higher overall incidence over time.

Figure 47: Proportion of providers reporting barrier by provider type



Source: Our Provider Survey. Q16 On average, how often, if at all, does your organisation experience the following pain points/ frustrations when delivering civil legal aid provision (Experienced at least weekly + Have ever experienced)? Q18. For each of the following pain points, if it were to continue being a frustration to your organisation, how likely or unlikely is it to prevent your organisation from continuing their civil legal aid services. Base: Total sample (n=228)

In conclusion, the data highlights distinct regional and sector-specific challenges within the civil legal aid sector, particularly in the hiring of experienced lawyers, attracting junior lawyers, staff turnover, and training adequacy. These pain points, given their importance to delivering civil legal aid services, are likely to have contributed to the contraction in provider numbers seen since LASPO.

For instance, in regions and categories of law facing acute hiring challenges, increased support for training and development programmes could be beneficial. Similarly, for NFP organisations struggling with staff retention and training issues, exploring partnerships with legal education providers and offering incentives for long-term commitment may prove effective. Ultimately, a tailored strategy, sensitive to the unique needs of each region and provider type, can enhance the overall resilience and effectiveness of the civil legal aid sector.

6.3 Barristers in civil legal aid

Key findings and implications:

- Barristers play a key role in the civil legal aid market, providing specialised knowledge, advocacy services and legal representation.
- Although the total number of barristers doing civil legal aid has grown in the past 8 years, there are increasing risks of an ‘ageing’ population due to rising average ages and falling numbers with mid-level experience.
- Barristers appear more able to pursue full-time careers in civil legal aid doing Family work than other areas of law – as those barristers generate higher proportions of their total income from civil legal aid compared to barristers doing other civil legal aid work.
- Barristers report very similar challenges and barriers to other legal aid practitioners, particularly around pay disparities, recruitment and retention.

Barristers play a key role in the provision of legal services in the civil legal aid market. To explore this provision, we primarily use two sources of information:

- **Time-series data from the MoJ and Bar Council** on all registered barristers that have done civil legal aid work in England and Wales during the period 2015-16 to 2022-23.
- **Insights from two barrister Roundtables**, attended by bar experts doing civil legal aid work in England and Wales, respectively.¹⁴²

In this Sub-Section, we will explore the following topics:

- Motivations to do civil legal aid work
- Career pathways and development
- Profile of barristers operating in the civil legal aid market
- Income of barristers
- Capacity of barristers
- Future outlook of barristers

Motivations to do civil legal aid work

In this sub-section, we explore some of the motivations that barristers reported in the two Roundtables for doing work in the civil legal aid market. These included:

- **Personal fulfilment:** Many expressed that a primary motivator for doing civil legal aid work is the personal satisfaction they receive from helping others, particularly vulnerable members of society.

¹⁴² The roundtables, attended by 8 bar experts operating in England and 4 bar experts operating in Wales – representing a wide array of areas of law, focused on the topics of: Incentives / appeal of civil legal aid work; constraints and pain points; and market outlook and solutions.

- **Social justice:** A drive to correct systemic injustices and contribute to social equality, particularly in light of falling levels of provision and to ensure that vulnerable clients receive representation.
- **Career aspirations:** Some individuals are drawn to the field due to influential mentors or personal experiences that shape their career aspirations.

Many of these motivations are also shared by other legal practitioners working in civil legal aid, as noted above in Section 6.2.

Career pathways and development for barristers

In this part, we initially set out the main steps individuals must take to qualify as barristers and then explore insights gained from the Roundtables on the experiences of barristers in terms of career development, opportunities, and challenges of doing civil legal aid work.

The Bar Council sets out the three main steps needed to qualify.¹⁴³ These include:

- academic component comprising an undergraduate degree in law or an undergraduate degree in a non-law subject with a conversion course, such as the Graduate Diploma in Law;
- vocational component comprising study for the vocational qualification¹⁴⁴;
- work-based component consisting of work-based learning/pupillage.

These steps, although the specifics and content will be different, are very similar to those that solicitors must go through to qualify – as set out in Section 6.2. Pupillage awards are financial incentives provided by chambers to pupil barristers for the duration of their pupillage. Anecdotal evidence suggests that legal aid focussed chambers may offer pupillage awards around £20,000-£40,000, compared to some leading commercial law chambers, which may offer £75,000-£100,000.¹⁴⁵

In the two Roundtables, participants noted that:

- While civil legal aid cases can be challenging, they can be some of the most interesting – particularly when working on very complex topics.
- There is often the opportunity for early responsibility and courtroom experience, contributing to rapid professional development.
- It is difficult for legal aid-focused chambers to recruit and retain practitioners – particularly more junior individuals. For instance, it was described that many practitioners may undertake their pupillage with chambers focused on civil legal aid case work, and then when they become qualified, many choose to leave and focus on more lucrative private work.
- Barristers typically balance legal aid work with private work – noting factors around fee rates and administrative burden.
- There is a general consensus that long-term career progression in civil legal aid work can be uncertain, with fewer opportunities for advancement or specialisation compared to other legal sectors.

¹⁴³ The Bar Council (2022). *Becoming a Barrister Brochure*. [online] pp.10–15. Available at: <https://www.barcouncil.org.uk/asset/8969AD3E%2D7C7B%2D4F60%2D95F4354D09B97A0E/>.

¹⁴⁴ Denvir et al. (2022) notes training costs for the Bar Vocational Course (BVC) typically exceeds £13,000.

¹⁴⁵ Chambers Student (n.d.). *Becoming a legal aid lawyer*. [online]. Available at: <https://www.chambersstudent.co.uk/where-to-start/newsletter/becoming-a-legal-aid-lawyer>

This is similar to the difficulties that legal aid solicitors report, as discussed above, in growing a career specialising in civil legal aid.

- Barristers in Wales flagged that, in some areas of law, there are very limited opportunities to do private work in Wales and are therefore limited to doing civil legal aid work. They note that this is much less of an issue for barristers in England, where the opportunities are broader.

Profile of barristers operating in the civil legal aid market

In this sub-section, we primarily use data from the MoJ and Bar Council to provide an overview of barristers carrying out civil legal aid work. The data covers the period 2015-16 to 2022-23.¹⁴⁶

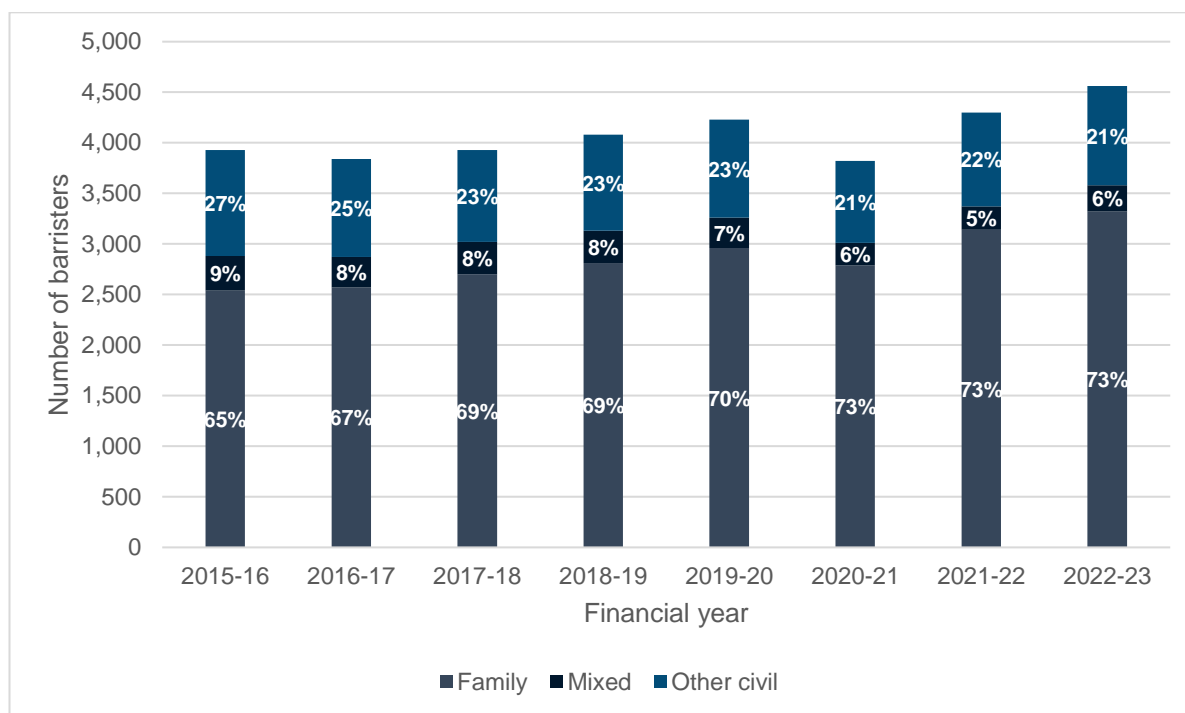
Figure 48 below shows the number of barristers doing civil legal aid work, broken down by three broad areas, over the 8-year period. The three broad areas include Family, Mixed and Other civil. Family category captures barristers that only do family areas of work in civil legal aid, Other civil captures barristers that don't do family (i.e., any other area of work) and Mixed captures barristers that do some family and some other areas.

The chart shows that overall, the total number of barristers doing civil legal aid work over the period has trended up, although with a dip in 2020-21 (perhaps related to Covid-19 and the resulting slowdown in court work), with an overall increase of 16% since 2015-16. Although the number of barristers is higher, it does not necessarily indicate total provision from barristers has increased, as this data doesn't indicate how much of their time is spent on civil legal aid cases.

It can be seen that a higher proportion of the barristers are doing Family work, which has steadily risen from 65% to 73%, while Mixed and Other civil has fallen. This points to a greater concentration and specialism in the Family areas of law – which was also seen in Figure 10 of Section 4 – where Family accounted for nearly 90% of all civil representation cases in 2022-23.

¹⁴⁶ Data was not available for a longer time period.

Figure 48: Number of barristers by broad area of work, 2015-16 to 2022-23



Source: Data from the MoJ and Bar Council. Note: Mixed category of work represents barristers that do work in both Family and other civil categories. There is no double counting. Totals in each period may not sum to 100% due to rounding.

An important characteristic of barristers and their provision is their mean age. Over the period 2015-16 to 2022-23, the mean age of barristers has risen from 43 years for Family category and 44 years for Other Civil, to 46 and 45 years, respectively.¹⁴⁷ The change is small, only 2 and 1 years respectively, although it indicates an upward trend. This is slightly higher than the average age of solicitors in the civil legal aid market and wider legal services market (43 years and discussed in Section 6.2), and the rise in average age is higher than what has been observed for the UK population over the same period (an increase in the median age of 0.7 years).¹⁴⁸

Further, Tables 15 and 16 below explore the number of years of experience barristers have doing Family and Other civil legal aid work, respectively, for the period 2015-16 to 2022-23.¹⁴⁹ The groupings range from 0-2 years through to 28+ years. In both tables, suppression is used when a segment has a number count fewer than 10. Where there is only one suppressed value for a segment, secondary suppression is then used. This is done to ensure suppressed values cannot be calculated from the other numbers shown. Where numbers have been suppressed, a '~' symbol is shown in their place.

It is quite clear in both tables that the distribution of barristers is fairly even through the years of experience segments, indicating steady entry and longevity in service. We can see that the proportions in the 28+ years group have increased quite substantially for both Family and Other civil legal aid work, e.g., from 12% in 2016-17 for Family to 21% in 2022-23, and from 7% for 2015-16 in Other civil legal aid to 19% in 2022-23. This points to a slight 'ageing' in the cohort of barristers doing civil legal aid work – despite the new entry indicated by 0-2 year's experience segment. Similar issues are outlined in Section 6.2, with providers in our Provider Survey reporting concerns about the future of their provision and of the sector once long-standing employees retire.

We can also see that there has been some decline in the proportion of barristers with experience in the low and middle segments over the time period. Coupled with the observation of more barristers as a

¹⁴⁷ Please note that there may be some double-counting between the two groups, Family and Other Civil – due to the absence of a third category, 'Mixed' – which would include barristers that do both, like in Figure 47.

¹⁴⁸ Department for Work & Pensions (2023). *State Pension Age Review 2023*. [online] pp.6–7. Available at: <https://assets.publishing.service.gov.uk/media/6425324d3d885d000fdadea6/state-pension-age-review-2023.pdf>.

¹⁴⁹ Please note, there may be some double counting, as explained above in FN 163.

proportion (but also in absolute terms) in the segment with the most years of experience over the period, this shows that while some barristers are choosing to stop doing civil legal aid work early in their professional careers, others are choosing to enter (or re-enter) the market later in their careers. We explore in the next part of this sub-section income earned from civil legal aid work vs other sources, and this will likely be one of the main drivers for the change.

Table 15: Distribution of barristers doing family legal aid work over years of practise, 2015-16 to 2022-23

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
0-2	8%	~	~	14%	16%	16%	13%	12%
3-7	21%	19%	17%	16%	18%	18%	18%	20%
8-12	20%	18%	18%	16%	12%	13%	14%	13%
13-17	13%	14%	14%	16%	15%	14%	13%	13%
18-22	13%	13%	12%	10%	10%	~	11%	11%
23-27	18%	13%	13%	13%	12%	11%	10%	10%
28 Plus	~	12%	14%	15%	17%	18%	20%	21%
Unknown	~	~	~	0%	0%	~	0%	0%
Number of barristers	2,880	2,870	3,020	3,130	3,260	3,010	3,370	3,580

Table 16: Distribution of barristers doing other civil legal aid work over years of practise, 2015-16 to 2022-23

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
0-2	8%	7%	~	8%	~	11%	7%	8%
3-7	21%	18%	21%	20%	24%	22%	20%	20%
8-12	18%	19%	18%	17%	13%	18%	17%	16%
13-17	15%	15%	14%	17%	14%	14%	15%	14%
18-22	16%	17%	15%	13%	12%	12%	13%	11%
23-27	16%	12%	11%	11%	12%	11%	12%	12%
28 Plus	7%	13%	13%	15%	16%	13%	17%	19%
Unknown	0%	0%	~	0%	~	0%	0%	0%
Number of barristers	1,390	1,270	1,220	1,260	1,270	1,040	1,160	1,240

Source: Data from the MoJ and Bar Council. Note: Suppression is used where the number of barristers in a segment is fewer than 10. Secondary suppression is also employed where only one segment is suppressed so that the value of the suppressed segment cannot be

determined by subtracting the remaining values from the total – in this case the next largest segment is also suppressed. Percentages may not sum to 100% due to rounding and suppression.

Another metric that signals level of experience and specialism in the barrister population doing civil legal aid work is the split between Junior ranks and King’s Counsel (KC). King’s Counsel are barristers (or solicitor advocates) who have been recognised for excellence in advocacy, are seen as leaders in their areas of law, and thus handle the most complex cases. Across the period 2015-16 to 2022-23, the proportion of barristers doing Family civil legal aid work that were KC, held constant at 3%. For Other civil legal aid work, the proportion of KC’s doing civil legal aid work grew marginally from 10% to 12% over the period.¹⁵⁰ As we saw in Figure 47 above, the number of barristers doing work in Other civil has marginally declined over the 8-year period, from 1,050 to 980, while Family has grown, from 2,540 to 3,320. It suggests that more junior barristers, or those with fewer years of experience, are choosing to do less civil legal aid work and leaving the sector – which was also observed in Tables 15 and 16 above.

In summary, we see the total number of barristers doing civil legal aid work increasing over the past 8 years, although becoming increasingly concentrated in Family areas of law. Additionally, the upward trending mean age of barristers and the declining levels of barristers with mid-level years of experience both point to a growing dependence on experienced barristers. This could pose a risk to the sector if these experienced barristers were to leave. However, noting the earlier evidence that points to barristers entering (or re-entering) the market later in their careers, it could suggest different or stronger incentives are being experienced by these more experienced barristers, which may mitigate this risk.

Barristers’ income

In this sub-section, we explore the gross income barristers earn doing civil legal aid work and compare it against broader gross income. Additionally, we share insights gathered from the two Roundtables.

It’s important to note that, like provider organisations, the gross income barristers earn from civil legal aid does not only need to cover their own wage costs, but also other expenses, e.g., transport, and chamber’s fees. The income data presented below represents income pre-expenses. Additionally, it covers only income from fees paid by the LAA.

Table 17 below shows the total gross value of civil legal aid fees earned by barristers over the period 2015-16 to 2022-23, broken down by Family, Mixed (Family), Mixed (Other civil) and Other civil.¹⁵¹ The table shows that over the period, the total gross value of civil legal aid fees earned by barristers grew 75% from approximately £105m to £184m – which equates to a change in the average approximate value per barrister from £26,800 to £40,300. Of those earnings, the vast majority link exclusively to Family work (e.g., 87% in 2022-23). Over the period, the share for Family grew from 82% to 87%, while the share for Mixed (family) declined from 7% to 6%, Mixed (other civil) declined from 2% to 1% and Other civil declined from 10% to 6%.¹⁵² These figures correlate with a growing concentration of barristers doing Family civil legal aid work, as seen in Figure 47 above. This is in line with findings from Sections 4 and 5 that show Family work is seen to be a more stable part of the civil legal aid market in terms of case volumes and provider numbers.

Table 17: Gross civil legal aid fees paid split by broad area of work, 2015-16 to 2022-23

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Family	82%	82%	83%	83%	84%	87%	87%	87%

¹⁵⁰ Please note, there may be some double counting, as explained above in FN 151.

¹⁵¹ Unlike in previous Figures, the data available for this metric enabled the Mixed group to be split into two.

¹⁵² It’s important to flag that although the shares for Mixed (Family) and Other Civil declined over the period, their absolute value increased.

Mixed (Fees from family work)	7%	6%	7%	7%	7%	4%	5%	6%
Mixed (Fees from other civil work)	2%	1%	2%	2%	2%	2%	1%	1%
Other Civil	10%	10%	8%	9%	8%	7%	7%	6%
Total value of civil legal aid fees	£105.2m	£104.4m	£113.3m	£115.4m	£133.4m	£128.7m	£142.5m	£183.9m

Source: Data from the MoJ and Bar Council. Note: The Mixed category of work is split here into two options, fees from family and fees from other civil. This represents barristers that do work in both Family and other civil categories. The total value of civil legal aid fees includes expenses. There is no double counting. Totals in each period may not sum to 100% due to rounding.

Despite the rising total gross value of civil legal aid fees earned by barristers, insights from the two Roundtables point to a broad consensus that fees earned by barristers from doing civil legal aid are too low. In particular, barristers noted that the fee rates for civil legal aid work have not increased since 1994, and in fact declined by 10% in 2004. Increases in fee rates do not therefore explain the increase in total fees observed in Figure 6 and will therefore be likely due to a combination of the volume, complexity and/or length of cases.

In Table 18 below, we can see how much gross income individual barristers earned from civil legal aid work in 2022-23, split by Family, Mixed and Other civil. This builds on Table 17, as it shows the significance of the income that barristers earn from civil legal aid. This illustrates that roughly one-third of barristers earn £5,000 or less from civil legal aid work, which grows to approximately 61% for £30,000 or less. This indicates that a large proportion of barristers do not earn large amounts doing civil legal aid work. In Table 19, we explore the proportion of barristers' earnings that came from civil legal aid vs other sources.

The table also offers an indication of the ability to make a full-time living through civil legal aid in Family versus other civil categories of law. In the lower income bands, barristers doing Other civil work account for a sizable proportion (e.g., 37% for £5,000 or less). However, as the income bands rise, that proportion shrinks substantially. In the Family category of law, a greater proportion of barristers sit in the higher income bands. This is further evidence that barristers are more able to make a full-time living from civil legal aid in the Family area of law.

Table 18: Proportion of gross civil legal aid fee income bands split by broad area of work, in 2022-23

	Number of barristers	Family	Mixed	Other civil	Total
£5,000 and less	1,500	59%	4%	37%	100%
£5,001 to £30,000	1,270	68%	8%	25%	100%
£30,001 to £60,000	730	84%	7%	9%	100%
£60,001 to £90,000	410	89%	6%	5%	100%
£90,001 to £150,000	400	92%	5%	3%	100%
£150,001 and over	250	90%	~	~	100%

Total	4,560	73%	6%	21%	100%
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Source: Data from the MoJ and Bar Council. Note: Mixed category of work represents barristers that do work in both Family and other civil categories. The self-reported data may include inter-partes costs and income from criminal legal aid. There is no double counting. Suppression is used where the number of barristers in a segment is fewer than 10. Secondary suppression is also employed where only one segment is suppressed so that the value of the suppressed segment cannot be determined by subtracting the remaining values from the total – in this case the next largest segment is also suppressed. Percentages may not sum to 100% due to rounding and suppression.

Below in Table 19, we now see all income that barristers earned (i.e., not just from civil legal aid) for those that did civil legal aid work in the reported year, broken down by the same broad areas of law. This builds on Table 18, as it now allows us to assess the relative significance of legal aid income to a barrister's overall income. It shows that approximately 32% of the barristers earned £90,000 or less with the most common income band being £90,001 to £150,000 – with 28% reporting earnings in that band.¹⁵³ Table 18 above shows that approximately 5% of the barristers earned more than £150,000 from civil legal aid, meanwhile, Table 19 shows that 28% earned more than £150,000 from any source (inclusive of civil legal aid). This shows that barristers doing civil legal aid work earn significant additional income from other work, i.e., private cases.¹⁵⁴

Further, Table 18 above showed that the vast majority of barristers earning the highest band in civil legal aid fees (£150,001 and over) belonged to Family (90%). When looking at Table 19, which counts all sources of income, barristers doing Family work count for just over half (51%) of those earning the highest incomes (£240,001 and over). Barristers doing Other civil work make up nearly the rest of barristers in the top income band – which was not seen when looking at just the civil legal aid fee earning barristers. This indicates that barristers doing Other civil areas of law tend to earn a greater proportion of their total income from other sources (i.e., private work) compared to barristers doing Family law.

Table 19: Proportion of self-reported gross income bands split by broad area of work, in 2022-23

	Number of barristers	Family	Mixed	Other civil	Total
£30,000 and less	520	79%	3%	18%	100%
£30,001 to £60,000	360	66%	6%	27%	100%
£60,001 to £90,000	600	72%	8%	20%	100%
£90,001 to £150,000	1,290	77%	6%	16%	100%
£150,001 to £240,000	840	72%	7%	21%	100%
£240,001 and over	450	51%	4%	44%	100%
No declaration required	510	81%	3%	17%	100%
Total	4,560	73%	6%	21%	100%

Source: Data from the MoJ and Bar Council. Note: Mixed category of work represents barristers that do work in both Family and other civil categories. There is no double counting. No declaration required category reports the breakdown by broad area of work that did not submit gross income information. Totals may not sum to 100% due to rounding.

It is also important to note that barristers' rates of pay are subject to a reduction in earnings by way of rent payable to chambers. Denvir *et al.* (2022) highlighted that the average proportion of salary payable to chambers was 16.6 percent of earnings based on the survey responses of 392 barristers.¹⁵⁵ They also

¹⁵³ Given that approximately 11% of barristers did not declare their earnings – as shown in the far-right column – the proportions that each income band shows could be different in reality.

¹⁵⁴ In Section 7, we explore the comparison between civil legal aid fee rates and those earned privately.

¹⁵⁵ Denvir *et al.* (2022) – p.29.

note that this figure could be as high as 30 percent for top earners, while barristers in pupillage will pay zero rent.

Barristers and other stakeholders at our Roundtables spoke of the stark contrast in fee rates available for private work compared to the rates offered for civil legal aid funded cases. Some anecdotal examples provided noted that private rates on average can be 3-6 times higher than civil legal aid rates. They explained that this is one reason why retention of barristers doing civil legal aid work is such a challenge, as legal aid work is often remunerated at a much lower rate than private work. In particular, it was noted that pursuing a career in civil legal aid often involves financial sacrifice, including lower incomes, and less lucrative career prospects.

A report from the Bar Council in 2021¹⁵⁶ concurs with many of these findings and, in turn, highlights risks to the diversity of future barrister cohorts and social mobility due to low rates of pay and stressful working environments. It also flags concerns about career progression, as barristers find it difficult to take on unfamiliar cases that could diversify their portfolios and expand their reputations due to high workloads.

Capacity issues of barristers

In Section 5.5, we explored capacity issues that providers in our survey face, with providers turning away an average of 26 potentially eligible cases in the month preceding the survey. We linked that to labour-market related pain points in Section 6.2. In this sub-section, we share data on barrister caseloads and explore capacity issues reported by barristers in the Roundtables described earlier, with insights largely in line with the rest of the sector.

Table 20 below shows barrister caseloads for 2022-23, ranging from 1 to 2 cases up to 68+ cases. As previously stated, barristers are split between Family, Mixed and Other. The Table shows that approximately 1 in 4 barristers do only 1 to 2 civil legal aid cases, and a further quarter of barristers do 3 to 13 cases. This would suggest, as was inferred from the previous charts above on income, that barristers on average do low numbers of civil legal aid cases. However, it is important to caveat that we are unaware of the relative complexity of the reported cases, so these figures could include more substantial and longer running cases.

The table also shows that barristers doing Other civil work represent a higher proportion in the lower caseload bands, e.g., 45% of barristers that did 1 to 2 cases do Other and Mixed civil work, and this makes up an increasingly smaller proportion of barristers in higher caseload bands. This is in line with the above discussion on civil legal aid, which appears to be a predominantly secondary focus for barristers, accounting for a lower proportion of their total earnings.

Table 20: Caseload bands split by broad area of work, in 2022-23

	Number of barristers	Family	Mixed	Other civil	Total
1 to 2 cases	1,170	54%	1%	45%	100%
3 to 13 cases	1,200	65%	7%	28%	100%
14 to 27 cases	700	82%	8%	10%	100%
28 to 40 cases	570	87%	8%	5%	100%
41 to 67 cases	720	92%	6%	2%	100%

¹⁵⁶ The Bar Council (2021) Running on Empty: Civil Legal Aid Research Report. <https://www.barcouncil.org.uk/asset/6A65477C-9288-4DB2-897B696F548813CD/>

68 cases plus	210	93%	~	~	100%
Total	4,560	73%	6%	21%	100%

Source: Data from the MoJ and Bar Council. Note: Mixed category of work represents barristers that do work in both Family and other civil categories. There is no double counting. Suppression is used where the number of barristers in a segment is fewer than 10. Secondary suppression is also employed where only one segment is suppressed so that the value of the suppressed segment cannot be determined by subtracting the remaining values from the total – in this case the next largest segment is also suppressed. Percentages may not sum to 100% due to rounding and suppression.

In the barrister roundtables, a number of points were consistently raised around provision levels and capacity in the market, including:

- Barristers often face heavy caseloads (civil legal aid or otherwise), leading to concerns over burnout and the quality of representation. Some barristers reported needing to turn away up to 10-20 cases each week due to capacity constraints, attendees did not elaborate on whether these were civil legal aid or private cases.
- Barristers often undertake substantial amounts of pro bono work to fill the gaps in legal aid coverage, which is an added strain on their workloads.¹⁵⁷

Barriers experienced by barristers

Some of the barriers described above for providers are also likely to be experienced by barristers. In our barrister roundtable, the participants flagged a number of barriers they experience in carrying out civil legal aid work. Those included:

- Low civil legal aid fee rates – which dissuade barristers (and practitioners) from doing civil legal aid work, particularly against the financial opportunity cost of doing private work instead – which can pay rates 3-6 times higher. This is further explored in the next Section.
- Dependency on providers to instruct them – with the provider survey showing that some providers are turning away potentially eligible cases, this would also limit the ability of barristers to represent these clients, as they are dependent on providers to take up a case and instruct them. However, a key limitation of this finding is the limited evidence on what happens to potentially eligible users who are turned away; they may secure support from another provider.
- Dependency on providers to submit claims for payment – barristers can't always directly bill the LAA for their work and instead must rely on solicitors at provider organisations to do it. This is also further explored in the next Section.

While fee levels may disincentivise entry into civil legal aid or remaining in that field of practice, the Bar Council noted in their Running on Empty (2021) report that many barristers feel a moral and social obligation to their clients and their cases, which may lead them to feel obliged to provide services to vulnerable clients in need of support.¹⁵⁸ This would be a form of barrier to exit – whereby barristers continue to offer civil legal aid services even if the returns or other conditions are unfavourable.

Future outlook for barristers

Finally, we explore the future outlook for barrister provision in civil legal aid work. Insights from the Barrister Roundtables included the following:

¹⁵⁷ It should be noted similar evidence on pro-bono legal aid work is not readily available for legal aid solicitors to be able to draw comparisons.
¹⁵⁸ Running on Empty. (2021). [online] The Bar Council. Available at: <https://www.barcouncil.org.uk/resource/running-on-empty-civil-legal-aid-full-report.html>.

- If, as per Section 5, the ability of supply to meet demand is to worsen in the coming years, this would have a knock-on effect on how much civil legal aid case work is available to barristers, as barristers are dependent on providers taking up cases and instructing them.
- The necessity for greater collaboration between legal aid organisations, private firms, and educational institutions was emphasised to improve training and resource allocation.
- A consensus was shared that the fee rates for civil legal aid are too low and need increasing – as the current low rates act as deterrents to newly qualified barristers doing civil legal aid work and also disincentivises existing barristers doing more civil legal aid work.

Conclusions

In conclusion, our analysis of the barrister side of the market has found a contrasting headline trend to the provider market – that the number of barristers doing civil legal aid work has trended upwards since 2015-16 (driven by the Family area of law). The total value of civil legal aid fees paid to barristers has increased significantly over this time period, and barristers have been able to combine their civil legal aid work with private work to generate high income levels overall (with the most common income band being £90,001-£150,000) – although we note that this income is reduced by significant expenses such as rent payable to chambers. Solicitors also often combine civil legal aid work with private work, although this analysis has not examined solicitor incomes due to the lack of availability of data at the time of drafting. Data on solicitor incomes who work on civil legal aid is expected through RoCLA's Data Publications workstream.

Whilst these findings, on the face of it, point to a healthier set of market dynamics than on the solicitor side of the market, our analysis also points to a very similar set of challenges impacting barristers. This includes the significant discrepancies in fee rates between civil legal aid funded cases and private work, heavy caseloads leading to concerns about stress and burnout, and the uncertainty of long-term career progression in civil legal aid, particularly when compared to other legal sectors. Similar to the challenges experienced by providers, barristers reported that these issues are making it difficult to both attract individuals to the profession and retain them. Like legal aid practitioners in provider firms, there is an ageing cohort of barristers which provision is particularly reliant on, making the market vulnerable should these individuals retire and not be replaced.

Our analysis also highlighted a distinct finding in the barrister side of the market for provider firms – that a significant number of barristers only make a small amount of their overall income from civil legal aid. This presents both a strength and a vulnerability. On one hand, this enables a larger volume of barristers who have experience delivering civil legal aid, providing additional resilience to provision. However, this also means that barristers may be more likely to reduce their involvement in civil legal aid work if incentives to work in the sector are further eroded or disincentives increase, as they have alternative avenues for work readily available.

7. Pricing, payments and incentives

7.1 Introduction

Civil legal aid fees are highly complex and play a critical role, together with other incentives, in explaining levels of provision in the market (as seen in Section 5) and the choices that providers are making (discussed in Section 8 below).

In this Section, we assess the role of fees in the market, how fees are paid, and identify the broader market incentives that exist outside of fees. Our core analysis examines the type of income that providers receive across different categories of law, based on MOJ/LAA data. This is supplemented by evidence from our Provider Survey and broader literature. Data limitations mean it is not possible to robustly compare LAA fees with alternative fee rates in the private sector, but we are able to highlight some anecdotal evidence in this area.

It is important to note that this section focuses on the “revenue” side of the equation for provider finances. In Section 8, we also consider the “costs” side of the equation by assessing profitability for FP providers.

7.2 Fees in the civil legal aid market

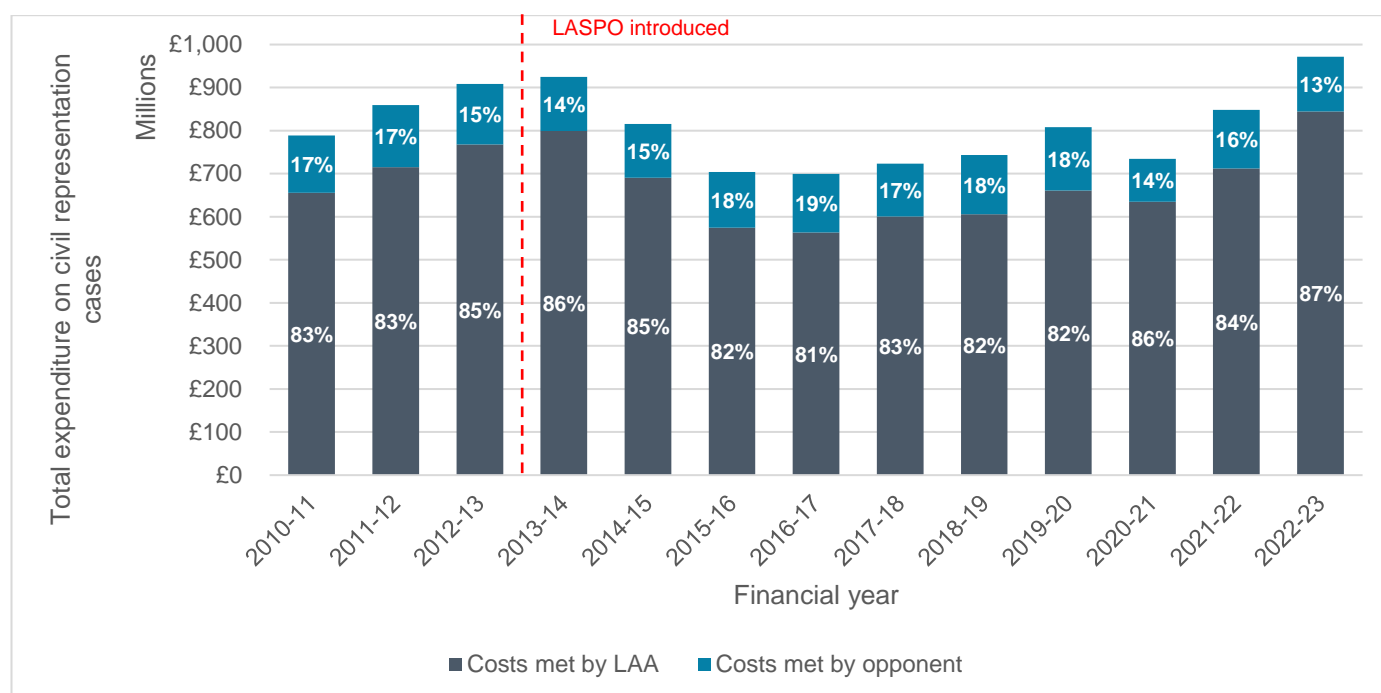
Key findings and implications:

- In most cases, providers are only able to claim fees for civil legal aid work at LAA rates. In a minority of cases, providers can recover costs from opponents, which provides a higher level of income.
- Fee levels have not risen since 1996 (outside of recent changes in Immigration & Asylum, and in some categories of law, they were cut through LASPO). This has led to a significant divergence from private sector rates.
- Higher standard fees are available in Family – which contributes to a healthier market in Family law.
- Providers have voiced significant concerns relating to inadequate fee levels, scope/activity that they cannot bill for and rigid/complex fee structures.
- Complex fee structures have the potential to create incentives for providers to hit certain cost thresholds in order to trigger more generous rates – for example, through ‘escaping’ standard rates to charge hourly rates, which has increased in prevalence in recent years.

Providers have two potential sources of fee income for civil legal aid work – regulated hourly and fixed rates paid by the LAA and costs recovered from opponents. We will explore each in more detail in this Section.

The Civil Legal Aid (Remuneration) Regulations 2013, introduced as part of the LASPO reforms, stipulate the fees that providers will be paid for civil legal aid work.¹⁵⁹ In some cases, there is the potential to recover the costs of civil legal aid representation from opponents at rates more closely aligned with private rates. This source of income should not be overstated, given that it is only applicable to a small proportion of civil legal aid cases and excludes virtually all Family cases, for example. However, in the cases where this does apply – typically the most complex – the awards can be very significant. Figure 49 below shows the proportion of all civil representation costs that were paid by the LAA and opponent, respectively, for 2010-11 to 2022-23. Over the period, the proportion of costs met by the opponent was relatively stable, ranging between 13% and 19%, which does equate to a significant proportion of total costs. We explore cost recovery in greater detail later in this section.

Figure 49: Civil representation expenditure broken down by costs met by LAA and opponent respectively, 2010-11 to 2022-23



Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-tables-jan-mar-2023](#). Tables 6.3, 6.5 & 6.7

Regulated fee levels and the processes around them have been widely noted as key concerns for providers. In our Provider Survey, fees were cited as the most important issue that providers face on a weekly basis, their most significant source of frustration with the market, and the one that is most likely to prevent them from continuing to practice in the civil legal aid sector. Over 80% of providers stated they were dissatisfied by the fee arrangements in the market, compared to 5% who were neutral and 13% that were satisfied. Slightly higher rates of satisfaction were observed in FP organisations compared to NFPs, and in the Family category of law compared to non-Family. We draw out a number of observations about the prevailing fees and pricing in the civil legal aid market later in this Section.

For NFP providers, fees are one of a number of different potential income sources. Examining the financial accounts of two NFP providers¹⁶⁰ suggests these sources include:

- income from government grants,

¹⁵⁹ Legislation.gov.uk. (2013). The Civil Legal Aid (Remuneration) Regulations 2013. [online] Available at: <https://www.legislation.gov.uk/ukxi/2013/422/schedule/1/made>.

¹⁶⁰ register-of-charities.charitycommission.gov.uk. (n.d.). LAMBETH LAW CENTRE - Charity 1076204. [online] Available at: <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/3961453/financial-history>.
 register-of-charities.charitycommission.gov.uk. (n.d.). NORTH SOMERSET CITIZENS ADVICE BUREAU - Charity 1052967. [online] Available at: <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/1052967>.

- donations and legacies,
- trading activities,
- charitable activities,
- endowments, and
- pro-bono work by lawyers.¹⁶¹

It's important to note that FP providers may also make use of some of the above sources, such as pro-bono work by lawyers. Providers may also use cross-subsidisation to help fund their civil legal aid activities – whereby they use other sources of income in the business, e.g., revenue from private work. This is an area we will further explore in Section 8, when discussing profitability.

7.3 Regulated fees

Key findings and implications:

- Fee levels have not risen since 1996, outside of recent changes in Immigration & Asylum.
- The basis for the Controlled fees applied today was an analysis conducted in 2006 to reflect the costs of delivering a 'normal' mix of cases within a particular category of law. LASPO significantly changed the scope of legal aid, removing some of the simpler cases, but the calculations underpinning fees were not updated, and most fees were subsequently reduced by 10%.
- The nature of cases and the 'normal' case mix have significantly changed since this point, meaning it is probable that some fees no longer accurately reflect the costs of delivering legal aid advice.
- This has also led to a significant divergence in private sector rates. Higher standard fees are available in Family – which contributes to a healthier market in Family law.
- Providers report significant concerns related to inadequate fee levels, scope/activity that they cannot bill for, and rigid/complex fee structures.
- There is some evidence of the potential for perverse incentives. For example, early advice would improve the efficiency / outcome of the case but is not necessarily within the scope of fees, and hitting certain cost thresholds has the potential to trigger more generous rates – i.e., 'escaping' standard rates to charge hourly rates.
- While fees have not risen, average provider revenues per case have increased over the last decade (see Section 5), and our Provider Survey indicates that some firms may be able to deliver legal aid at comparable profitability to other markets.

Providers report a range of challenges associated with regulated fees, including, the level of fees, the coverage of fees and the complexity of fees. We explore each of these in turn below.

The level of fees

As noted earlier, the Civil Legal Aid (Remuneration) Regulations 2013 stipulate the fees that providers will be paid for civil legal aid work. Regulated fees vary according to a number of characteristics, including the category of law the case relates to (e.g., Public Law, Welfare Benefits, Immigration &

¹⁶¹ It should be noted that this is more akin to a cost saving, than a source of funding, but it is listed here as it could reduce the need for funding.

Asylum, etc.), the nature of the legal advice or service (e.g., attending proceedings, providing legal help and advocacy services), and in some instances, the region in which the case is heard (e.g., North, Midlands, Wales, etc.).

A range of fees also exist for different experts that may be required to give evidence in civil legal aid cases and barristers who may be required at different stages of a case.¹⁶² Table 21 below provides the broad range of fees that are applicable in different categories of law. We show three types of fees:

- **Controlled Work Standard Fees:** Payment for Controlled Work is generally made by a single fixed fee that can “escape” to hourly rates if costs exceed the relevant “escape fee threshold” when calculated at hourly rates. Graduated fees are applied in Mental Health and Immigration & Asylum cases, which recognise the extensive work involved in these categories and require representation before a tribunal. Graduated fees involve providers being paid according to the stage that the case reaches, with further payments for other additional pieces of work.
- **Controlled Work Hourly Rates:** For some types of activity involved in Controlled Work, work can be paid at an hourly rate if costs exceed the relevant “escape threshold”. These activities relate to case preparation, attendance and advocacy in court.
- **Licensed Work Hourly Rates:** These cases are generally paid at hourly rates, with the specific rate payable dependent on the nature of the work being claimed and the seniority of the court.

Table 21 shows the lower and upper ends of ranges for each fee type – given these ranges refer to different types of legal aid work, the data is not directly comparable but illustrates broad differences in fee levels. As can be seen, the ranges of hourly rates for Controlled Work and Licensed Work across the categories of law are broadly consistent. For Standard Fees, there is greater variability. For instance, Standard Fees of between c.£200-300 are observed in many categories of law, compared to an upper end in Family private law of £565.

Table 21: Fee ranges per category of law

Categories of law	Controlled Work Standard Fees	Controlled Work (hourly rate) ¹⁶³	Licensed Work (hourly rate) ¹⁶⁴
Claims Against Public Authorities	£239	£48 - £52	£59 - £71
Clinical negligence	£195	£43 - £46	£59 - £71
Community care	£266	£48 - £52	£59 - £71
Education	£272	£48 - £52	£59 - £71
Housing & Debt	£157 - £180	£43 - £56	£59 - £71
Miscellaneous	£79	£45 - £48	£59 - £71
Public law	£259	£48 - £52	£59 - £71

¹⁶² 2010 Standard Civil Contract Payment Annex. (n.d.). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/308903/LAA-2010-payment-annex-2.pdf.

¹⁶³ Hourly rates are for preparation, attendance and advocacy in court.

¹⁶⁴ Hourly rates are for preparation and attendance in court. Non-family prescribed rates are all the same. Rounded to the nearest whole number.

Welfare benefits	£150	£43 - £46	£59 - £71
Family public law	£132 - £365	£45 - £56	£54 - £70
Family private law	£86 - £565	£45 - £56	£54 - £70
Immigration & asylum	£234 - £567+	£47 - £74	£59 - £71
Mental health	£69 - £321	£54 - £57	£59 - £71

Source: Civil Legal Aid (Remuneration) Regulations 2013. Note (1): Standard Fees refers to Part 1 Civil Standard and Graduated Fees of The Civil Legal Aid (Remuneration) Regulations 2013. For the first nine categories in the table, the 'ranges' reflect (a) at the lower end the single fixed fee (b) at the higher end, the "escape fee threshold". Note (2): Controlled Work refers to Part 2 and Licensed Work refers to Part 3. An additional set of fees also applies to Family Law mediation (Part 4) and several 'per item' fees exist such as "Routine Letters Out and Telephone Calls" (£2-7 per 'item'). Note (3): Fees relating to Immigration and Asylum do not reflect the recent changes via the Illegal Migration Act.

The underlying basis for the differences in Controlled Work fees applicable today was analysis commissioned in 2006 following Lord Carter's review of legal aid procurement. Fees were set at a level that reflected the historic costs of delivering cases.¹⁶⁵ These fees were calibrated to ensure that a provider carrying out a 'normal' mix of cases within a particular category of law would continue to be paid at the same level as prior to the implementation of the fee scheme. While LASPO significantly changed the scope of legal aid, removing some of the simpler cases, the underlying calculations underpinning fees were not updated, and most fees were subsequently reduced by 10%.

It should be noted that the variations in fees across categories of law highlight the different characteristics and costs that were observed in 2006. The nature of cases, and the 'normal' case mix have significantly changed since this point, meaning that it is highly probable that fees no longer accurately reflect the costs of delivering legal aid advice in at least some areas of practice. In Section 4, for example, it was found that volumes of legal help matters started had declined more relative to civil representation and mediation post-LASPO. This may, in part, reflect a mismatch between legal help fees and costs.¹⁶⁶

Bolt-on fees and enhancements to licensed work hourly rates

The Legal Aid Agency Costs Assessment Guidance¹⁶⁷ outlines a specific mechanism for claiming enhancements to licensed work hourly rates and other additional payments, known as 'bolt-on fees' or 'fee uplifts'. Bolt-on fees apply in certain types of legal proceedings, such as in private and public law children proceedings within the Family advocacy scheme. These enhancements and bolt-on fees are designed to account for: extra complexity or preparation required by the advocate; where the work was done with exceptional competence, skill or expertise; and where the work was done with exceptional speed. Enhancements and bolt-on fees are typically applied as percentage uplifts on the base fee for a case. They can be claimed for both interim and final hearings.¹⁶⁸

¹⁶⁵ Legal Aid Reform: A Sustainable Future / The Way Ahead (2006). Available at: [\[ARCHIVED CONTENT\] Legal Services Commission Consultations - Legal Aid Reform: A Sustainable Future/The Way Ahead - Consultation Homepage \(nationalarchives.gov.uk\)](#)

¹⁶⁶ A secondary issue may also be that LASPO removed a perceived "swings and roundabouts" benefit of the previous fee system, whereby some cases would compensate providers more generously in some cases than others, but overall, this would "even out". By removing less complex work from the scope of legal aid, LASPO, this may have removed cases where providers were previously remunerated more generously. It is not possible to examine the validity of this argument with the data available, but it is a recommended area of further research.

¹⁶⁷ Costs Assessment Guidance: for use with the 2018 Standard Civil Contracts (Version 2) Costs Assessment Guidance: for use with the 2018 Standard Civil Contracts. (n.d.). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956837/Costs_Assessment_Guidance_2018_-_Version_4_-_February_2021_clean.pdf.

¹⁶⁸ Section 6(3) of The Civil Legal Aid (Remuneration) Regulations 2013 stipulates that fee uplifts to the hourly rates set out in Schedule 1 (as summarised in Table 1) must not exceed 100% for proceedings in the Upper Tribunal, High Court, Court of Appeal or the Supreme Court; and 50% for all other proceedings.

Most fees have not risen in most areas of the market since the late 1990s and the LASPO reforms cut many fee levels

Apart from recent reforms to Immigration & Asylum fees, most fee levels have not risen since 1996. In 2013, as part of the LASPO reforms, the Civil Legal Aid (Remuneration) Regulations 2013 cut many fees by up to 10%. For example, the standard fee for 'travelling and waiting times' was £32.70 in 1996¹⁶⁹ – in 2013, this was cut to £27.81, where it has since remained.

This means that fees have not kept up with the cost pressures that providers face. LAPG compared 2020 rates and 1996 rates for a sample of the same civil legal aid activities and found that fees would have been 45-55% higher if they had been updated in line with inflation.¹⁷⁰ While we have not sought to replicate or validate this analysis, responses to our Provider Survey provides anecdotal support for this, for example:

“The rate of legal help fees has not increased in line with inflation and yet we are expected to increase wages and pay increased costs.” Private Practise Organisation, Midlands.

While simply adjusting fees for general inflation is unlikely to reflect the specific cost drivers applicable to legal aid providers, it does provide a broad indication of the pressures that providers are experiencing. During this time, provider operations may have become more efficient, e.g., due to the increasing use of legal technology, however, the existing literature in this area is very limited.

Variations in regulated fee rates across different categories of law and different types of proceedings have the potential to create incentives for providers to focus their efforts on the perceived more profitable areas – particularly having regard to their individual costs of providing services for the different categories of law and services.¹⁷¹ This too will be explored further in Section 8.

While regulated fee rates have not increased in many years, providers reported in our Provider Survey that they struggle to provide services due to these fee levels. For instance, 70% of providers reported experiencing issues with fees being 'lower than required' on a weekly basis, and 95% of providers experiencing this issue at least once (we left these questions open to the interpretation of providers, but it's likely that fees 'lower than required' refer to the financial viability of delivering civil legal aid services). Further, our survey found that factors related to fees, the low level of fees (81%) and fee structure (66%), as well as unbillable time (64%), were rated as most likely to prevent providers from continuing their service provision in the future.

While fees have not increased, it is important to acknowledge that average provider revenues per case have increased markedly over the last decade for legal help and civil representation, along with higher caseloads in civil representation, as seen in Section 5.5. Equally, evidence from our Provider Survey also pointed towards potential variation in provider perceived profitability by category of law, which implies that in some categories, civil legal aid profitability is comparable to other markets. This will be explored in more detail in Section 8.

Comparing civil legal aid regulated fees to private rates

It is also important to examine fees in the context of the fees that providers may be able to obtain for similar work in the private sector. While the fees available from publicly-funded work may not be expected to be as high as those from private sector work, and public work may have advantages for providers, such as more certain case volumes, a significant divergence in returns would be likely to influence their behaviour. Evidence in this area is anecdotal but does point to stark differences. For

¹⁶⁹ Legislation.gov.uk. (1996). *The Legal Aid in Civil Proceedings (Remuneration) (Amendment) Regulations 1996*. [online] Available at: <https://www.legislation.gov.uk/uksi/1996/645/made>.

¹⁷⁰ Note that this analysis did include some elements of criminal legal aid.

¹⁷¹ It is important to note that LAA contracts do not explicitly allow for providers to be intentionally selective of which cases to do.

example, LAPG analysis found that fees were typically two to four times higher than legal aid rates for similar work carried out in the private sector.¹⁷²

In Section 6.3, we discussed the contrasts that barristers experience between the fee rates available for private work compared to civil legal aid. Barristers across different areas of law noted that private rates can be at least three to six times higher, particularly when comparing fixed civil legal aid rates against private hourly rates.¹⁷³

The points discussed above highlight the fee pressures that will have contributed to declining numbers of providers and offices operating in the market since 2010-11 – as seen in Section 5.

In response to fee pressures, increases to some legal aid rates have been announced in England and Wales. For example, Sir Christopher Bellamy's Independent Review of Criminal Legal Aid¹⁷⁴ recommended a minimum 15% increase in legal aid rates for solicitors and barristers, stating this is 'the minimum necessary as the first step in nursing the system of criminal legal aid back to health after years of neglect'. It is worth noting that this followed the Legal Aid Review reducing criminal legal aid fees by 8.75% previously, while civil legal aid fees were cut by 10%. The Government has increased the legal aid immigration fees for Illegal Migration Act (IMA) work by up to 15%, although at the time of writing, IMA related work is yet to commence.¹⁷⁵

Flat fee levels in the market over an extended period of time has the potential to significantly reduce the profitability of civil legal aid work compared to private alternatives (or possibly make it 'unprofitable') – particularly as we've seen some evidence that the complexity of cases appears to have risen over time. The implications of fee levels on market profitability levels, such as the incentives this provides to continue to operate in the market, are explored in Section 8.

For FP and NFP providers alike, regulated fees will be essential to their continued participation and provision in the civil legal aid market. However, the dynamics will be slightly different for FP providers, which will be aiming to not only earn enough income to meet their costs but additionally make a margin over this. This will be explored further in Section 8.

The coverage of fees

Providers have stated in response to our Provider Survey that the regulated fees do not cover all activities they do in fulfilling their role to clients in civil legal aid cases. The survey found that 96% of providers have spent time on cases they are unable to bill for, and 65% experience this issue on a weekly basis. One verbatim quote from the Provider Survey noted the example of not being fully paid for correspondence:

“There are inconsistencies and what appear to be arbitrary decision making in terms of what can be billed. For example, without examining the file a caseworker can make a decision on the level of correspondence that can be claimed. This does not appear to take into account the needs or concerns of the client, the number of parties or the status of the client in terms of the proceedings. We would never restrict our communications with a client where these were reasonable and necessary in order to provide a service. It therefore seems desperately unfair that a caseworker with no knowledge of that individual case or service user can deem them

¹⁷² Ibid.

¹⁷³ Example comparisons included: family law case where the civil legal aid fees could be approximately £500 vs £2000 for the private case; immigration case where the civil legal aid fees equate to £302 vs approximately £2000 fixed rate or £300 hourly rate for a private case.

¹⁷⁴ Bellamy, C. (2021). *Independent Review of Criminal Legal Aid*. [online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041117/clar-independent-review-report-2021.pdf.

¹⁷⁵ GOV.UK. (n.d.). *Legal Aid Fees in the Illegal Migration Bill*. [online] Available at: <https://www.gov.uk/government/consultations/legal-aid-fees-in-the-illegal-migration-bill/legal-aid-fees-in-the-illegal-migration-bill>.

unnecessary and for us not to be paid for them". Private practice, North West, Yorkshire and the Humber

Although the survey did not explore the extent of time that cannot be billed for, analysis by the LAPG found that, on average, for every 106 minutes of time invested by practitioners on a Fixed Fee case, 60 minutes are financially remunerated.¹⁷⁶ A similar trend was observed for hourly rates – for every 90 minutes of work, on average, practitioners were found to receive remuneration for 60 minutes. In relation to hourly rates, this discrepancy was largely explained by practitioners reporting that they feel obliged to extend their efforts beyond compensated hours to meet client needs. Practitioners reported that the unpaid portion of work predominantly involved case preparation, which includes preparing documents, conducting legal research, and bundle preparation. Practitioners will also often spend time providing clients emotional support – particularly vulnerable clients, and assisting clients to provide evidence needed for eligibility checks. Additionally, practitioners invest time in administrative duties such as making applications to the LAA. 66% of providers responding to our Provider Survey reported that the rigidity of the regulated fee structure would likely prevent them from continuing to offer civil legal aid services.

Changing fee types

In our Barrister Roundtables, many of the barristers noted the growing trend for civil legal aid fees to shift away from hourly rates to fixed fees.¹⁷⁷ This was a factor described as further reducing compensation for barristers, as the fixed rates don't adequately account for the complexity of the case and the amount of time and effort required. It was also noted that fixed fees in some circumstances can be determined by the length of the court hearing, so doing more preparatory work ahead of the hearing leads to a shorter hearing and therefore a lower fee earned, e.g., in a Family case. This raises the possibility that the fee type could lead to the perverse incentive of promoting longer court hearings, which are more expensive overall.

The barristers noted some positives for fixed fees compared to hourly fees, which included the lower administrative burden when claiming the fees (i.e., tracking and reporting hours worked) and greater certainty on how much income will be earned. Administrative burdens will be considered in greater detail in Section 9. It was also noted that fixed fees can promote greater productivity if barristers can earn the same fee in a shorter time. Barristers also suggested that graduated fees – where the level of fee is subject to different factors, such as length of hearing – were a useful model to consider extending.

The complexity of fees

In total, there are 288 separate fees and rates applicable to different types of civil legal aid work.¹⁷⁸ In some instances, fees are defined at a very granular level (for instance, payments for each telephone call). The complexity seen in some civil legal aid fee structures is likely to drive administration costs – to record activity at a granular level, collate this information together, and accurately invoice for it. One provider that responded to the Provider Survey noted the following:

"There are too many different rates and/or types of remuneration – we understand that this applies in particular for Immigration and Asylum cases, though it is across the board. For example, in Immigration and Asylum some cases are paid on an hourly rate, while others are paid as fixed fees, and that partly depends on when a case was opened. Across the board, the hourly rates are different depending on the type of case and in which court the case is due to be heard/whether the case is being run on an HCCP. If a fee earner determines an incorrect hourly rate (which, due to the complexity of the system, happens, indeed the LAA itself often gets the

¹⁷⁶ Denvir, C., Kinghan, J., Mant, J., Newman, D. and Aristotle, S. (2022). *WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS Report Prepared by*. [online] Available at: <https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid-Findings-from-the-2021-Legal-Aid-Census-Final.pdf>. Note that we are unable to compare against private work – due to limitations in the literature.

¹⁷⁷ This trend may also be occurring in private work.

¹⁷⁸ 125 rates for Part 1, 64 rates for Part 2, 76 rates for Part 3 and 21 rates for Part 4

hourly rates wrong), then a provider may end up not getting paid for huge amounts of work done.”
Private practice, Multiple Regions

High levels of price complexity greatly increase the resources needed to understand and identify the most appropriate fee rates. Providers incur these overhead costs either through in-house teams or through specialised cost “draughtsman” services. The latter operate extensively across the sector, and support clients with cost recovery and maximising the reimbursement they can receive under the regulations. It should be noted that in some instances, complex sets of fees may also replicate how solicitors charge for work privately. Data limitations mean it is not possible to validate whether administrative burdens providers face in civil legal aid are higher than in private work or at similar levels.

Alternative fee arrangements

For regulated fees, standard fixed fees can transition to hourly rates in cases where the costs to providers of providing their services meet the “escape fee threshold” – which is three times the value of the standard rate. If this happens, the standard fee rate would “escape” to hourly rates. Hourly rates may be more closely aligned with the costs providers incur and may offer providers a better return. We showed in Section 5.5 that the proportion of escape fee cases for legal help had tripled from 3% in 2010-11 to 9% in 2019-20.

If the final costs of a case are expected to exceed £25,000, this is considered a “civil high-cost case”, and separate bespoke fee arrangements apply and fees may be negotiated between the LAA and the provider. While these arrangements may offer providers potential enhancements above normal rates, reflecting the complexity of the case and the specialised legal advice required, providers report challenges in negotiating appropriate rates. These include concerns around the discretionary nature of applying enhancements and the appropriate classification and payment of routine correspondence.

In summary, we find that:

- There are a very high number of different fee rates applicable and alternative mechanisms that may further change the rates. This complexity in fee structures, although not uniform across civil legal aid, is likely to drive administration costs for providers. Policy development should consider how to adapt fee structures to better balance streamlining processes for providers while also accounting for the varying activities and circumstances within which providers operate.
- There is a consistent provider view that fees do not adequately reflect costs. It is probable this is the case for at least some fees – the underlying basis for Controlled fees were calculations on historic case costs conducted in 2006, and while LASPO delivered significant scope changes to legal aid, these calculations were retained and fees reduced further.
- There are pricing models that better reflect the variability of cost, e.g., hourly fees or graduated fees, although the complexity and/or time required to bill the costs often translate into additional administrative costs for providers and the LAA.
- Whilst fees have not risen, average provider revenues per case have increased over the last decade (see Section 5). In Section 8, we explore further the link between fees and profitability of civil legal aid providers, citing evidence from our Provider Survey and discussing the extent to which legal aid provision might be effectively being subsidised through other activities. The above findings on fees will also influence providers’ choices about continuing provision, which we’ll explore further in Section 9.

7.4 Cost recovery from opponents

Key findings and implications:

- Cost recovery can play a significant role in non-Family categories of law, and the returns from cost recovery can be sizeable.
- This is likely to be playing a vital role at incentivising continued provision in these areas. Cost recovery may allow providers to enhance returns or make up for losses in other areas.
- This may help to explain some of the trends in provider numbers across categories of law - for instance, Claims Against Public Authorities – which had very high rates of cost recovery and growth in provider numbers.
- Expanding cost recovery so it is applicable across more cases could create a new source of returns for providers.

As described in Section 7.2, in some cases, there is the potential to recover the costs of civil legal aid cases from opponents at rates likely to be more closely aligned with private rates. The value of costs recovered typically follows Guideline Hourly Rates – which are set by Government.¹⁷⁹ This source of return to providers should perhaps not be overstated, given that it has typically only been applicable in a small number of legally-aided cases and excludes virtually all Family Cases, for example. However, in the cases where this does apply – typically the most complex – the awards can be very significant.

Cost recovery is not a guaranteed source of returns for providers, and it can be difficult to recover costs from opponents. For example, where a ‘Costs Order’ is made in a legally-aided party’s favour, the provider has the opportunity to set out in a Bill of Costs the costs sought from the losing party (at higher private rates) and those sought from the LAA (at the regulated fee rates). The losing party can raise Points of Dispute to challenge these costs, which can be further assessed and adjusted by the court. The provider will then make attempts to recover the costs – this can result in a Default Costs Certificate being served by the court. If the costs cannot be recovered from the losing party, they will need to be sought from the LAA at regulated fees.

It is important to note that cost recovery can work in the other direction, where the opponent can seek cost recovery from the other party. In this circumstance, the client has cost protection; costs can be awarded against them, but this cannot exceed the amount (if any) that it’s reasonable for the client to pay. When costs are awarded against the legal aid provider, these costs will be claimed from the LAA. However, we understand this is rare in practice. There are specific rules in place governing when costs can be awarded against a legal aid funded provider, with one implication being that in order to seek cost recovery from a legal aid funded provider, the ‘opposing’ client must be an individual. This excludes other public sector bodies from recovering costs from legal aid funded providers (such as a Local Authority). The LAA annual report and accounts for the financial year 2022-23 show that, for civil representation, the costs of successful unassisted parties (i.e., those that were the opponents to the legal aid funded party and won the case) amounted to £796,000 in 2022-23 and £1,142,000 in 2021-22.¹⁸⁰ These figures are a fraction of the costs recovered from the opponent in the other direction, which were approximately £135.6m in 2021-22 and £127.4m in 2022-23, respectively.¹⁸¹

¹⁷⁹ Gov (2010). *Solicitors’ guideline hourly rates*. [online] GOV.UK. Available at: <https://www.gov.uk/guidance/solicitors-guideline-hourly-rates>.

¹⁸⁰ GOV.UK. (n.d.). *Legal Aid Agency annual report and accounts 2022 to 2023*. p.104. [online] Available at: <https://www.gov.uk/government/publications/legal-aid-agency-annual-report-and-accounts-2022-to-2023>.

¹⁸¹ Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. *legal-aid-statistics-tables-jan-mar-2023*. Tables 6.3, 6.5 & 6.7

In some categories of law, it is typical for a no costs order to be given – and so all costs are only recoverable via the LAA – i.e., no cost recovery is granted. This applies to Family Law, which is the biggest category of law in the market – making up between 86% and 92% of Civil Representation cases by provider revenue from the LAA since 2010-11. It should also be noted that costs are only recoverable within the scope of the legal aid certificate. Ancillary client servicing costs may be significant and not applicable for any recovery.

There is a clear distinction in cost recovery arrangements between Family and Non-Family categories of law. In Family cases, less than 0.5% of costs each year since 2010-11 were funded by the opponent. Whereas, in non-Family cases, approximately 59-71% of total costs were funded by the opponent each year since 2010-11. There is also a low incidence of cost recovery in the Mental Health category of law. This comprises of work in the Mental Health Tribunal, for which there are no costs, and in the Court of Protection, where it's unusual for cost recovery orders to be made.

A more detailed analysis of these non-family cases reveals that costs were recovered from opponents in only 17-23% of non-family cases on average over the period, and 19% in 2022/23. However, in these cases, the awards were sizeable, with the average award over the whole period of approximately £40,700 per case for opponent funded cases (£55,500 in 2022/23)¹⁸², compared to approximately £4,100 per case as the average value of LAA funded cases (£6,100 in 2022/23). This may be linked to the higher fees available from opponent cost recovery and the longer-running, more complex cases where Cost Orders are more likely to be made. Cost recovery from opponents may also offer better returns for providers than in shorter/less-complex cases, where the administrative effort and risk involved in pursuing opponent costs may not outweigh the potential returns.

Cost recovery in non-family categories of law

Approximately 67% of total costs for non-family cases were funded by the opponent on average across the period. We break down this grouping into the individual categories of law to better understand the variability between them.

Table 22 below provides the proportion of the total civil representation costs that were funded by the opponent. It shows varying levels between the different non-Family categories of law, with the highest proportions seen among Claims Against Public Authorities and Clinical Negligence. Mental Health on the other hand, had the lowest rates across the period on average. Some categories of law have seen increases in the proportion post-LASPO (i.e., from 2013-14 onwards), including large categories such as Housing & Debt and Immigration & Asylum, but this is not a consistent trend across all categories of law. The significance of cost recovery can also vary considerably between years, which is particularly the case for smaller categories of law with lower case volumes (such as Education and Welfare Benefits).¹⁸³

Table 22: Proportion of total civil representation costs funded by the opponent for non-Family categories of law, 2010/11 – 2022/23

Financial Year	Housing & Debt	Immigration & Asylum	Mental Health	Education	Discrimination	Clinical Negligence	Claims Against Public Authorities	Community Care	Welfare Benefits	Public Law
2010-11	28%	31%	1%	32%		86%	78%	22%	33%	50%
2011-12	30%	29%	2%	16%		85%	87%	27%	54%	44%
2012-13	26%	39%	6%	27%		87%	85%	31%	4%	53%
2013-14	31%	59%	1%	39%		88%	82%	42%	5%	50%
2014-15	34%	46%	0%	37%	0%	87%	88%	46%	0%	56%

¹⁸² It should be noted that the average cost recovered varies a lot within non-family categories of law. Clinical Negligence and Personal Injuries are the only categories with above average costs recovered over the period.

¹⁸³ Discrimination and Welfare benefits had comparatively low volumes of civil representation cases (with on average only double digits volumes over the period). The low volumes may cause a high variance in the percentages shown.

2015-16	35%	52%	2%	30%	82%	88%	88%	49%	70%	58%
2016-17	37%	60%	1%	43%	90%	93%	85%	48%	0%	65%
2017-18	36%	61%	1%	51%	78%	93%	86%	29%	69%	63%
2018-19	38%	68%	3%	36%	94%	95%	86%	22%	62%	67%
2019-20	36%	67%	1%	32%	67%	97%	79%	11%	0%	72%
2020-21	35%	67%	1%	46%	64%	97%	87%	8%	80%	73%
2021-22	40%	74%	1%	63%	82%	96%	87%	7%	41%	77%
2022-23	39%	58%	0%	48%	52%	96%	86%	8%	0%	73%

Source: GOV.UK. (2023). Legal aid statistics: January to March 2023 data files. [legal-aid-statistics-tables-jan-mar-2023](#). Tables 6.3, 6.5 & 6.7
Red horizontal line indicates when LASPO was introduced.

This analysis illustrates that expanding cost recovery to be applicable across more case types, and across more categories of law, could create a new source of returns for providers.

7.5 Payments, billing and invoicing

Key findings and implications:

- Providers have reported significant challenges across the payments, billing and invoicing processes.
- These issues may serve to erode any available margins from civil legal aid work and impact overall market efficiency.
- However, this system also plays an important regulatory role, and it is important to make effective trade-offs between these factors when considering interventions to improve this process.

Alongside the fees that providers receive, it is also important to understand how they are paid and the processes around this. How quickly providers are paid will impact providers' economic returns from civil legal aid work, and the requirements around this process may drive additional costs (e.g., administration costs or financing costs). We explore potential inefficiencies from the speed of payments in Section 9.

Payments for Controlled Work

Once firms are awarded civil legal aid contracts, they can submit claims to the LAA for payment for their services. Payments are strictly limited to activities defined in the Civil Legal Aid (Remuneration) Regulations 2013 once an end user has been approved by the LAA for civil legal aid support. Claims are typically submitted in bulk via the online portal Contracted Work & Administration (CWA).¹⁸⁴

For Controlled Work, payment is made 1 month after the deadline for claims.¹⁸⁵ Standard payments have a consistent value each period, regardless of the actual value of the claims submitted. The value of the standard payments is adjusted if the value of the claim deviates outside a particular margin (either above or below) around the standard value. Whereas variable payments equal the exact value of claims submitted. The LAA states that most providers opt for variable monthly payments.

If providers miss the regular deadline for claims to be submitted for each period, then payments for the late claims will not be made until the period after (i.e., a month later than on-time Controlled Work claims or two weeks later than on-time certificate work claims).

¹⁸⁴ Contracted Work & Administration (CWA) User Guide for Providers Bulkload Spreadsheet v1.20. (n.d.). Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/611305/bulkload-spreadsheet-guidance.pdf.

¹⁸⁵ Informed by a discussion with the Legal Aid Agency on 26th September 2023

Payments for Licensed Work

Licensed Work, as defined in Section 3, includes family help (higher court), legal representation (for preparing the case and representing the applicant at court or tribunal), investigative representation (legal representation limited to the investigation of the strength of the contemplated proceedings), and other exceptional cases. Licensed Work is remunerated differently from Controlled Work. Payments are made every two weeks, and hourly rates are predominantly used. These payments are subject to predefined standard costs and scope limits, which are evaluated and potentially adjusted as the case progresses.

Both Controlled Work and Licensed Work allow for disbursements – extra expenses incurred during a case. These expenses form part of the overall cost limit and will generally be approved if they are justified upon assessment. In particularly complex or demanding cases, where a 'threshold test' for exceptional competence, speed, or complexity is met, providers may request an enhancement, potentially doubling the standard hourly rate.¹⁸⁶

For civil representation cases, payments can be made through Payment On Account (POA).¹⁸⁷ Providers can apply for POA for costs expected to be incurred over the life of the legal aid certificate, subject to certain conditions.¹⁸⁸ When these conditions are met, providers will receive 80% of the costs incurred to date. In fixed fee cases, this can extend up to 80% of the applicable fixed fees. The remainder would be paid upon completion of the case.

Provider challenges

Providers have reported experiencing several significant challenges across the payments, billing and invoicing processes:

- Delays in submitting claims will cause delays in settlement by the LAA, as it has strict cut-off times every period.¹⁸⁹ This can impact the economic returns for providers and could cause a financing gap and cash flow difficulties – particularly for smaller, less well-financed providers.
- Claim requirements can be very detailed¹⁹⁰ and may take providers significant time to fill-out and submit every period. In our Provider Survey, 94% of respondents experienced problems arising from time associated with administration relating to getting paid – with 45% of respondents experiencing these issues on a weekly basis. For example, providers report that claims can be rejected by the LAA IT system if counsel working on the case has not submitted a corroborating claim to the LAA. In addition, many providers in our survey were dissatisfied with the LAA portal, with 95% of providers having experienced issues with this IT infrastructure.
- Other administration activities, such as complying with peer reviews, audits, contract manager visits, contractual updates and appeals, play an important role in regulating the market, but all create additional overheads for providers. A small proportion of LAA forms are paper-based rather than managed through online portals (e.g., CW1 forms, Cost Contract Counsel Acceptance Forms, etc.). In our Provider Survey, 80% of respondents reported experiencing difficulties with the auditing process at least once. Anecdotal evidence indicates that contractual and administration requirements can tip civil legal aid work into becoming loss-making.¹⁹¹

¹⁸⁶ Rourke, D., Cripwell, E., Summers, J. and Hynes, J. (2023). Adrift: An Explainer for Navigating the Immigration Legal Aid Framework. [online] Available at: <https://publiclawproject.org.uk/content/uploads/2023/09/Adrift-explainer.pdf> [Accessed 10 Nov. 2023].

¹⁸⁷ GOV.UK. (n.d.). Coronavirus (COVID-19): processing and payments. [online] Available at: <https://www.gov.uk/guidance/coronavirus-covid-19-processing-and-payments>.

¹⁸⁸ Conditions include: the certificate must have been active for at least three months, and the claim must stay within the agreed cost limit of the certificate. Providers can also only claim up to four profit cost POAs within a 12-month period.

¹⁸⁹ GOV.UK. (n.d.). Guidance: Legal Aid Agency payments to providers. [online] Available at: [Legal Aid Agency payments to providers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/legal-aid-agency-payments-to-providers)

¹⁹⁰ For fixed fees, the information required for a claim is relatively limited. However, providers do need to record detailed information to calculate how much they would be paid under hourly rates in case the case "escapes" the fixed fee.

¹⁹¹ Admin, L. (2023). *The Fragility of Civil Legal Aid* by Matthew Howgate. [online] LAPG. Available at: <https://lapg.co.uk/the-fragility-of-civil-legal-aid-by-matthew-howgate-2/>.

- The LAA also has a KPI for payments to providers of paying 95% of complete, accurate, eligible bills within 20 working days.¹⁹² The LAA exceeded this target in the past 3 financial years, achieving a rate of 99%.

There is tension between views expressed by providers on payment delays and LAA KPIs. This suggests that issues are being experienced in the completion of accurate and eligible bills by providers and in the review processes undertaken by the LAA. After an invoice is accepted by the LAA, it appears to be paid within the noted time frame. Section 9 assesses in more detail the administrative and operational efficiency in the market.

Barrister challenges

As noted in Section 6.4, barristers are dependent on providers for instructing them. Issues experienced by providers, therefore, feed through to barristers. Below, we explore some of the barrister concerns around pricing and payments raised at the roundtables.

In the barrister roundtables, pricing and payments were very common topics of discussion. The following points were raised:

- **Costs recovered** – It was noted that costs can be recovered from the losing party if the civil legal aid case is successful (depending on the nature of the case and area of law), and that will often mean “*quite reasonable*” private rates.¹⁹³ While, if you lose the case, or cost recovery is not available, then the pay is at the civil legal aid rates.
- **Structure of fees** – Similar to the issues reported by providers, many barristers noted difficulties with the shift in civil legal aid fees becoming fixed rates rather than hourly. This was a factor described as further reducing compensation for barristers, as the fixed rates were reported to not adequately take into account the complexity of the case and the amount of time and effort required. It was also noted that fixed fees in some circumstances can be determined by the length of the court hearing and doing lots of preparatory work ahead of the hearing can therefore lead to a shorter hearing and a lower fee earned. Some favourable aspects of fixed fees were also mentioned – for example, the lower administrative burdens associated with claiming the fees, the income certainty it provides, and the incentives it provides to increase productivity.
- **Fee uplifts** – participants reported that the process behind approval of fee uplifts is opaque and seems arbitrary. They noted that they believed that decisions made by the LAA on whether justifications submitted are valid may not be made by individuals who adequately understand the nuances of cases.
- **Timing of payments** – many of the participants noted that when starting a case, they don’t know how much they’ll earn or when they’ll be paid. It was noted that barristers, in some circumstances, can be waiting for payment for civil legal aid work for long periods of time – described as having “aged debt”. As noted in Section 6, barristers typically depend on solicitors at the provider organisations to file claims. The level of administrative requirements could mean that solicitors delay submitting these claims, causing this aged debt. It was noted that this is in stark contrast to private work, where you can be paid in a matter of days after the work is done, and acts as a key factor for barristers choosing between doing civil legal aid work and private work.

The issues described above can further erode margins and capacity for both providers and barristers. How these concerns impact overall market efficiency will be explored further in Section 9. However, the

¹⁹² Ibid.

¹⁹³ It was noted that there are several types of cases that don’t allow for cost recovery, such as immigration tribunals, court of protection, and many housing cases.

requirements around payments, billing and invoicing also play an important regulatory role and it is important to make effective trade-offs between these factors when considering interventions to improve these processes.

7.6 Wider incentives impacting the civil legal aid market

Key findings and implications:

- Providers are influenced by incentives beyond just fees – moral consciousness and habitual provision play a particularly important role in the market. These may explain why many providers have stayed in the market despite low levels of fees.
- Setting the appropriate levels of fees in the market should consider the role these broader factors play.

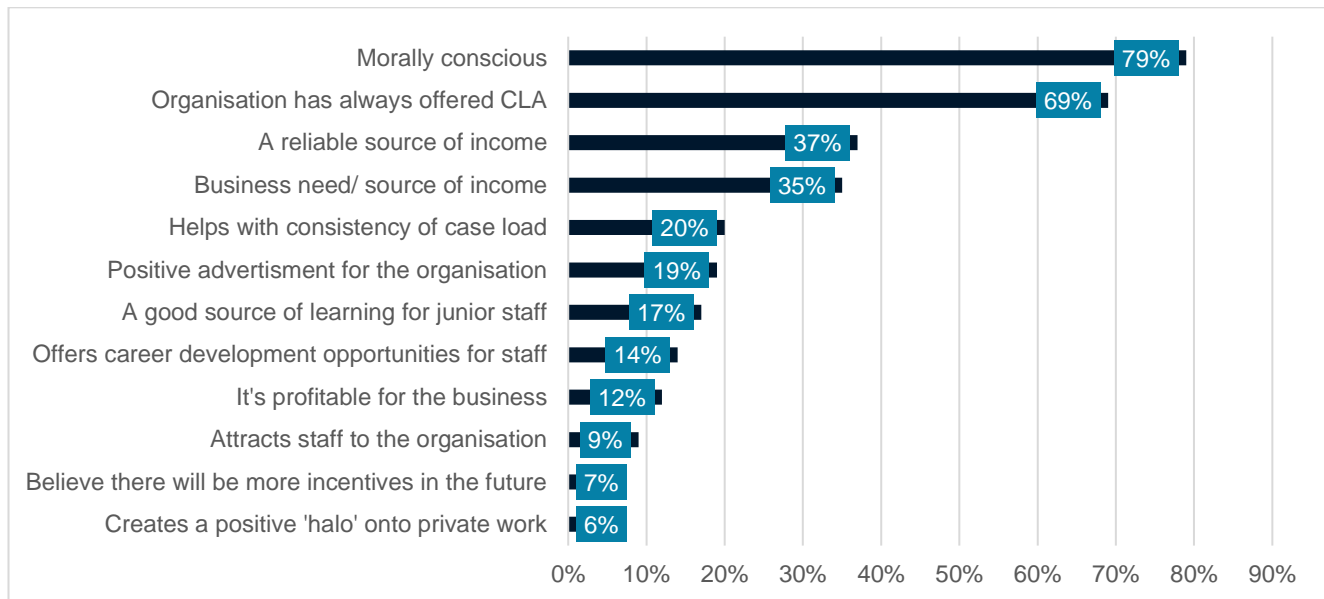
Providers of civil legal aid are influenced by a broad set of market incentives. Incentives will drive a range of decisions that providers make, including market entry/exit and production decisions of the nature described in Section 5, but also more detailed decisions. This might include decisions about which area of law to focus on and specialise in, the balance between legal help, civil representation and mediation services to provide, which part of the country to base their business in and which areas of work to expand into.

As first explored in Section 3, these incentives are likely to be very different between FP and NFP organisations. FP providers are likely to be more driven by the profit motive and will seek not only to cover their costs but also to earn an acceptable return above these costs. NFP providers, on the other hand, are primarily driven by broader purpose-driven motives, although they still need to cover their costs. Both types of providers will be impacted by the fee structure underpinning the market, but FP providers are likely to have a greater dependence on these fees providing an acceptable return, given that they are likely to provide their main source of income. Responses to our Provider Survey indicated that civil legal aid made up, on average, around two-thirds of FP providers' overall revenues. This compares to NFP organisations, which may have more diversified sources of funding, as noted earlier in Section 7.2.

While the number of civil legal aid providers has significantly declined in the context of declining demand and fee levels that have not been increased, 1,334 civil legal aid providers currently operate in the market as of 31st December 2023.¹⁹⁴ In our Provider Survey, providers stated their key reasons for remaining in the market (see Figure 50 below).

¹⁹⁴ GOV.UK. (n.d.). *Legal aid statistics quarterly: July to September 2023*. [online] Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-july-to-september-2023> [Accessed 11 Jan. 2024].

Figure 50: Reasons for offering civil legal aid



Source: Provider Survey, Q12: What are the most important reasons as to why your organisation offers civil legal aid services? Base: Total sample (n=228)

We have grouped providers' motivations around three key themes:

- Vocational commitment and social responsibility:** The most frequently reported reason for providers offering civil legal services was to be 'morally conscious', with 79% of providers stating this. For example, a provider stated that: *"We run our legal aid service at a loss which is difficult for a charity, but we feel it is important to keep the service running as otherwise many people would have no access to enforce their rights."* This motive is reiterated by the 2021 Legal Aid Census, where it was noted that a pronounced vocational commitment and commitment to social responsibility exist among civil legal aid practitioners.¹⁹⁵ The report notes that many lawyers in the market view their roles beyond immediate employment conditions and are driven by a wider belief in the right to access justice for some of the most vulnerable members of society. This may be a compelling motivation, even if economic returns are lower than practicing in other sectors.
- Role in broader financial management:** As identified in Section 5, providers may be incentivised to continue to take on civil legal aid work as it supports the firm's broader finances. In our Provider Survey, 37% of respondents continue to offer civil legal aid because it is a 'reliable source of income', 35% because it is a 'business need' and 20% because it 'helps with consistency of case load'. These broader motivations around financial management are all reported more frequently than profitability motivations. In addition, 19% of providers stated that civil legal aid creates 'positive advertisement' for the organisation that existing and potential private clients may value, with a provider stating that *"We offer civil legal aid services in order to fulfil our charitable objectives."*
- Professional Development:** The nature of legal aid work presents diverse challenges and experiences that can significantly contribute to the skills and knowledge enhancement of individual lawyers. In our Provider Survey, 17% of providers said they offer civil legal aid work due to it being 'a good source of learning for junior staff', and 14% of providers reported that the work 'can offer career development opportunities for staff'. These reasons were reported less frequently than the vocational, financial, and operational reasons described above, potentially reflecting the talent and retention issues that the market is facing.

¹⁹⁵ Denvir, C., Kinghan, J., Mant, J., Newman, D. and Aristotle, S. (2022). *WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS Report Prepared by.* [online] Available at: <https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid-Findings-from-the-2021-Legal-Aid-Census-Final.pdf>.

Although not technically an incentive, the second most reported reason for offering civil legal aid was 'because the organisation has always offered legal aid', indicating that 69% of providers continue to provide legal aid out of habit. This may be related to the significance of 'barriers to exit' discussed in Section 8, where costs such as retraining may incentivise providers to remain in the market.

In summary, we find that non-financial motives play a strong part in providers' choice to actively participate in the civil legal aid market – despite the potential for loss-making. Setting the appropriate levels of fees in the market should consider the role that these broader factors play.

7.7 Summary conclusions

In Section 5, we found evidence of a sustained contraction in provider numbers since LASPO and concluded that there is a high probability that the supply of civil legal aid services will decrease over the coming five years without further interventions to sustain the market. **This section has identified the current fee levels and structures are likely to be the most important underlying driver of provider dissatisfaction with the market.**

Provider concerns relate to inadequate fee levels, scope/activity that they cannot bill for, and rigid/complex fee structures. There is a consistent provider view that fees do not adequately reflect costs, leading to a significant divergence from private sector rates. Evidence in this section indicates this could potentially be the case for at least some fees. The underlying basis for Controlled fees were calculations on historic case costs conducted in 2006, and while LASPO delivered significant scope changes to legal aid, these calculations were retained and fees reduced further.

This section has also illustrated the high number of different fee rates applicable and alternative mechanisms that may further change the rates. There is some evidence that these structures could lead to some perverse incentives. For example, early advice is not necessarily always incentivised, and there are incentives for providers to hit certain cost thresholds in order to 'escape' standard fees. There are pricing models that better reflect the variability of costs, e.g., hourly fees or graduated fees, although the complexity and/or time required to bill the costs often translate into additional administrative costs for providers and the LAA.

Amongst the challenges that providers experience with fees, this section has also noted the important role cost recovery can play in sustaining providers in non-Family categories of law, and expanding these arrangements so they can apply across a wider range of cases could be an opportunity for policymakers to consider. Additionally, non-financial motives continue to play a strong part in providers' choice to actively participate in the civil legal aid market.

In the context of these findings, in the next section, we assess the available evidence on the extent to which providers report themselves to be profitable in the market.

8. Market profitability and competitiveness

8.1 Introduction

In Section 7, we considered the role of fees in the market. In this section, we consider how fees, together with other factors, impact profitability for providers and identify a framework for how this shapes their decision-making on market entry, exit, output and investment. We then explore how these factors might influence the structure of the market over the longer-term.

Robust evidence on market profitability is not currently available. The Law Society is leading a financial analysis exercise and has published an interim assessment of the profitability of providers delivering civil legal aid in the Housing category of law – however, these findings are subject to change in the final report.¹⁹⁶ In the absence of detailed quantitative data on provider profitability, our analysis is based on more qualitative findings from our Provider Survey, and evidence on market structure from analysing provider funding data. This is supplemented by evidence from the literature review to establish a broader analytical framework.

Our assessment of profitability in the civil legal aid market focuses on FP providers – as NFP providers will instead be more concerned with covering costs – as noted in Section 7.3, although we highlight some evidence on sources of income for NFP providers.

8.2 Assessing profitability in the civil legal aid market

Key findings and implications:

- Providers are influenced by a broader range of incentives than just profit. This helps to explain why providers continue to deliver civil legal aid work in the short-term, even if it is not profitable.
- However, it is unlikely that supply can be sustained over the longer-term without improvements in the viability of the commercial framework.

Economic theory suggests that profitability is the principal goal of FP firms because, without profitability, they will not survive in the long run. Current and past experience with profitability will also influence rational choices about future participation in the market.¹⁹⁷ In practice, though, our Provider Survey confirms that the desire to provide a high-quality service, offering access to justice for often vulnerable clients, is an important goal for many.

To understand profitability in the context of the civil legal aid market, it is necessary to distinguish between a provider-level view of profitability and a department or activity-level view. Measuring profitability of civil legal aid work on a standalone basis involves analysing the civil legal aid fee income (explored earlier in Section 7) and the costs involved in delivering the work for a case – both the “marginal” costs associated with supplying civil legal aid services and an appropriate allocation of firm-

¹⁹⁶ The Law Society (February 2024). *Research on the Sustainability of Civil Legal Aid – Interim Findings*. [online]. Available at: <https://www.lawsociety.org.uk/topics/research/housing-legal-aid-sustainability>

¹⁹⁷ www.extension.iastate.edu. (n.d.). *Understanding Profitability | Ag Decision Maker*. [online] Available at: <https://www.extension.iastate.edu/agdm/wholefarm/html/c3-24.html#:~:text=Profitability%20is%20the%20primary%20goal.>

level “fixed” costs (overheads). There will be multiple approaches for apportioning costs, which complicates the consistent measurement of profitability across the sector.

In practice, as a significant number of providers combine civil legal aid work with private work, it is likely to make more sense to judge profitability levels at a ‘firm’ rather than ‘activity’ level. If profitability from private work is sufficient to deliver overall firm-level profitability, providers may still choose to continue to take on civil legal aid work. In these instances, a provider may cross-subsidise their civil legal aid work through the returns made in more profitable private areas of work. Ultimately, though, without firm-level profitability, firms will not survive long-term, which is problematic for providers with a narrower focus. Additionally, there is a risk that FP providers may later leave the civil legal aid market and only operate in the private market.

In the next sub-section, we explore the reported levels of profitability among some of the providers that responded to our Provider Survey. We also draw on interim findings from the study of the profitability of providers in the Housing area of law commissioned by the Law Society. However, to form a more robust comparison with profitability levels in the broader legal sector, it will require the outputs from the final financial analysis from the Law Society study, as reported above. In principle, though, a range of demand-side and supply-side factors may influence provider profits by driving fee income or the costs they incur:

- **Demand-side factors:** Two factors largely dictate the level of fee income providers are expected to receive – the volume of client demand for civil legal aid services and the prices (fees) they can charge. We explored demand in Section 4 and fees in Section 7.
- **Supply-side factors:** Supply-side factors drive the costs firms incur in fulfilling market demand. A range of costs are involved with providing civil legal aid services – for example, costs for salaries for civil legal aid practitioners, travel costs, costs involved with complying with regulations and administration requirements, and office costs, including energy. The Financial Benchmarking Survey (2023) sets out several standardised cost categories for legal services companies, including: staff costs (including recruitment), Professional Indemnity (PI) insurance¹⁹⁸, IT expenditure, accommodation costs and other non-salary overheads.¹⁹⁹ The survey notes that historically, the general rule of thumb for staff costs, non-salary overheads and profit compared to income was 33%:33%:33%, however, this ratio no longer holds for the majority of law firms, as costs – particularly staff and utilities – have grown at greater rates than profit.

It is notable that there is limited scope for providers to influence demand-side factors, as they operate in a tightly regulated market where fees have been fixed and are recipients of demand, rather than being in a position to be able to stimulate this. While providers have more control over supply-side factors, the recent cost-of-living pressures have likely led to increases in their cost base.

It is also important to consider the time period over which a provider may analyse their future potential profitability. A provider may choose to forgo shorter-term commercial returns in the expectation of better longer-term financial prospects. For example, they may consider that they are able to absorb losses in the short-term to a better extent than their competitors. In this scenario, other providers may leave the market, and existing providers will be more able to increase market share over the longer-term. However, this is not expected to be prevalent in the civil legal aid market in the context of reported low levels of capacity amongst providers who struggle to take on additional work (as explored in Section 5.5). Despite the fact that fees have not increased since the 1990s there may also be expectations from some providers that the economic basis for the market may become more profitable over the longer-

¹⁹⁸ PI insurance covers the cost of compensating clients for loss or damage resulting from negligent services or advice provided by a business or an individual.

¹⁹⁹ Financial Benchmarking Survey 2023. (2023). [online] The Law Society’s Leadership and Management Section. Available at: https://d17yqm1j5pr274.cloudfront.net/Uploads/e/a/w/4957hwds1msbenchmarkingsurvey2023a462ppv629_608926.pdf.

term, e.g., that fee levels may be increased, and to maintain suitable skills to be able to capture these returns once they are available.

Wider incentives, beyond the consideration of financial returns only, were considered further in Section 7.6 above.

8.3 The level of profitability in the civil legal aid market

Key findings and implications:

- Qualitative evidence from our Provider Survey indicates that most providers (55%) do not profit from legal aid work.
- Some are able to cross-subsidise legal aid work from their private work, but if this picture is validated through planned further analysis, it raises serious concerns about the market outlook.

It has not been possible to robustly assess the profitability levels of civil legal aid providers during this study. There is a clear evidence gap in this area, which is being addressed through the Law Society's study of provider financial information, which will feed into MoJ's Review of Civil Legal Aid. Their interim findings on the profitability of providers in the Housing area of law showed that the majority of providers engaged were loss-making.

To triangulate these interim findings, we have also reported profitability levels from our Provider Survey to provide a high-level understanding of levels of profitability in the sector. These results should be interpreted with some caution given that it is self-reported data without further validation and there are different ways in which profitability is defined and measured.

45% of providers reported that their civil legal aid work makes a profit, with **33% making a loss** and **22% breaking-even**. These levels vary by where providers operate and also by the size of the provider organisation. For instance, among the North, Midlands and South, providers operating in the South have the lowest proportion of providers reporting making a profit (40%), compared to the North at 48% and Midlands at 54%.²⁰⁰ Comparing providers by size (number of employees), we see a mixed picture, with 53% of the smallest providers (1-10 employees) reporting being profitable, compared to 39% of Medium providers (11-50 employees), 51% of Large providers (51-250 employees) and 30% of Very Large (250+ employees).

Falling profitability has also been widely reported across the civil and criminal legal aid sectors by industry groups.^{201, 202}

Our Provider Survey sought to explore further the potential levels of profit that providers were able to obtain by asking respondents the following question: "*Thinking about your organisation's civil legal aid work in total, what is the approximate profit-margin?*". Only approximately 20% (n=45) of providers responding to the survey (all FP) answered this question, which may introduce bias into the results. For example, those that did not make a profit may not have considered this a relevant question, or only larger firms with better financial information may have felt equipped to answer. With those constraints acknowledged, the **mean profit margin reported was 10%**, while the **median was 7%**. Further research is required to understand how a large number of providers are able to operate profitably in the market while others are loss-making – and we expect further insights on this to be developed from the final financial analysis led by the Law Society to be published later in 2024.

Further research would also be required to ascertain how attractive this level of profitability is compared to other legal services. It is possible to make a high-level comparison with the median profit margin of

²⁰⁰ We are only able to report figures for these three regions as they had sufficiently large sample sizes to draw robust inferences.

²⁰¹ www.barcouncil.org.uk. (n.d.). *Running on Empty - Civil Legal Aid Report*. [online] Available at: <https://www.barcouncil.org.uk/resource/running-on-empty-civil-legal-aid-full-report.html>.

²⁰² Transforming Legal Aid: Next Steps A Report for The Law Society of England and Wales and the Ministry of Justice. (2014). Available at: <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/otterburn-legal-consulting-a-report-for-the-law-society-and-moj.pdf> [Accessed 21 Sep. 2023].

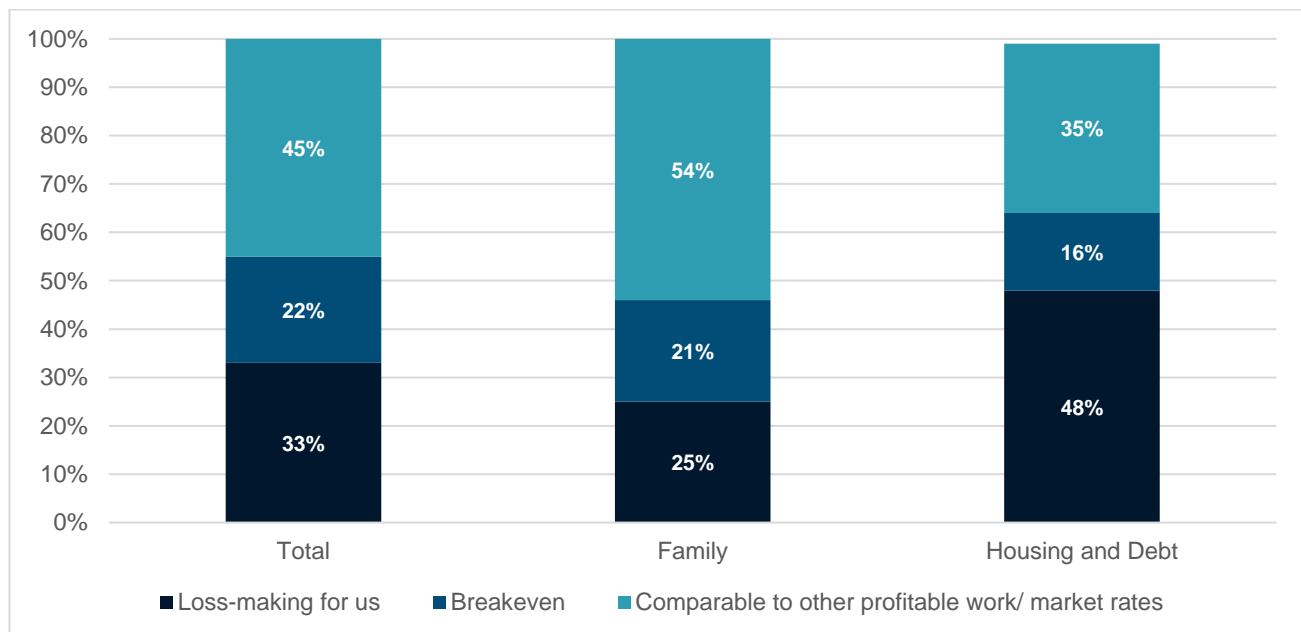
21.7% for all legal services reported from The Law Society’s Financial Benchmarking Survey (2023).²⁰³ While these figures are not directly comparable, this does suggest that profits, where they are made at all, might be considerably lower than in other areas of law. Feedback from our Provider Survey supports this:

“Fee earners are having to choose to offer legal aid work at £50-£60ph, where the clients need a high level of service and help and the cases can be very stressful, over private work at £250-£300ph, where cases have a far lower volume. It is unsustainable. The commitment everyone has to offering this work, which we do because it is the right thing to do and because we enjoy it, can only go so far, no business can undertake work at a loss.” Private Practice organisation, London

“The remuneration for the civil legal aid work undertaken has not increased in line with inflation over the past two decades. It is especially difficult to make civil legal aid work profitable and to sustain the financial standing of the firm. The costs to run a firm have increased over the years. The number of hours worked on average by each fee earner have increased exponentially over the years with good productivity. However, this is not necessarily reflected in the revenue generated. It is impossible for a firm to be sustained alone on a commercial basis by undertaking civil legal aid.” Private Practice organisation, Multiple Regions

It is likely that profitability levels will also vary between different areas of law within civil legal aid. Figure 51 below compares the overall distribution of reported profitability levels with the specific figures for Family and Housing and Debt. It is not possible to show the breakdowns for other civil legal aid categories of law because the survey sub-samples are too small to draw robust inferences. The chart shows that Family work was profitable for a higher proportion of providers (54%) than the aggregate across all categories (45%). Conversely, only 35% of providers practicing Housing and Debt reported that the work was profitable.

Figure 51: Proportion of respondents reporting civil legal aid service provision being loss-making, break-even or profitable



²⁰³ Financial Benchmarking Survey 2023. (2023). [online] The Law Society’s Leadership and Management Section. Available at: https://d17yqm1j5pr274.cloudfront.net/Uploads/e/a/w/4957hwdslmsbenchmarkingsurvey2023a462ppv629_608926.pdf.

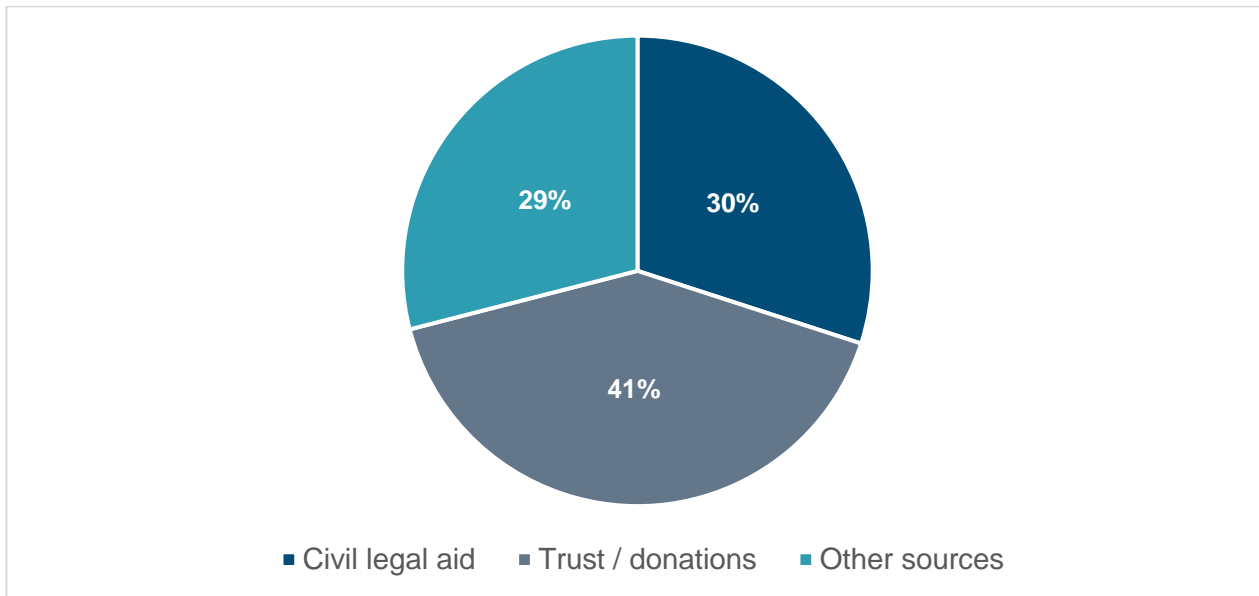
Source: PA Consulting Provider Survey (2024), Q23: Thinking about the last financial year, how profitable or unprofitable are the different areas of legal aid your organisation operates in? Providers shown a 7-point scale. Base: Profit-making firms – Each firm provides one answer for each contract held (n=228, Profit-making Family providers (n=132), Profit-making Housing and Debt providers (n=31).

We showed in Section 5 that Family is the most popular category of law that civil legal aid providers hold a contract for and accounts for the highest number of civil representation cases. Providers holding Family contracts have above average tenure, with 62% having held their contract for 20 or more years. Furthermore, in Section 7.3, we showed that Family fee rates are among the highest of all the categories of law – particularly for Family public law – which may explain why respondents reported Family as a more profitable category of civil legal aid work.

In contrast, Section 5.6 showed the number of providers holding contracts for Housing & Debt both declined by 45%, while offices declined by 53% since April 2013. The lower levels of profitability shown here may explain these high exit rates.

While it is not possible to assess the financial health of NFPs serving the market in the same way, our Provider Survey included a question on the sources of income for NFP providers. Figure 52 below shows that on average, only 30% of a NFPs revenue comes from civil legal aid fees, while the other 70% comes from charitable donations and other sources, such as grants. Unfortunately, we are not able to match this data with an analysis of what proportion of activity is covered by civil legal aid activity.

Figure 52: Average revenue source breakdown of non-profit firms



Source: Provider Survey, Q8: Approximately what proportion of your organisation’s overall revenue comes from the following areas (civil legal aid/ trusts or donations/ other sources)? Base: Non-profit organisations (n=39)

As noted in Section 7.2, providers may use cross-subsidisation to help fund their civil legal aid activities. The data in Figures 51 and 52 above indicate that a large proportion of providers rely on other funding sources – since 33% of FP providers report their activities are loss-making (i.e., regulated fees do not cover their costs) and NFP providers reported a diversified source of funding.²⁰⁴

²⁰⁴ It may be that NFP providers carry out a range of non-civil legal aid work, for which the other sources of funding provide support.

8.4 The role of profit in driving supply

Key findings and implications:

- While a wide range of incentives impact providers' decision-making, the economic literature suggests anticipated profitability is expected to be the key determinant of market supply.
- Profitability is likely to play a bigger role in categories of law where providers can more easily seek alternative income sources (e.g., in Family, where more private work might be available).

Well established economic theories on the nature of profit-making firms state that firms exist to make profits and they will base their market provision decisions on this alone.²⁰⁵ Whilst each provider in the civil legal aid market will base their decisions on a slightly differing set of factors, including the aim of providing access to justice for vulnerable clients, in reality this is underpinned by the need to make profits over the longer-term. Therefore, we view provider profitability as the primary lens through which to assess provider decision-making (NFP providers will not have a profit motive – although they will still seek to avoid making a loss).

Supply decisions will be made differently across different categories of law – and some may therefore be more or less sensitive to profitability drivers. For example, in areas such as Mental Health and Community Care – where most provider income is expected to come from legal aid cases, they may be more sensitive to profitability than providers in Family Law, which may be more able to diversify their income source by seeking more private work.

The potential impact of profitability in decision-making is reinforced by Wilding (2023)²⁰⁶ through case-studies of providers of civil legal aid. This study found that all profit-making providers interviewed had put more of their resources into private work versus civil legal aid work because of the higher profits available, and most NFPs had reduced the size of their teams supporting civil legal aid work or they had moved people onto grant-funded projects rather than casework. This highlights a risk to the future sustainability of provision: poor profitability from civil legal aid funding will continue to cause providers to leave the market or may cause them to reduce their civil legal aid provision, yielding possible supply-side effects.

Our Provider Survey offers some concerning evidence that some providers may be responding to incentives in fee structures to prioritise the most financially sustainable cases to support, leading to negative impacts for those users who are not able to secure an advisor:

“The need for our services far outstrips the number of workers we have in place. We need more caseworkers, but legal help rates make this difficult. The only option is to cherry pick cases.”

Non-profit organisation, South-West

There is evidence that this is especially impacting legal help cases, with some providers stating that these lower-fee cases are particularly difficult to deliver economically. This may help partly explain the disproportionately large fall in legal help cases compared to civil representation cases set out in Section 4.

²⁰⁵ Coase, R.H. (1937). The Nature of the Firm. *Economica*, 4(16), pp.386–405. doi:<https://doi.org/10.1111/j.1468-0335.1937.tb00002.x>.

²⁰⁶ Wilding, J. (2023). The Legal Aid Market. Policy Press.

“Legal Help is not cost effective...it is a “loss leader” for doing work.” For-profit organisation, North East

“The rate of legal help fees has not increased in line with inflation and we yet are expected to increase wages and pay increased costs. In order to make the business viable we are having to overwork and underpay our staff which is demotivating and has resulted in a loss of key personnel within our business.” For-profit organisation, South West

In summary, the reported lack of profitability for the majority of providers, if validated through further analysis, raises concerns about the outlook and sustainability of the market – as we would expect provider numbers and offices to continue the downward trend shown in Section 5.3 and for providers to consider reducing their civil legal aid provision. It is important to caveat this view as we understand providers doing civil legal aid work have complained of poor profitability for quite some time. For instance the Westminster Commission on Legal Aid (2021) noted that “the overwhelming consensus from the evidence that we heard throughout the Inquiry was that legal aid work and the rates payable are not financially viable for practitioners” – but a large number of firms continue to operate and supply the market, alongside those that leave. A more detailed analysis of the cost drivers of profitability is required to fully examine this. However, there may be reasons to anticipate that this time it may be different for provider firms, as recent ‘cost of living’ pressures and periods of high inflation may have eroded profits to now unacceptable levels. Falling or low profitability may also drive other outcomes, such as quality, and this is assessed in more detail in Section 9.

9. Market outcomes: Efficiency and effectiveness

9.1 Introduction

In this section, we bring together the findings outlined in Sections 4-8: i.e., the supply and demand dynamics of the civil legal aid market; the fee, payment and incentive structures that influence the operation of the market; and the profits that are available in it, to assess the current state of the civil legal aid market and its ability to deliver optimal outcomes.

We do this by assessing the current level of efficiency and effectiveness of the market. The MoJ Terms of Reference for RoCLA define efficiency and effectiveness as two distinct concepts:

- **Efficiency:** “whether resources are used to deliver civil legal aid in the: simplest and quickest way; with minimum bureaucracy and administrative burden; leading to timely resolution of problems; and at least cost”.
- **Effectiveness:** “the measure of how well the civil legal aid services delivered achieve the desired outcomes of every eligible person who needs it and at the earliest opportunity”.

It is important to recognise that civil legal aid is not a ‘conventional’ market in the classical sense of the term and that the market forces for delivering efficiency and effectiveness play out in a very different way. We set out this important context below before examining efficiency and effectiveness in turn. We start by articulating the key dimensions of efficiency/effectiveness that can be measured, then set out the available evidence base to date in each of these areas and draw relevant conclusions for the health of the market. In Section 10, we will build on the assessment of the current state of the market to assess its future outlook and ultimately its long-term sustainability.

9.2 Market forces within civil legal aid

Established economic literature characterises a competitive market as having:

- **Many buyers and sellers:** There are a large number of buyers and sellers in the market, and none of them can individually influence the market price.
- **Free entry and exit:** Firms can enter or leave the market without any restrictions.
- **Perfect information:** Buyers and sellers have all the information they need to make decisions about the products/services being bought and sold.
- **Prices close or equal to marginal cost:**²⁰⁷ Profits are relatively low, but the market is still attractive enough to new entrants and potential innovators.

In a competitive market, competition between firms results in a market price that delivers sufficient supply to meet demand at maximum levels of efficiency and effectiveness. While it is important to note

²⁰⁷ Marginal cost reflects the cost added by producing one additional unit of a product or service.

that it is rare for any market to reflect 'perfect competition', in civil legal aid, market forces either do not apply, or are very limited, in two important senses:

- **Prices are fixed and regulated by government:** Prices, in terms of regulated fees that Section 7 found apply to the majority of civil legal aid cases, are set by public policy and are not the result of competition. These are reported by providers to be close to (or below) marginal costs, with many providers reporting low (or negative) profitability.
- **Competition plays a very limited role:** The LAA contract commissioning process is designed to secure sufficient capacity and coverage, rather than inviting competition in a meaningful sense. The only feasible ways in which providers can compete are through conducting the work more efficiently (and therefore improving the ability to take on more cases) or through quality dimensions (e.g., the 'brand' of the provider or the skills and experience of individual lawyers). In practice, capacity constraints likely mean that competition is limited. As a result, end users do not always have an effective choice when selecting a provider and instead are willing to engage with any provider that can take on their case.

In these senses, the civil legal aid market might be considered to have similar characteristics to other provider-based markets where the government controls the price mechanism – such as the NHS optician or dentistry markets. With market forces constrained, there are a more limited set of levers available for delivering a competitive, efficient and effective market. For example, providers may be able to become more efficient through economies of scale (e.g., through consolidation, or through investments that reduce their long-run marginal costs). However, market outcomes are most likely to be driven by the design of regulatory structures and fees that have, in a sense, replaced traditional market forces. In our analysis on both market efficiency and effectiveness below, we seek to identify the drivers of the trends observed and relate these back to specific features of the regulatory and fee structures, where applicable.

9.3 Efficiency

Key findings and implications:

- Evidence points to end users experiencing challenges securing support from civil legal aid providers.
- Providers report they are struggling, to a degree, in engaging the LAA as part of the application process.
- The majority of categories of law have seen an increase in average case duration, which may be increasing the costs (financial and non-financial) to end users.
- Average case costs have increased over time, but regulated fee levels have not increased.
- The overall efficiency level of provision by providers may have risen.
- The level of prescription within the fee regime means that providers are not incentivised to optimise their delivery of services, innovate, and improve market efficiency as a whole.
- Some evidence points towards LAA operational efficiency improving over the last decade.

The dimensions of efficiency

In line with the MoJ definition, an efficient civil legal aid market is one where resources (both capital and labour) are marshalled to deliver civil legal aid funded legal services to eligible users simply and quickly, resolving cases in an acceptable length of time and minimising costs to all market participants

(particularly the administrative burdens placed on providers and users). In this section, we consider efficiency in each area, cross-referencing relevant data and analysis from earlier sections of this report. In doing so, we seek to assess the functioning of the market in terms of both “productive” efficiency and “allocative” efficiency.²⁰⁸

Simple delivery of civil legal aid and quick resolution of cases

Resolving legal issues swiftly is an important outcome for individual end users, who often have highly sensitive, emotionally draining and time-sensitive problems to resolve, and it helps to minimise costs that are incurred across the civil justice system. Delivering civil legal aid simply and quickly is an important enabler of efficient resolution of cases, but it is not the only determinant. It also relies on other factors such as the availability of judges, barristers and court rooms.

In assessing the simplicity and speed of the civil legal aid system, there are a range of dimensions to consider, including:

- The ability for end users to quickly apply for civil legal aid;
- Interactions with LAA systems, such as eligibility checks; and
- The time it ultimately takes to resolve the legal problem.

The ability for end users to quickly apply for civil legal aid

Section 3 defined the typical pathway that end users go through to obtain civil legal aid services and Section 4 explored the wide-ranging issues that exist in that pathway. This ranges from a lack of awareness of the scope and eligibility criteria for civil legal aid to difficulties locating the correct documentation for applications.

In Section 5.5, we showed that, according to responses to our Provider Survey, 50% of providers describe the level of demand they experience as ‘very high’ or ‘overwhelming’. Providers that were experiencing a high level of demand (80%) reported turning down an average of 26 cases in the preceding month, although eligibility has likely not been assessed at this point. When considering the declining number of providers and offices (as shown in Section 5), along with the capacity issues described here, it’s likely that **end user access to civil legal aid services has worsened in recent years**. This problem is more acute in certain categories of law, with particular constraints in Immigration & Asylum and Housing & Debt reported in our Provider Survey, as examples. However, it should be noted that definitive conclusions on how recent supply trends compare to demand trends, and subsequent user access, are challenging because mixed supply-side effects have been observed. On one hand, while provider numbers and offices have contracted, providers are delivering higher caseloads and there is evidence of a limited degree of consolidation occurring in the market.

We do not have evidence to establish the impact on individuals of difficulties in gaining access to civil legal aid, for instance, due to a lack of provider capacity. Theoretically, the impact could be minor if they quickly find another legal aid provider with capacity to take their case, or more severe if the delay exacerbates the individuals’ legal issues – which in turn may make their cases more complex and require longer to resolve (an example of ‘failure demand’). Another serious potential outcome could be that these individuals fail to get legal representation and either fall out of the system or attempt to represent themselves as Litigants in Person. In Section 4, we described individuals who tried to access civil legal aid, but were unsuccessful, as ‘latent demand’.²⁰⁹ Both failure demand and latent demand would constitute examples of inefficiency in the civil legal aid market, which have the potential to create

²⁰⁸ Productive efficiency relates to achieving the lowest cost of production to deliver a set output, whereas allocative efficiency relates to allocating resources in a way that achieves the highest welfare benefit, relative to production costs.

²⁰⁹ Individuals that were unsuccessful in accessing civil legal aid funded services due to ineligibility are beyond the scope of our assessment.

additional costs either for the civil justice system or the government more broadly if individuals are unable to access support to resolve civil legal problems. There is some exploratory evidence that supports the hypotheses that escalating legal needs can create higher burdens for the government over the long-run.²¹⁰

We believe this issue is worthy of further examination and note that the User Journey Social Research workstream of RoCLA has conducted end user research to understand the experiences of people who have previously received civil legal aid, and identify issues from their perspective. The findings of this study will need to be tested against the findings of that workstream.²¹¹ However, the lack of information available on those who fail to enter the civil legal aid system is likely to remain a key limitation.

Interaction with LAA systems

The typical end user pathway noted earlier (Section 3) shows that providers submit applications with client information to the LAA to verify eligibility, and the LAA may request further information as part of the process. In Section 7.5, we analysed how quickly civil legal applications are processed by the LAA. It has a KPI target of processing at least 85% of applications within 20 working days. The data showed that in the past 10 years, the LAA exceeded that target, processing an average of 95% of applications. This includes a significant number of straightforward cases that are 'passport' (e.g., because they are in receipt of Universal Credit), but we do not have data that explores how long the LAA takes to process the 'tail' of remaining applications that are slower than the 20 working days target.

In Section 7.5, we also explored the issues reported by providers in our Provider Survey. Two issues raised are linked to the application process of the LAA (possibly alongside other interfaces that providers have, such as billing and the peer review process): (1) 'LAA has poor IT infrastructure' and (2) 'Difficulty with LAA decision-making'. For both issues, 94% of providers responding to the survey reported that they had experience with the issue; and 43% and 29% respectively reported experiencing poor IT infrastructure and decision-making issues on a weekly basis.²¹²

This suggests there are mixed views of LAA systems. **While the LAA appears to be efficient with the issuing of payments, providers may benefit from greater opportunity to query decisions and access to more user-friendly IT systems.**

The time it ultimately takes to resolve the legal problem

While it is important to consider the time it takes to obtain civil legal aid support, a more significant factor to analyse in terms of overall market efficiency is how long it takes to resolve civil legal aid cases, and the presence of backlogs in the system. In Section 5.5, we examined the length of time it takes for cases to complete. We found that for civil representation cases in particular, the average duration in days fell for Family by 8% (from 657 to 608) and grew for non-Family categories of law by 34% (from 744 to 1,041) between 2010-11 and 2022-23. We inferred, at least for non-Family categories of law, that this is one important explanation of why average case costs (i.e., provider revenue) have increased over a similar time period, resulting in higher legal aid expenditure overall.

These trends are similar to those seen in the wider civil justice system, indicating that this is not caused by legal aid-specific factors but is a symptom of the recovery of the civil justice system following the Covid-19 disruption. However, the consequences of these delays are potentially more significant for legal aid providers and users than for other legal services. For example, evidence in Section 8 suggests that profitability is lower for providers of civil legal aid than other legal services, and so they may be less able to absorb additional costs created by these delays. This situation may be exacerbated by the fact

²¹⁰ Leckie C., Munro R. & Mark Pragnell M., (2021), 'Defending the Public Purse: The Economic Value of Free Advice', CEBR and Pragmatix Advisory, p 7.

²¹¹ The two workstreams have worked in relative isolation, and we have not had the opportunity to review their evidence and findings while preparing this report.

²¹² It is not possible to know precisely whether these reported issues relate exclusively to the case application process.

that costs associated with managing the end user are typically not able to be reclaimed in civil legal aid, whereas other providers delivering non-legal aid services may be able to pass such costs onto users.

Secondly, in some categories of law, these delays have caused average cases to last a very long period of time. Three of these categories, specifically Claims Against Public Authorities, Immigration & Asylum and Clinical Negligence have average durations of over four years, as of 2022-23. Where providers are only able to bill for costs once a proceeding has occurred or a case has been resolved, this may cause cashflow problems and difficulties in financing working capital, although it is worth noting that in civil representation cases, providers can be compensated for up to 80% of their costs while cases are ongoing through Payment on Account. Clearly, very long case durations also impact end users who may have to wait protracted periods before their legal problems are resolved, which may lead to indirect costs such as emotional harm (please see below).

The way the market is structured – provider operations

In Section 5, we assessed the structure of the market, including changes in the size distribution of providers between 2010-11 and 2022-23. We found that the proportion of small providers with only one office declined (from 81% to 73%), and providers with higher annual fee incomes grew in market share over the same period, e.g., providers with revenue from closed cases of more than £500,000 grew from 17% to 35%. Taking this information together, it appears the market is shifting towards larger providers, perhaps because small providers are more sensitive to fee challenges – as explored in Section 7 – or the market barriers and issues explored in Sections 5.12. If the remaining providers in the market are better able to deal with the conditions of operating than those who have exited, e.g., the level and complexity of regulated fees, the ability to hire and retain expert practitioners, etc., **then overall provider efficiency may have risen**. However, it is important to note, providers that have exited the market may have done so for reasons less connected to efficiency – such as difficulties in replacing key practitioners who are retiring. Equally, it is also important to note that our Provider Survey highlights a more nuanced picture of larger providers' experience in the market. Providers with 51-250 employees were found to be more likely to have stopped holding at least one civil legal aid contract, voiced significantly more frustration at some of the most significant issues reported in the market (e.g., fees and workforce issues), but were less likely to report they would leave the sector in the coming years.

Another factor influencing provider efficiencies stems from the incentives contained in the intricacies of the fees system. Section 7 examined the fees system in detail and described how thresholds in the system (such as 'escape' thresholds or thresholds involved in being assigned as a "high cost case") may plausibly create incentives for providers to deliver additional legal tasks and activities than are strictly necessary in order to reach such thresholds and obtain greater returns (although these costs are subject to assessment when providers give LAA notice that they have met the escape threshold). These incentives may be particularly acute in the context of the flat fee levels seen in the market over an extended period. Specialist cost draughtsmen advise on the ways in which cost recovery can be maximised within the regulations. While we do not have evidence on how this influences provider behaviour, it could potentially encourage providers to deliver services in a certain way to trigger additional fee events. While Section 5.5 highlighted the rise in cases hitting escape fee thresholds and being classified as a high cost case over time, it is not possible to conclude that this is being caused by provider behaviour, and other factors such as a growing complexity and length of civil legal aid cases are likely to play an important role.

At the same time, the level of prescription within the fee regime means that providers might not be incentivised to optimise their delivery of services to improve overall market efficiency. For example, one practitioner gave us an example of seeking to undertake detailed preparation work to reduce the need for fact-finding exercises in court and the required number of court days, reducing costs in the wider justice system. However, this activity was not eligible for reimbursement, compelling them to pursue the

billable but less efficient course of action.²¹³ Similarly, rigidity in fee structures may not provide sufficient incentives for providers to innovate around service delivery, given the uncertain impact that new forms of working may be covered by what's currently billable in the system. The absence of meaningful competition also removes an incentive to invest in service optimisation to improve services and advice to end users. This is more of an issue for smaller providers, both FP and NFP, which are less likely to be able to fund investment in innovation such as legal technology ('lawtech'), which has the potential to improve efficiency. Given this, the MoJ and/or LAA could explore investing in capacity building for providers, such as incentives to encourage investment and innovation.

Delivering civil legal aid at least cost, and with minimum bureaucracy and administrative burden

The administration and delivery of civil legal aid services sees market participants incur a range of different costs – both direct (financial) and indirect (impacting time and resources). To assess the degree to which civil legal aid is delivered at least cost and with minimum bureaucracy and administrative burden, we consider the following:

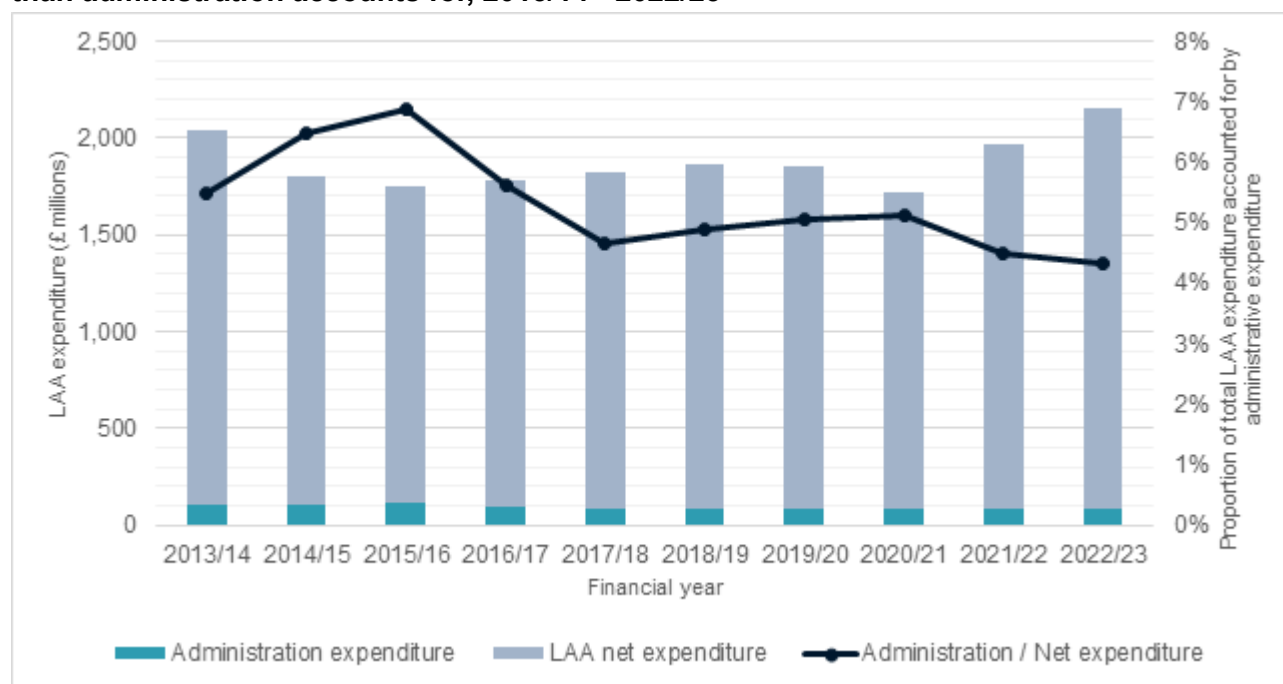
- Costs incurred by the LAA to administer the civil legal aid system
- Costs incurred by providers in the civil legal aid system
- Level of bureaucracy and administrative burden experienced by providers
- Costs incurred by end users in the civil legal aid system.

Costs incurred by the LAA to administer the civil legal aid system

As described in Section 3, the LAA is responsible for regulating and administering the legal aid system. We can assess the level of operational efficiency in the administration of the system through the LAA's published performance data. Figure 53 below, shows that LAA administrative expenditure represents a small portion of total funding to deliver civil legal aid (shown by line), falling over the last decade from approximately 5.5% to 4.3%, from £106m in 2013/14 to £90m in 2022/23.

²¹³ The case study example was provided by a practitioner at LAPG Annual Event, while working on a high-cost family case.

Figure 53: LAA total and administrative expenditure, and the proportion of the total expenditure than administration accounts for, 2013/14 - 2022/23



Source: PA analysis of LAA annual reports and accounts for the financial years 2013/14 – 2022/23

While further analysis would be required to identify the full range of factors at play and draw firm conclusions around the level of operational efficiency achieved by the LAA (for instance, comparing against the operational efficiency of public bodies in other jurisdictions that administer legal aid), these findings could indicate that LAA operational efficiency has improved over the last decade. However, this does not capture the potential consequences of improved efficiency for the effectiveness of the services that are delivered to providers and this is discussed in more detail, below.

Costs incurred by providers in the civil legal aid market

In Sections 5.5 and 5.6, we found that average case costs for civil representation and legal help have increased over time, despite regulated fee levels having not increased. We concluded that this is more likely being driven by higher average complexity levels of cases (due to scope changes from LASPO that removed some more straightforward cases) and consequential longer case durations, as described earlier in this section. While this would imply a reduction in market efficiency over time, the more recent increase in costs may more likely reflect a reduction in efficiency in the overall civil justice system as a result of court backlogs resulting from Covid-19. Other factors could also be playing a role – for example, as discussed above, it is plausible (but unproven) that providers are becoming more knowledgeable about how to maximise the fees they are able to claim for under the Regulations. This would also reduce market efficiency, but it is not possible to validate the importance of this factor. Overall, it is not possible to identify changes in provider efficiency in the current data and more detailed research would be required to assess this.

Level of bureaucracy and administrative burden experienced by providers

As explored in Section 7.5, providers tend to be dissatisfied with the processes and administration requirements of the civil legal aid system. In our Provider Survey, out of 19 potential pain points involved with delivering civil legal aid, providers ranked administration related to the service user, administration related to payments, and poor IT infrastructure as the 5th, 6th and 7th highest priority issues respectively, with over 92% of providers experiencing these issues at some point when providing services (and over 40% of providers experiencing these issues on a weekly basis).

One area where the level of administrative burden differs is between Controlled and Licenced Work – explained earlier in Section 7.5. The MoJ Means Test Review drew attention to the operational

differences in legal aid provision between Controlled and Licenced Work, and the implications of this.²¹⁴ Legal aid providers are responsible for conducting means assessments in legal help cases (Controlled Work), while they only process evidence in legal representation cases (Licenced Work). This distinction results in an increased burden, especially for Controlled Work. The LAA uses a 'Benefit Checker' tool in Licenced Work, which leverages Department for Work and Pensions (DWP) data to determine eligibility for passporting, but this tool is currently not available for Controlled Work, adding complexity and workload for providers in these cases.

The issues faced by providers can further reduce the efficiency of the market through the knock-on impact for barristers. For example, in our Barrister Roundtables, it was noted that barristers typically need to rely on the provider organisations that instruct them to submit claims on their behalf to reimburse their costs. They experience 'aged debt' in which they sometimes have to wait long periods of time to receive these reimbursements.

It is not possible to precisely quantify the impact of the administrative burden placed on providers. The Impact Assessment published alongside the MoJ's recent proposals for updating the means test for civil legal aid provides some estimates – suggesting that £50-75m of additional income to providers would require £3m of “additional administrative work...along with other administrative burdens”. This suggests **administration costs might be equivalent to 4-6% of incremental fee income**. Guy Beringer CBE KC estimates that all frictions could amount to £50m of unrecoverable costs for civil legal aid providers per annum.²¹⁵

Costs incurred by end users in the civil legal aid system

In considering the overall efficiency of the civil legal aid system, it is also important to recognise the costs incurred by end users. These may also be financial in nature – e.g., the time spent engaging with the legal dispute and holding discussions with the provider, which may be at the expense of work hours.

More broadly, civil legal aid cases may also potentially involve “hidden costs” in relation to adverse social, economic and mental health impacts. These costs may further exacerbate negative factors such as debt, unemployment, and associated anxiety/stress disorders that might have originally triggered the legal issue. The accumulation of these costs could negatively impact society, creating pressure on services such as the health and welfare systems. Exploratory analysis for the MoJ has indicated that these costs rise the longer it takes to resolve cases²¹⁶ and therefore an assessment of these costs is likely to be linked to the average duration of cases, as discussed earlier in this section. In other words, **the costs to end users of civil legal aid has likely increased in line with the longer length of time it is taking the civil justice system to resolve these cases**. While this finding cannot be attributed to the efficiency of civil legal aid and is more of a symptom of a reduction of efficiency in the wider civil justice system, it may also be true that the impacts are more significant for the end users of civil legal aid. These often represent some of the more vulnerable groups in society and have lower incomes and more challenging financial circumstances than other users of civil justice.

²¹⁴ GOV.UK. (n.d.). *Legal Aid Means Test Review*. [online] Available at: <https://www.gov.uk/government/consultations/legal-aid-means-test-review/legal-aid-means-test-review>.

²¹⁵ Guy Beringer.(2023). *Legal Action Group— A New Approach*. [online] Available at: [Legal Action Group | Civil legal aid – a new approach \(lag.org.uk\)](https://www.lag.org.uk/legal-action-group-a-new-approach)

²¹⁶ PA Consulting (Unpublished). Discussion Paper: Towards quantifying the costs of civil, family and tribunal (CFT) legal disputes.

9.4 Effectiveness

Key findings and implications:

- There is evidence of growing geographic variations in the availability of civil legal aid. This may be exacerbating access issues for end users in particular areas (those seeking face-to-face support).
- In light of evidence on recent demand and supply trends, complemented by evidence on potentially eligible users who are turned away, it's possible that the market is not fulfilling current demand from end users. However, a key gap in our evidence base is what happens to individuals that are turned away by providers.
- Approximately one third of respondents to our Provider Survey reported making a loss in delivering civil legal aid services, signalling the difficulties they can experience and the disincentive it can generate to continue serving the market.
- In regulated industries such as energy, water and rail markets, regulatory price setting typically allow for inflation-linked costs to be recovered plus an acceptable level of profit above this. There may be an opportunity to consider a similar price-setting framework in civil legal aid, updating the modelling exercise undertaken in 2006.
- Providers are constrained in their ability to increase provision due, in part, to difficulties recruiting and retaining skilled practitioners.
- It appears that the quality of civil legal aid provision has been maintained despite the challenges in the market, although data on quality is somewhat limited.
- Further research is needed in this area to understand if a fall in civil legal aid provision is leading to an increase in litigants-in-person.

The dimensions of effectiveness

In line with the definitions that the MoJ has stipulated as part of its Review, an effective market is one that delivers against its core objective – to deliver high-quality civil legal aid services to eligible end users, helping to resolve cases at the earliest available opportunity. In this Section, we build on our assessment of market efficiency and consider a range of dimensions of market effectiveness – namely, the ability of the market to fulfil the demand from eligible end users, the provision of the correct amount of support, the quality of services that are provided to end users and the outcomes that are achieved.

The ability of the market to fulfil demand

A key aspect of market effectiveness is that users who are eligible for civil legal aid can successfully obtain it. Our analysis in Section 4 has identified the challenges users may experience obtaining civil legal aid (see Figure 4) – with individuals being either unaware of the civil legal aid process and/or their eligibility or the multiple pinch points in the application process where they may drop out.

Understanding the scale of this potential 'latent demand' is very challenging and cannot be estimated at any level of precision. Further research is needed to understand the level of awareness among individuals experiencing legal problems. We understand that the MoJ had planned to run a civil legal aid and legal support awareness campaign several years ago however, this was ultimately not carried out as disruption from the Covid-19 pandemic diverted focus.

There is evidence from our Provider Survey that very high demand levels are leading to providers turning away potentially eligible clients. For instance, in Section 5.5, we showed that, of the providers responding to our survey that reported experiencing 'high' demand (80%), they reported turning away on

average 26 cases in the preceding month (without yet necessarily assessing their eligibility).²¹⁷ Further, we showed that the figure differs by the type of providers and where they are located, for instance, FP providers reported turning away 22 cases on average vs 39 for NFP providers, and smaller providers (1-30 employees) turned away 23 cases on average vs 30 for larger (30+ employees), and providers in London reported turning away 47 cases on average, compared with 17 for the rest of England and Wales. Overall, this data, supported by our analysis of recent demand and supply trends, suggests that the market may not be fulfilling current demand from end users and that capacity constraints are not felt uniformly by providers. However, **a key gap in our evidence base is what happens to individuals that are turned away by providers** – i.e., are they successful in finding an alternative provider? Without this evidence, it is difficult to definitively conclude whether the turning away of potentially eligible users is resulting in unmet legal need. The User Journey Social Research workstream of RoCLA does shed some light on this – with prospective users often approaching multiple providers; some appear to be successful in securing support from another provider, and others represent themselves as a litigant in person.

Section 5.9 also highlights that any shortfall in provision is unlikely to be uniform across England and Wales. This analysis indicates that variations in provision at a local level have led to some areas being under-served, with very few civil legal aid provider offices present to provide face-to-face advice to individuals in local communities. While there is potential for a growing role of civil legal aid provision via online or telephone channels, **reduced geographical coverage of providers may further exacerbate individuals' difficulties in securing support from providers and getting support** – particularly for more vulnerable members of society who depend more on local face-to-face support.

A key incentive for providers is the revenue they earn from delivering civil legal aid services – predominantly in regulated fees and additionally through cost recovery (both explored in Section 7). Regulated fee rates have largely not changed since the late 1990s, while the introduction of LASPO cut some fees by up to 10%. Meanwhile, provider costs will likely have risen during that time, for instance, labour and accommodation costs, due to increases in inflation and other factors. Our Provider Survey shows us that 70% of providers reported experiencing issues with fees being 'lower than required' on a weekly basis. In Section 8.3, we assessed the limited profitability data gathered by the Provider Survey that tell us, on average, 45% of providers reported making a profit on their civil legal aid work, 22% break-even and the remaining 33% make a loss. This finding was reinforced by interim research commissioned by the Law Society that showed that the majority of providers of civil legal aid in the Housing category of law that were engaged with as part of the study, were loss making. **33% of providers making a loss is a substantial proportion, which if representative of the provider population, signals the difficulties providers can experience and the disincentive it can generate to continue serving the market, which may prompt providers to leave the market or reduce their provision.**

Given that evidence already points to potentially eligible users being turned away, if disincentives in the market lead to further contractions in supply, this problem is likely to get worse, presenting risks to market sustainability (analysed in more detail in Section 10).

In regulated industries such as energy, water and rail markets, regulatory price setting exercises typically set prices for a five year future period and allow for inflation-linked costs to be recovered, plus an acceptable return to be made above the cost of capital to make long-term investments that create additional public value. **There may be an opportunity to consider a similar price-setting framework**

²¹⁷ It is important to note the following caveats: (1) While providers were asked specifically about eligible cases, it is unlikely that all the inquiries would have been eligible. (2) It is not clear the extent to which the inquiries turned away were subsequently taken on by different providers – data does not exist for this. (3) The average of 26 reported relates to providers that reported "very high" demand, and therefore the average may be lower for all providers.

in civil legal aid, updating the modelling exercise undertaken in 2006 – that last analysed fees in the context of the costs of delivering civil legal aid.

The quality of legal aid services provided

It is also important to consider the quality of legal services provided to end users. An effective market in this context would see services provided in accordance to industry regulations and standards, in line with those found in the private sector, and produce satisfied clients, while recognising that client satisfaction will be influenced by the outcome of the case.

In Section 5.11, we explored the concept of quality in legal services and specifically the civil legal aid market and showed how this can be assessed through analysing data from the LAA's Independent Peer Review process and through complaints to the Legal Ombudsman. Our analysis of LAA data shows that the proportion of Peer Reviews failing has trended down over the last decade, with the proportion of Peer Reviews failing (achieving a score of 4 or 5 – below required competence levels) falling from 18% in 2014-15 to 9% in 2022-23. Similarly, Legal Ombudsman data reveals that 1.6% of complaints have related to publicly funded provision since 2018, equivalent to 0.03% of legal aid funded cases. Given that this latter analysis would capture criminal legal aid as well, we can assume that civil legal aid would be a subset of that figure. We are limited in our ability to robustly test the substantiveness of this figure; however, it clearly represents a very small proportion of all cases. Both of these measures **indicate that standards and quality have been maintained in the market despite the challenges it is facing, although the robustness of this conclusion is limited by a lack of data on quality-related metrics.**

Case outcomes

In the scenario where a provider undertakes both civil legal aid and privately funded cases, the lower fees associated with the former provide an incentive for practitioners to spend more time on private cases (potentially at the expense of civil legal aid work). We explored the comparison of regulated fees and private rates in Section 7.3, where anecdotal information from the LAPG showed that private rates can be two to four times higher than legal aid fees for similar work, e.g., cases in family law and immigration. In Section 6.3, we showed that barristers also experience a high disparity in rates between private and civil legal aid, where participants of the Barrister Roundtables told us that on average, private rates can be 3-6 times higher than civil legal aid rates.

Therefore, it is possible that spending less time on legal aid cases may lead to a differential in the quality of services, which may be reflected in the case outcomes between civil legal aid and private work. However, **data constraints mean that it is not possible to substantively compare current case outcome comparisons between civil legal aid and private cases, and this is identified as a recommended area for further research as an important metric for the effectiveness of the system.**

Another pathway through which the civil legal aid system could plausibly lead to differential case outcomes, albeit indirectly, is through the rise in Litigants in Person (LiP) – if end users are unable to secure civil legal aid support and in turn opt to represent themselves. We explored in Section 5.5 levels of unrepresented parties in civil cases as a proxy for LiPs – due to the very limited data available explicitly on LiPs (particularly related to impacts from civil legal aid). It showed that, of all defended claims for civil (non-Family) and Judicial review cases, at least one side of the case was unrepresented on average between 39%-46% over the period 2013 to 2022. These figures are substantial, however, we cannot know what proportion of them would have been eligible for civil legal aid funded representation. **Further research is needed in this area to quantify the impacts of civil legal aid and access challenges for end users on the prevalence of LiPs.**

9.5 Overall assessment of the current state of the market

In this sub-section, we bring together the different components of our market analysis to form an overall assessment of the health of the market – what is working relatively well in the market today, and where the biggest risks and vulnerabilities are for the future. This provides the basis for our forward-looking assessment in Section 10, which assesses how these dynamics might play out over a 5-10 year timeframe and the potential implications for the sustainability of market provision.

It is important to recognise, as discussed earlier in this section, that civil legal aid is not a ‘conventional’ market, with prices fixed and regulated by the government and competition playing a very limited role. With market forces constrained, delivering an efficient and effective market relies heavily on the design and delivery of the regulatory fees and structures that have, in a sense, replaced them. LASPO represented a structural reduction in the scope and fees for services in the market, and it is unsurprising that this has catalysed a significant shake out of providers who are no longer able or willing to participate. Over a decade after LASPO, our analysis points to some areas where the market appears to be functioning better:

- The market has adjusted dynamically to a new reality following LASPO, and despite a significant contraction in the provider base, it has sought to maintain provision through an increase in average caseloads, with indications that larger providers are playing a greater role. Over 1,200 providers continue to serve the civil legal aid market across England and Wales, 45% of those that participated in our Survey, report being profitable. Civil legal aid providers are staffed with practitioners who are highly committed to their clients and the moral purpose of their work.
- In Family law, the largest segment of the market, where practitioners and barristers are often able to combine their work more with private practice and where higher absolute fees are available, the contraction in providers has been more moderate than in other large categories of law and capacity issues are reported to be less severe. Family providers also appear to be providing mediation services at a significantly greater scale (as measured by matters completed per provider), encouraged by government policy aimed at expanding the use of mediation in the civil justice system. This has potentially seen them able to access greater economies of scale.
- Some categories of law, including Claims Against Public Authorities, Welfare Benefits and Education have all experienced increases in provider numbers in recent years, reflecting the impact of supportive legislative changes (in the case of Claims Against Public Authorities) and a re-introduction of face-to-face contracts (in the case of Education). It should be noted that these categories contain a small numbers of cases, which are delivered by less than 10% of the total provider base.
- These markets also appear to be better supported by cost recovery arrangements, which whilst only applying to c.15% of non-Family cases, offer access to much bigger returns than Regulated Fees. Expanding cost recovery so it is applicable across more cases could create a new source of returns for providers, although all potential implications of expanding cost recovery will have to be closely examined. In the Family category of law, for example, where cost recovery generally cannot be sought, due attention needs to be given to the sensitive nature of cases that are seen and the wider implications that cost recovery may subsequently have.
- While there are concerns about the variation in civil legal aid provision in some areas, some major urban hubs where legal services have tended to ‘cluster’, such as London, Birmingham and Manchester, appear to be well-served by civil legal aid providers in absolute terms, although this may mask gaps in particular categories of law.

- Despite the challenges impacting the market, it appears that the quality of the advice offered by providers has been maintained, although further research is needed to validate this.
- Limited data on the LAA's operational efficiency has been analysed in this report. However, data on LAA administrative expenditure falling as a proportion of all expenditure and exceeding KPIs around the speed of processing applications and payments does offer some suggestion that LAA's operational efficiency has improved. However, this contrasts with providers' reported experience in these areas, reporting pain points around LAA decision-making and IT systems.
- Other forms of market structure outside of civil legal aid, such as Conditional Fee Arrangements (CFA) within Clinical Negligence, appear to be playing a key role in providing greater access to justice for end users who may no longer be eligible for civil legal aid.

While these aspects of the market present pockets of opportunity, the overwhelming findings of our analysis emphasise the high priority concerns that providers are experiencing in the market, which are linked to the regulatory design and its underlying incentives and fee structures. These issues present a risk to future provision and the key risks and vulnerabilities include:

The continued contraction of provider numbers and offices may worsen end user access to civil legal aid services

The rate at which providers have exited the market has been relatively constant, after the immediate adjustment that followed LASPO, reflecting a broad underlying dissatisfaction with the market across multiple fronts. This has meant that expansions in the provider base resulting from LAA procurement rounds have been eroded within one or two years. Reforms to civil legal aid since LASPO and additional procurement activity do not appear to have significantly altered this trajectory.

The main way the market has adjusted to maintain provision is through higher caseloads. This is unlikely to be sustainable for practitioners working in civil legal aid, with half of providers responding to our Survey reporting 'very high or overwhelming' demand and many providers reporting this is leading to skilled individuals leaving the profession.

Higher caseloads mean providers lack the capacity to take on new cases, and they report that they are forced to turn away large numbers of potentially eligible cases, with NFP providers saying that they are forced to choose the clients with the greatest need. While data is limited on what happens to end users who are turned away, if they are not able to secure support from another civil legal aid provider, this could indicate unmet legal need in the system.

The issues are most pronounced and concerning in distinct segments of the market

These issues are particularly acute in certain areas of the market, making these areas most vulnerable to further market exits:

- In Housing & Debt and Immigration & Asylum categories of law - these represent large parts of the market and have seen the most pronounced reductions in provider numbers and the biggest reported capacity issues emerging. Interim research commissioned by the Law Society in the Housing category of law showed that the majority of providers engaged were loss making;
- In legal help services – these do not appear to be attractive to providers in their own right, rather, many providers are potentially only serving this market as a stepping stone to provide more profitable civil representation services;
- In the NFP sector – this has contracted markedly compared to the FP sector, but remains an important source of advice in key categories of law; and

- In the Eastern, South West and South East regions which have seen the biggest decline in provider presence, and in large regions such as Merseyside and the South which do not have any providers in certain categories of law. However, it should be noted that the LAA procures on a different basis than this report's analysis of geographic variations – by LAA 'procurement areas' rather than by Local Authority or region.

33% of providers surveyed reported making a loss and 22% reported breaking even, with fee levels and structures being key drivers of this

Our analysis finds that fee levels, fee structures and wider financial viability are the main contributory factors behind market exits. Fees have not risen in most areas of the market since the late 1990s and this is likely the main reason why 33% of respondents to our Provider Survey report to be loss-making and 22% breaking even. While provision in the market may have been broadly preserved to date, loss-making providers are not expected to remain in the market over the longer-term. It is conceivable that the impact of recent inflationary pressures on profits could represent a tipping point for many providers.

In the context of flat fee levels seen in the market over an extended period, the intricacies of a fee system that contains 288 separate fees and rates may be impacting market efficiency and effectiveness. The complex fee system is likely to be imposing a high administrative burden on providers, further worsening the financial viability of delivering civil legal aid services.

Disincentives in the civil legal aid market make it challenging to attract new practitioners and retain practitioners and providers in the system

The availability of skills and talent in the sector represents a high priority pain point for providers, with providers reporting they are struggling both to attract graduate entrants and retain experienced practitioners – particularly in the context of a buoyant wider legal services market that provides a range of alternative sources of employment. This is driven by several factors, such as pay disparities versus the private sector, fewer opportunities to undertake paid training and experience in the legal aid field, challenging working conditions, and perceptions of the profession's reputation (which reportedly has worsened over time).

More broadly, there is a concentration of civil legal aid skills and expertise among providers that have operated in the market for more than two decades. This suggests that there may be insufficient incentives for new entrants to sustain their provision, resulting in a market more heavily reliant on older providers and a potential sign of fragility if these providers were to leave.

The knock-on impact on the efficiency and effectiveness of the market

Market provision is not fully efficient or effective. Our analysis on market efficiency has shown that while there is evidence of an improvement in LAA's operational efficiency, the delivery of legal aid cases is often complicated, with reportedly high levels of bureaucracy and administrative burdens experienced by providers and users. Civil legal aid cases are also taking an increasing length of time to resolve.

While some of these issues have been exacerbated by delays in the wider civil justice system, others relate to how the regulatory framework has been designed, which places a strong emphasis on the accuracy of billing and adherence to standards. While these structures play a vital regulatory function, their impact on providers is to further erode financial viability, which, given that stagnant fee levels already strain providers' financial viability, may result in providers choosing to exit the market or reduce their provision levels.

Our analysis of market effectiveness points to a market that may be struggling to fulfil all the demand placed on it today by end users, and where/if it is doing so, it may be at the cost of users who are not always able to swiftly secure the legal aid support they need.

10. Long-term sustainability of the market and priority issues to address

10.1 Introduction

While efficiency and effectiveness can be seen to relate to the current state of the civil legal aid market, sustainability relates to the longer-term viability of the market. Specifically, we frame long-term sustainability in the following way:

Market provision is expected to be sufficient to meet future demand for civil legal aid over the long-term (i.e., 10-year period). The market provides sufficient profit and broader incentives to sustain providers and ensure a sufficient supply of legal practitioners.

This definition is in line with the key economic literature in this space, namely Porter's 'Competitive Advantage' (1985),²¹⁸ which defines long-term market viability; Stiglitz's 'Economics of the Public Sector' (1986),²¹⁹ which offers insights into the role of the public and private sectors in sustaining markets; and Sen's 'Development as Freedom' (1999),²²⁰ which contextualises the broader aspects of sustainability in terms of market capabilities and functionality. We do not seek to assess long-term sustainability beyond the 10-year period due to the high level of uncertainty inherent in the market.

In Section 9.5, we set out our overall assessment of the *current* state of the civil legal aid market. In this section, we bring this evidence base together to examine the *future* direction of the market in terms of demand and supply trends and offer an overall assessment of its overall long-term sustainability. In light of this 'core' outlook for the market, we also consider a range of wider scenarios and conclude by highlighting the priority issues to address to improve long-term sustainability.

10.2 Future direction of the market

Key findings and implications:

- Without Government intervention, we expect demand for civil legal aid to moderately increase over the next 5-10 years, with supply continuing to contract. Our core expectation, therefore, is that the ability of supply to meet demand will worsen in the coming years.
- The pain points and disincentives in the market relating to the availability of skills/talent, fees and profitability are likely to all drive a continued contraction in provider numbers and offices.
- This is likely to make it more challenging for end users to access civil legal aid services, which may compromise the Ministry of Justice's statutory duty for civil legal aid to deliver access to justice.

Our core expectation for the future of the market

A moderate increase in demand

Our core expectation is for a moderate increase in demand. Planned increases to means test thresholds and population growth are expected to drive increases in the *eligible population* for civil legal aid over the

²¹⁸ Porter, M.E. (1985). *Competitive Advantage: Creating and Sustaining Superior Performance*. New York: Free Press.

²¹⁹ Stiglitz, J.E. (1986). *Economics of the Public Sector*. W. W. Norton.

²²⁰ Sen, A. (1999). *Development as Freedom*. Oxford: Oxford University Press.

medium to long-term. All else being equal, this could be expected to translate into higher levels of demand for civil legal aid. In addition, fresh demand is likely to be unlocked by policy and legislative changes (described in Section 4.6), particularly impacting Immigration & Asylum, Housing & Debt and Family categories of law.

A continued contraction in supply

Section 5.14 found that a significant proportion of providers report that they plan to leave the civil legal aid market if the sector continues to operate in its current state – with 12% of surveyed providers planning to leave next year, 17% in the next 2 years, and 40% in the next 5 years. If 12% of providers were to leave next year, it would continue the 10-12% exit rate seen in the last three years.

Our core expectation is that without further intervention, the contraction in provider numbers and offices (an indication of supply) is likely to continue at a similar rate going forward, with future procurement rounds (a procurement round has just taken place, with new contracts beginning in the autumn of 2024) only adding temporarily to the number of market participants. The main way the market has adjusted to seek to maintain provision following market exits in the past has been through providers delivering higher caseloads, with caseloads increasing in 7 of 11 categories of law since 2010-11, and through larger providers potentially playing a greater role. Further adjustments may be possible, but increasing caseloads significantly is unlikely to be feasible, given that many providers we surveyed are already reporting high or overwhelming levels of demand.

Persistence of pain points around fees, skills and profitability

The main points impacting providers, namely the availability of skills and talent (analysed in Section 6), market fee levels and structures (analysed in Section 7), and profitability levels (analysed in Section 8), are expected to persist and continue to disincentivise future provision – likely causing more providers to leave the market or reduce their provision. Over time, these factors may become even more significant for providers, with fee levels becoming increasingly unmoored from provider cost bases, and further skills shortages opening up as the civil legal aid workforce ages and more experienced individuals retire.

Our central assessment of the long-term sustainability of the market

Given our core expectation for how supply and demand will evolve and our analysis of the disincentives and barriers in the system, we consider that the ability of supply to meet eligible demand is likely to worsen in the coming years. With evidence already pointing towards potentially eligible users being turned away by providers, this future trajectory could leave the MoJ unable to fulfil its statutory duty towards ensuring access to legal aid for those who are eligible. This outlook, together with the broader evidence presented in this report, suggests clear **concerns about the civil legal aid sector's sustainability in the medium to long-term**. In this scenario, providers will become even more burdened, and more individuals will experience challenges accessing civil legal aid services. It could also feasibly see variations in geographic coverage of legal aid providers widening, making challenges accessing civil legal aid more acute in certain areas.

Our analysis suggests that the civil legal aid market may only become sustainable in the long-term with substantial interventions on the underlying problems providers are experiencing – uprating fee levels to more closely align with costs, a commercial and regulatory framework that allows higher profitability to be achieved by providers and a sustained focus on bolstering the workforce.

10.3 Alternative scenarios for the market

We recognise that the demand and supply dynamics driving our main scenario are subject to uncertainty. Therefore, alongside our core scenario, we consider alternative scenarios for the future of the market and the resulting implications for long-term sustainability.

In this analysis, we have not sought to precisely forecast future demand and supply over the period with quantitative figures, as we consider there is too much uncertainty and competing factors at play. Instead, we have provided qualitative illustrations of what may occur. It is important to note that the below scenarios do not take into account future possible policy or legislative changes that may come from RoCLA.

Future scenarios for market demand

Alongside our core expectation for a moderate increase in demand, we consider two further scenarios: a more rapid increase and a fall back in demand levels, explained in Table 23 below:

Table 23: Illustrative demand scenarios for civil legal aid (5-10 year timeframe)

Scenario	Description
Core – moderate increase	Moderate increase in demand as new eligibility thresholds are implemented and population growth continues, supported by legislative changes.
High – rapid increase	Demand for civil legal aid expands much more quickly than expected as a ‘big bang’ of legislative impacts takes effect and more cases materialise, driven by a long-term challenging economic environment.
Low – fall back in demand	Implementation of eligibility reforms and broader legislative changes are delayed, the economy recovers more quickly than anticipated, and a lower number of legal issues arise and/or fall within the scope of civil legal aid.

Source: PA Consulting analysis of multiple sources

Future scenarios for market provision

Alongside our core expectation for a continued contraction in supply, we consider two further scenarios: the rate of contraction starts to stabilise and an accelerated decline, explained in Table 25 below:

Table 24: Illustrative supply scenarios for civil legal aid (5-10 year timeframe)

Scenario	Description
Core – continued decline	The number of providers continues to contract in line with the trends seen over the last five years, driven by significant challenges around profitability and the availability of talent and skills (as existing experienced practitioners retire).
Optimistic – stabilisation	The rate of provider contraction reduces – providers find ways of mitigating profitability issues to a certain extent (e.g., merger activities), and more regular / dynamic procurement rounds from LAA aim to plug gaps, but difficulties remain in attracting talent.
Pessimistic – accelerated decline	Number of providers rapidly declines in line with the intentions set out in the Provider Survey. Profitability and talent and skills issues deteriorate (e.g.,

older legal aid specialists reaching retirement), and very few new providers enter the market.

Source: PA Consulting analysis of multiple sources

Market sustainability across these scenarios

In Table 25 below, we consider the broad implications for market sustainability of each potential combination of scenarios. It should be noted that this scenario analysis has been undertaken for the civil legal aid market as a whole, and the sustainability of individual categories of law will differ. Our conclusions in Section 9 imply that Housing & Debt and Immigration & Asylum may be less sustainable than the market as a whole, whereas categories of law such as Claims Against Public Authorities and Welfare Benefits may be more sustainable.

For the purpose of the below table, ‘low sustainability’ is defined as a market that is unlikely to fulfil its eligible demand and high barriers to entry and access are experienced by providers and end users respectively (with ‘very low sustainability’ being a more extreme version of this), and ‘moderate sustainability’ is defined as a market that’s able to fulfil eligible demand but with priority issues being experienced by providers and end users.

Table 25: Illustrative supply scenarios for civil legal aid (5-10 year timeframe)

		Scenarios for demand		
		Core – Moderate increase	High – Rapid increase	Low – Fall back in demand
Scenarios for supply	Core – Continued decline	Low sustainability	Low sustainability	Moderate sustainability
	Optimistic – stabilisation	Low sustainability	Low sustainability	Moderate sustainability
	Pessimistic – Accelerated decline	Very low sustainability	Very low sustainability	Low sustainability

Source: PA Consulting analysis of multiple sources. Note: Very High sustainability – supply highly likely to be sufficient to meet demand; High sustainability – supply likely to be sufficient to meet demand; Moderate sustainability – supply fulfils most of demand, with some gaps; Low sustainability – supply unlikely to be sufficient to meet demand; Very Low sustainability – supply very unlikely to meet demand.

In seven of the nine scenarios, without policy intervention, we consider that it is unlikely that supply will be sufficient to meet demand. This would result in a high proportion of end users facing difficulties in securing support from civil legal aid providers and would be likely to translate into unmet legal need in the system.

Two of the nine scenarios are defined by moderate sustainability – where the market stabilises somewhat. The more localised challenges in the system, in particular categories of law such as Housing & Debt and Immigration & Asylum, and variations in geographic availability of civil legal aid, would be likely to remain.

These future scenarios make clear the need for a policy development strategy in the system and further underlines the case for the MoJ’s ongoing Review. Given that in even optimistic scenarios on the demand and supply-sides, sustainability would only remain moderate with prevalent challenges present in the system, it suggests that policy development must aim to increase the sector’s overall capacity, rather than aiming to maintain the status quo.

It should also be noted that this analysis of market sustainability adopts a more static framework; we have assumed that the market would not respond dynamically to demand signals and increase provision levels. This is certainly a possibility, and we recognise that the LAA is making some steps towards a more dynamic approach to procurement, with a greater focus on market stewardship, but any significant reaction by the market is also likely to depend on addressing some of the underlying issues providers report, which appear to make taking on extra demand unprofitable or unfeasible (because of access to talent and skills).

Further, we have also not factored in significant innovation through 'lawtech' in potentially enabling far more efficient provision in the future, such as the future application of AI and machine intelligence, which is discussed in more detail in the RoCLA's Comparative Analysis Report. This is a potentially significant trend in the private sector legal market and is starting to change the way legal services are delivered. The MoJ has supported lawtech innovation, through funding the industry-led Lawtech UK programme, but there is little evidence of similar investment in innovation in the legal aid market. Again, we recognise that the LAA has started exploring alternative models of service delivery, but it is difficult to predict the rate of advancement and adoption of new technology and service innovation. In the time frame of these scenarios, we think it is unlikely that technology will take on such a different and enhanced role in the civil legal aid sector so as to change these future scenarios. Likewise, we have not factored in the potential for significant consolidation to take hold in the market, which may enable providers to improve efficiencies and deliver higher caseloads through economies of scale.

10.4 Priority issues for attention to improve the long-term sustainability of the market

This analysis makes no assumptions about the recommendations that will emerge from RoCLA or the decisions on the implementation of those recommendations. Establishing the review, following on from the Criminal Legal Aid Review, is a positive indication of the Government's willingness to tackle the issues facing the legal aid sector. However, building on the earlier conclusions, this sub-section aims to prioritise the key issues that negatively impact the long-term sustainability of the market and focus on consideration of improvements. We believe that taking action to address these issues will improve long-term sustainability. We note that any positive policy changes and additional funding should be enacted sooner rather than later, as it will take time to have the desired effect.

- Providers and offices are exiting the market at higher rates than entry. **This requires a more dynamic commissioning response to secure higher provision**, particularly in categories of law where reported provider capacity issues are greatest, such as Immigration & Asylum and Housing & Debt. Rather than allowing bids for contracts only at the initial tender event, this could, for example, take the approach of an 'always on' procurement approach where potential providers could bid at any point during the term of the contract.
- To stem the contraction of provider numbers and offices, incentives in the system for providers need to be sharpened. The commercial and regulatory framework needs to have more regard for the sustainability of the market and preserving the financial viability of providers. Alongside regulated fees, which are too low in absolute value, policy development should explore increasing the opportunity to recover costs at inter-partes rates, fee structures, and the coverage of fees (with providers reporting a sizeable proportion of their civil legal aid work is unbillable). **Our analysis highlights examples of other regulated industries, such as energy, water and rail markets, where regulatory price setting exercises allow for inflation-linked costs to be recovered and an acceptable return to be made.** Prices are typically updated every five years.

- Alongside sharpening incentives, the disincentives at play in the system need to be examined. Administrative burdens are considered to be high by practitioners, with complex arrangements to satisfy in order to get paid. The impact of administrative demands are exacerbated, in the view of providers, by the LAA's 'poor' IT infrastructure. To address this, the proportionality of regulatory requirements could be reviewed systematically, to ensure this has regard to both standards and streamlining processes for providers and end users. Investment funding should be targeted at improving LAA IT infrastructure, and **there may be opportunities to simplify the 288 separate fees and rates applicable to different types of civil legal aid work.**
- Providers struggle to recruit and retain skilled practitioners. Civil legal aid as a career option for new entrants (see Section 6) has barriers that divert individuals to private legal work, such as the lack of funded training and work-experience opportunities, and lower prospective future salaries. Some new schemes that offer new pathways for law graduates into careers in legal aid (such as the Justice First Fellowship Scheme) are starting to emerge and could offer an opportunity to expand further. Equally, **policy development should explore how to improve experiences for practitioners who are already in the system, such as their pay and working conditions.**
- A limitation of this report's analysis has been an inability to track what happens to potentially eligible end users who are turned away by providers. **Further research should be prioritised on monitoring end user journeys in the civil legal aid system, including those who are turned away by a provider.**

11. Annex 1 – Methodology for our Accelerated Evidence Review

This Section outlines our methodology for conducting a rapid evaluation of the evidence base on the functioning of the civil legal aid market. We have drawn on the principles of the 'Rapid Evidence Assessment' (REA) technique in our approach. The goal is to encompass a comprehensive coverage of existing research and literature while adhering to the project's time constraints. This annex covers the key elements of the methodology – our definition of core research questions, information sources, search strategy, and selection process.

11.1 Research questions

This report seeks to provide evidence-based answers to the following research questions:

- How does the civil legal aid market function today?
- How can we define 'demand' for civil legal aid?
- What is the level of provision in the market, and what are the gaps in provision, by region and category of law?
- What are the key barriers to entry and exit in the market?
- What are the price mechanisms in the civil legal aid market, and what non-financial incentives are available to providers to in the market?

11.2 Information sources

The evidence for our assessment on the civil legal aid market was sourced from a variety of publicly available policy documents, academic literature, and relevant statistical surveys. To conduct our search, we focused on the following key sources:

- **Policy Documents:** Reports from UK authorities, particularly various reports and reviews from the Ministry of Justice.
- **Academic Literature:** A mix of articles and research papers studying a range of subjects, including the impact of legislation on civil litigation, the rise of zombie firms, and the transformation of legal aid.
- **Institutional Publications:** Documents from institutions like OECD, EUR-lex, LAPG, covering topics from legal needs surveys to definitions of relevant markets.
- **UK Government Databases:** Various statistical data and reports sourced from official UK Government databases.
- **Other References:** A variety of other resources, including cost-benefit analyses, assessments of financial impacts, and Parliamentary reports.

This information was supplemented by non-public, non-sensitive statistical information provided by the MoJ and the LAA in distinct areas to help triangulate findings identified through public sources.

11.3 Search strategy

Our search strategy was carefully designed and implemented to comprehensively address the research questions. Table 26 lists the keywords used to discover further evidence, supplementing the already established evidence base. We formulated these keywords into search queries by leveraging Boolean operators like AND, OR, NOT, along with other operators specific to the respective databases.

Table 26: List of key words

Category	Key words
Defining and mapping the market	LASPO Act 2012, civil legal aid, Ministry of Justice, Legal Aid Agency, Exceptional Case Funding, European Convention on Human Rights, merits test, means criteria, Barristers, Law Centres, Citizens Advice, Access to Justice Act 1999, end-users, Litigant in Person, Director of Legal Aid Casework, social welfare law, family law, employment rights, discrimination, public law.
Pattern of demand	Demand, case volumes, cases, legal representation, mediation, legal help, unmet demand, latent demand, eligible, in-scope, legal need
The Provider landscape	Supply, legal aid providers, LAA, contract, distribution, geographical, accessibility, population, local authorities, specialisation, gaps
Market competitiveness	Barriers to entry, barriers to exit, access, competition, stability, market dynamics, sustainability, resource allocation, contracts, expertise, financial health, client coverage, monopoly, monopsony
Pricing and incentives	Price mechanisms, not-for-profit, profitability, for-profit, remuneration, profit margins, legislative changes, vocational commitment, social responsibility, fee structures, financial viability, fees

11.4 Selection process

Utilising our search strategy, we independently conducted research to delve deeper into the existing sources. Subsequently, we reviewed the titles and abstracts to select those to be included in the preliminary list. The procedure to narrow down the articles was conducted based on the inclusion and exclusion criteria, which are detailed in Table 27 below.

Table 27: Inclusion and Exclusion Criteria

Theme	Inclusion Criteria	Exclusion Criteria
Population	All (all individuals and businesses that enter the civil legal process)	

Areas of impact/outcomes	<p>Studies/policy documents that focus on underlying features of the civil legal aid market, for example demand and supply conditions.</p> <p>Studies that assess the market outcomes from the civil legal aid market, for example, efficiency and effectiveness.</p>	Areas of impact/outcomes
Methodology	All (surveys, appraisals, descriptive, quantitative, qualitative etc)	
Date of research	All (prioritising the most recent sources)	
Language	English	Other language
Geographical location	Evidence from the UK will be prioritised but will be supported by evidence from other countries where this is encountered (outside of those assessed by the MoJ's International Comparator worksteam).	

For the purposes of this phase, we assessed the quality of the studies that were included in the short list. Table 28 below sets out the factors on which the quality assessment of the new evidence is based on: a) Credibility, b) Methodology; and c) Relevance of the study. We assigned a score of 1-3 to each category, and the overall judgement.

Table 28: Quality assessment criteria

Category	Description	Score
Credibility	Is the study coherent? Can findings be trusted? Does the author consider the limitation of their study or provide alternative views? Is the study peer-reviewed?	1-3
Methodology	Is the research design or methodology appropriate? Is it replicable?	1-3
Relevance	Does the study help to answer the research questions?	1-3
Overall judgment	What is the overall judgment, considering the above categories?	1-3

12. Annex 2 – Output from the Accelerated Evidence Review

Table 29 sets out the results from our Accelerated Evidence Review. Each source of evidence has been reviewed and rated based on the criteria detailed in the methodology provided in Annex 1.

Relevance was a key criterion for inclusion in the evidence base, especially for sources that scored well in terms of credibility and methodology. Any source that lacked relevance, despite high scores in credibility and methodology, was given a lower overall rating and weighting in our analysis. As a standard practice, any piece of evidence with an overall judgement score of 1 is not included.

Table 29: Scoring and output of our rapid assessment of evidence

Note: all evidence with an overall score of 3 has been included and referenced in this report. Evidence with an overall score of 2 is referenced when it covers topics or methodologies where there is a lack of more relevant evidence due to literature being sparse.

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
Independent Review Of Criminal Legal Aid	Sir Christopher Bellamy	3	3	3	3
The Impact Of Legislation On The Outcomes Of Civil Litigation: An Empirical Analysis Of The Legal Aid Sentencing And Punishment Of Offenders Act 20121	Paul Fenn and Neil Rickman	3	3	3	3
A Tool For Justice: The Cost Benefit Analysis Of Legal Aid	World Bank Group	3	3	2	3
Defending The Public Purse: The Economic Value Of The Free Legal Advice Sector	Pragmatix Advisory	2	2	2	2

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
Legal Aid Statistics England And Wales Bulletin Oct To Dec 2022	LAA/MoJ	3	3	3	3
Government Response: Criminal Legal Aid Review An Accelerated Package Of Measures Amending The Criminal Legal Aid Fee Schemes	MoJ	3	3	2	3
Legal Support: The Way Ahead	MoJ	3	3	3	3
Post-Implementation Review Of Part 2 Of The Legal Aid, Sentencing And Punishment Of Offenders Act 2012 (LASPO)	MOJ	3	3	3	3
Assessment Of The Financial Impact Of The Proposed Fee Reductions On Criminal Legal Aid Law Firms	PA Consulting	3	3	2	3
Access Denied? LASPO Four Years On: A Law Society Review	The Law Society	2	2	3	2
Civil Legal Aid: A Review Of Its Sustainability And The Challenges To Its Viability	The Law Society	2	2	3	2

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
Inquiry Into The Sustainability And Recovery Of The Legal Aid Sector	APPG	2	3	2	2
Bar Council – Running On Empty (2021)	Bar Council	2	1	3	2
A New Vision For Access To Civil Justice	Roger Smith	2	2	2	2
The 2021 Legal Aid Census	LAPG Report Prepared by Catrina Denvir, Jacqueline Kinghan, Jessica Mant, Daniel Newman and Sasha Aristotle	2	3	3	3
Legal Aid And The Future Of Access To Justice	Denvir ,Kingham, Mant, Newman	3	3	3	3
Contingency Legal Aid Fund	Bar Council	2	2	2	2
The Merits of Contingent Legal Aid Fund	Bar Council	2	2	2	2
Contingent Legal Aid Funds: an outline feasibility study for the General Council of the Bar	Europe Economics	2	2	2	2
The case for CLAF: Keynote Speech By Lord Justice Jackson At The Solicitors’ Costs Conference	Judiciary of England and Wales	2	2	3	2

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
How To Secure The Rule Of Law	Joshua Rozenberg	2	1	3	2
Access To Legal Aid For Discrimination Cases	Equality and Human Rights Commission	3	3	3	3
Legal Aid, Sentencing and Punishment of Offenders Act 2012	GOV.UK	3	3	3	3
Legal Aid: What's in scope?	Law Works	2	2	3	2
Legal Aid Means Test Review	MoJ	3	3	3	3
Ministry of Justice A Short Guide to the	NAO	3	3	2	3
Terms of Reference for an Economic Analysis of Civil Legal Aid Purpose	GOV.UK	3	3	3	3
Tendering for legal aid contracts	Law Society	2	2	3	2
About barristers	Bar Council	2	3	2	2
About Law Centres	Law Centres.org	2	2	2	2
Set up a Law Centre	Law Centres.org	2	1	2	2
Civil processing dates	GOV.UK	3	3	3	3
Connectivity for everyone	Innovation UNHCR	2	2	2	2

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
Legal Aid Data: Justice Data	Gov.uk/MoJ	3	3	3	3
A guide to civil mediation	MoJ	3	3	2	3
Legal Aid Dashboards (PowerBI)	LAA/ MoJ	3	3	3	3
Domestic abuse during the coronavirus (COVID-19) pandemic	ONS	3	3	3	3
Litigants in person in private family law cases	Anon	1	1	3	2
Domestic Abuse Act 2021	GOV.UK	3	3	1	2
Not going to plan?	LGO	2	2	2	2
Constitutional implications of the Withdrawal Agreement legislation	Cowie, G., De Mars, S., Kelly, R. and Torrance, D	2	3	3	3
The Audacity of Justice: Recession, Redundancy, Rights and Legal Aid. Social Policy and Society	Pleasence, P. and Balmer, N.J.	2	1	1	1
Public legal education	Law Society	2	2	2	2
West Devon 'legal aid desert'	Tavistock Times Gazette	1	1	2	1
Legal aid deserts	Law Society	2	2	2	2

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
The LexisNexis Legal Aid Deserts report	Lexis Nexis	2	1	2	2
LASPO 4 years on	Law Society	2	2	2	2
Transforming Legal Aid: Next Steps A Report for The Law Society of England and Wales and the Ministry of Justice	Otterburn	3	3	2	2
Legal Aid Agency quality standards	GOV.UK	3	3	3	3
Lord Chancellor's guidance under Section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012	Lord Chancellor/GOV. UK	3	3	3	3
Standard civil contract 2024	GOV.UK	3	3	3	3
Civil high-cost case contract	GOV.UK	3	3	3	3
Civil 2024 Contract Procurement Process	GOV.UK	3	3	3	3
LAMBETH LAW CENTRE - Charity Financial History	Register of Charities	2	2	1	2
The Civil Legal Aid (Remuneration) Regulations 2013	GOV.UK	3	3	3	3

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
The Law Management Section Financial Benchmarking Survey 2020 report	Law Society	3	2	2	2
The Reform of Legal Aid in England and Wales	Neil Rickman, Paul Fenn and Alastair Gray	3	3	2	3
Professional Autonomy and the Cost of Legal Aid	Alastair Gray, Neil Rickman and Paul Fenn	2	3	2	2
Measuring the Accessibility and Equality of Civil Justice	Pascoe Pleasence and Nigel Balmer	2	3	3	3
The Nature of the Firm	Coase, ROH	3	3	2	3
Understanding Profitability	Istate.edu	2	2	2	2
Financial Benchmarking Survey 2023	The Law Society	2	3	3	3
Assessment of market power Competition law 2004	Office of Fair Trading	3	3	1	2
Barriers to Entry: Differences in barriers to entry for SMEs and large enterprises	Blees, J., Kemp, R., Maas, J. and Marco Mosselman Zoetermeer	3	3	1	2
Barriers to entry: An empirical assessment of Portuguese firms' perceptions.	Couto, A. and Barbosa, N.	3	3	1	2

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
Economies of large scale as Barriers to Entry from Barriers to New Competition	Joe S Bain	3	3	1	2
Limit Pricing and Entry under Incomplete Information: An Equilibrium Analysis	Milgrom, P. and Roberts, J.	3	2	1	2
Population of solicitors in England and Wales	SRA	3	3	3	3
Market exit and barriers to exit: Theory and practice	Karakaya, F	3	3	1	2
An experimental test of trade hysteresis: Market exit and entry decisions in the presence of sunk costs and exchange rate uncertainty	Ansic, D., & Pugh, G	3	3	1	2
Civil 2024 Contract Procurement Process	GOV.UK	3	3	3	3
Entry, exit, and the determinants of market structure	Dunne, T., Klimek, S.D., Roberts, M.J. and Xu, D.Y.	3	3	2	3
LAA Service Development and Commissioning Provider and	LAA	3	3	3	3

Source	Author/ Sponsor	Credibility	Methodology	Relevance	Overall judgement
Contract Capacity Review					
Access to immigration legal aid in 2023: An ocean of unmet need.	Rourke, D., Cripwell, E., Summers, J., Hynes, J. and Project, P.	2	2	2	2
The Civil Legal Aid (Remuneration) Regulations 2013	GOV.UK	3	3	3	3
2010 Standard Civil Contract Payment Annex.	GOV.UK	3	3	3	3
Criminal barristers to receive 15 percent fee rise in September	MOJ	3	3	2	3
Immigration Legal Aid: The Government's response to its consultation on new fees for new services.	MOJ	3	3	3	3
The Fragility of Civil Legal Aid by Matthew Howgate	LAPG	1	1	3	2
Civil Legal Aid – A New Approach	Guy Beringer	1	1	3	2
Adults' Media Use and Attitudes report	Ofcom	3	3	2	3

13. References

Admin, L. (2023). *The Fragility of Civil Legal Aid by Matthew Howgate*. [online] LAPG. Available at: <https://lapg.co.uk/the-fragility-of-civil-legal-aid-by-matthew-howgate-2/>.

Anon, (2014). *Litigants in person in private family law cases*. [online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/380479/litigants-in-person-in-private-family-law-cases.pdf.

Ansic, D., & Pugh, G. (1999). An experimental test of trade hysteresis: Market exit and entry decisions in the presence of sunk costs and exchange rate uncertainty. *Applied Economics*, 31, 427-436. <https://ideas.repec.org/a/taf/applec/v31y1999i4p427-436.html>

app.powerbi.com. (n.d.). Microsoft Power BI. [online] Available at: <https://app.powerbi.com/view?r=eyJrljoiMmVhMzcyZmYtZTU0OC00M2M5LWI3ZWtMmYwYzMwNzAwwMmJhliwidCI6ImM2ODc0NzI4LTcxZTYtNDFmZS1hOWUxLTJlOGMzNjc3NmFkOCIsImMiOjh9&chromeless=1>.

Assessment of market power Competition law 2004. (n.d.). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284400/oft415.pdf.

Bellamy, C. (2021). *Independent Review of Criminal Legal Aid*. [online]. Available at: [Independent Review of Criminal Legal Aid - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/984233/independent-review-of-criminal-legal-aid-2021.pdf)

Blees, J., Kemp, R., Maas, J. and Marco Mosselman Zoetermeer (2003). Barriers to Entry Differences in barriers to entry for SMEs and large enterprises Scientific Analysis of Entrepreneurship and SMEs. [online] Available at: <https://core.ac.uk/download/pdf/7074647.pdf>.

Brooke, H. (1945). *Appendix 6: The History of Legal Aid*. [online] Available at: <https://fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission-Appendix-6-F-1-1.pdf>.

Citizens Advice (2019). *Citizens Advice*. [online] Citizensadvice.org.uk. Available at: <https://www.citizensadvice.org.uk/>.

[Civil news: mandatory telephone gateway phased out - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/984233/independent-review-of-criminal-legal-aid-2021.pdf)

Coase, R.H. (1937). The Nature of the Firm. *Economica*, 4(16), pp.386–405. doi:<https://doi.org/10.1111/j.1468-0335.1937.tb00002.x>.

Contracted Work & Administration (CWA) User Guide for Providers Bulkload Spreadsheet v1.20. (n.d.). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/611305/bulkload-spreadsheet-guidance.pdf.

Courts and Tribunals Judiciary. (n.d.). Civil. [online] Available at: <https://www.judiciary.uk/about-the-judiciary/our-justice-system/jurisdictions/civil-jurisdiction/>.

Couto, A. and Barbosa, N. (2020). Barriers to entry: An empirical assessment of Portuguese firms' perceptions. *European Research on Management and Business Economics*, [online] 26(2), pp.55–62. <https://www.sciencedirect.com/science/article/pii/S2444883419300907#bbib0020>.

Cowie, G., De Mars, S., Kelly, R. and Torrance, D. (880AD). *Constitutional implications of the Withdrawal Agreement legislation*. [online] Available at:

<https://researchbriefings.files.parliament.uk/documents/CBP-8805/CBP-8805.pdf>.

data.justice.gov.uk. (n.d.). Civil courts - Courts data - Justice Data. [online] Available at:

<https://data.justice.gov.uk/courts/civil-courts#table-tab-courts-civil-claims-total>.

data.justice.gov.uk. (n.d.). Civil representation - Legal aid data - Justice Data. [online] Available at:

<https://data.justice.gov.uk/legalaid/legal-aid-civil-representation>.

data.justice.gov.uk. (n.d.). Legal help - Legal aid data - Justice Data. [online] Available at:

<https://data.justice.gov.uk/legalaid/legal-aid-help-controlled-representation>.

data.justice.gov.uk. (n.d.). Mediation - Legal aid data - Justice data. [online] Available at:

<https://data.justice.gov.uk/legalaid/Legal-aid-mediation>.

data.justice.gov.uk. (n.d.). *Civil representation - Legal aid data - Justice Data*. [online] Available at:

<https://data.justice.gov.uk/legalaid/legal-aid-civil-representation#:~:text=Civil%20Representation%20is%20representation%20by>.

Denvir, C., Kinghan, J., Mant, J., Newman, D. and Aristotle, S. (2022). WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS Report Prepared by. [online] Available at: https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Findings-from-the-2021-Legal-Aid-Census_Final.pdf .

Dunne, T., Klimek, S.D., Roberts, M.J. and Xu, D.Y. (2013). *Entry, exit, and the determinants of market structure*. *The RAND Journal of Economics*, 44(3), pp.462–487. doi:<https://doi.org/10.1111/1756-2171.12027>.

eur-lex.europa.eu. (n.d.). EUR-Lex - I26073 - EN - EUR-Lex. [online] Available at: <https://eur-lex.europa.eu/EN/legal-content/summary/definition-of-relevant-market.html>.

Fenn, P., Gray, A., Rickman, N. and Vencappa, D. (n.d.). Funding clinical negligence cases Access to justice at reasonable cost? [online] Available at:

https://www.nuffieldfoundation.org/sites/default/files/files/Funding_clinical_negligence_cases_Fenn_v_FI_NAL.pdf.

Financial Benchmarking Survey 2023. (2023). [online] The Law Society's Leadership and Management Section. Available at:

https://d17ygm1j5pr274.cloudfront.net/Uploads/e/a/w/4957hwds/lmsbenchmarkingsurvey2023a462ppv629_608926.pdf.

Gilbert, R.J., 1989. Mobility barriers and the value of incumbency. *Handbook of industrial organization*, 1, pp.475-535. <https://www.sciencedirect.com/science/article/abs/pii/S1573448X89010113>

GOV.UK (2014). About us. [online] GOV.UK. Available at:

<https://www.gov.uk/government/organisations/ministry-of-justice/about>.

GOV.UK. (2019). Legal Aid Agency. [online] Available at:

<https://www.gov.uk/government/organisations/legal-aid-agency>.

GOV.UK. (2023). Legal aid statistics: January to March 2023. [online] Available at:

<https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2023>.

GOV.UK. (2023). Legal aid statistics: January to March 2023. [online]

GOV.UK. (n.d.). Civil 2024 Contract Procurement Process. [online] Available at: <https://www.gov.uk/government/publications/civil-2024-contract-procurement-process> [Accessed 15 Sep. 2023].

GOV.UK. (n.d.). Civil processing dates. [online] Available at: <https://www.gov.uk/guidance/civil-processing-dates>.

GOV.UK. (n.d.). Coronavirus (COVID-19): processing and payments. [online] Available at: <https://www.gov.uk/guidance/coronavirus-covid-19-processing-and-payments>.

GOV.UK. (n.d.). Increasing the use of mediation in the civil justice system. [online] Available at: <https://www.gov.uk/government/consultations/increasing-the-use-of-mediation-in-the-civil-justice-system>.

GOV.UK. (n.d.). *Legal aid statistics England and Wales bulletin Jan to Mar 2023*. [online] Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2023/legal-aid-statistics-england-and-wales-bulletin-jan-to-mar-2023#legal-aid-providers>.

GOV.UK. (n.d.). Legal aid. [online] Available at: <https://www.gov.uk/legal-aid/eligibility>.

GOV.UK. (n.d.). *A guide to civil mediation*. [online] Available at: <https://www.gov.uk/guidance/a-guide-to-civil-mediation#what-is-mediation>.

GOV.UK. (n.d.). *Legal Aid Fees in the Illegal Migration Bill*. [online] Available at: <https://www.gov.uk/government/consultations/legal-aid-fees-in-the-illegal-migration-bill/legal-aid-fees-in-the-illegal-migration-bill>.

GOV.UK. (n.d.). *Legal Aid Means Test Review*. [online] Available at: <https://www.gov.uk/government/consultations/legal-aid-means-test-review/legal-aid-means-test-review#chapter-3-civil-income-thresholds-passporting-and-contributions>.

GOV.UK. (n.d.). *Legal aid statistics England and Wales bulletin Jan to Mar 2023*. [online] Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2023/legal-aid-statistics-england-and-wales-bulletin-jan-to-mar-2023#legal-aid-providers>.

Government Digital Service (2011). Legal aid. [online] GOV.UK. Available at: <https://www.gov.uk/legal-aid>.

Government Digital Service (2012). Check if you can get legal aid. [online] GOV.UK. Available at: <https://www.gov.uk/check-legal-aid>.

Independent Peer Review Process Document. (2021). Available at: https://assets.publishing.service.gov.uk/media/618d428bd3bf7f055b293336/Peer_Review_Process_Document.pdf.

Joshua Rozenberg. (2023). *Civil Legal Aid — A New Approach*. [online] Available at: <https://joshuarozenberg.com/civil-legal-aid-a-new-approach>.

Justice First Fellowship. (n.d.). *Supporting the next generation of social justice lawyers*. [online] Available at: <https://jff.thelegaleducationfoundation.org/>

Karakaya, F. (2000). *Market exit and barriers to exit: Theory and practice*. *Psychology and Marketing*, 17(8), pp.651–668. doi:[https://doi.org/10.1002/1520-6793\(200008\)17:8%3C651::aid-mar1%3E3.0.co;2-k](https://doi.org/10.1002/1520-6793(200008)17:8%3C651::aid-mar1%3E3.0.co;2-k).

Legal Aid Agency (2014). *Civil legal aid: means testing*. [online] GOV.UK. Available at: <https://www.gov.uk/guidance/civil-legal-aid-means-testing>.

Legal Aid Agency ed., (2023). LAA Service Development and Commissioning Provider and Contract Capacity Review: February 2023 – June 2023.

Legal Aid Means Test Review. (2022). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1060484/legal-aid-means-test-review.pdf.

Legal Aid: What's in scope? (n.d.). Available at: <https://www.lawworks.org.uk/sites/default/files/files/lw-cr-legal-aid-scope.pdf>

Legislation.gov.uk. (1996). *The Legal Aid in Civil Proceedings (Remuneration) (Amendment) Regulations 1996*. [online] Available at: <https://www.legislation.gov.uk/ukSI/1996/645/made>

Legislation.gov.uk. (2013). *The Civil Legal Aid (Remuneration) Regulations 2013*. [online] Available at: <https://www.legislation.gov.uk/ukSI/2013/422/schedule/1/made>.

Legislation.gov.uk. (2023). *Legal Aid, Sentencing and Punishment of Offenders Act 2012*. [online] Available at: <https://www.legislation.gov.uk/ukpga/2012/10/part/1/crossheading/civil-legal-aid/enacted>.

LexisNexis. (n.d.). *The LexisNexis Legal Aid Deserts report*. [online] Available at: <https://www.lexisnexis.co.uk/research-and-reports/legal-aid-deserts-report.html>.

Milgrom, P. and Roberts, J. (1982). *Limit Pricing and Entry under Incomplete Information: An Equilibrium Analysis*. *Econometrica*, 50(2), p.443. doi:<https://doi.org/10.2307/1912637>.

Ministry of Justice (n.d.). LA Sustainability Narrative - Contract decline and risks.

Ministry of Justice A Short Guide to the. (2017). Available at: <https://www.nao.org.uk/wp-content/uploads/2017/10/A-Short-Guide-to-the-Ministry-of-Justice.pdf>

Ministry of Justice. (n.d.). Available at: <https://www.nao.org.uk/wp-content/uploads/2023/01/ministry-of-justice-departmental-overview-2021-22.pdf>

NO ACCESS TO JUSTICE: HOW LEGAL ADVICE DESERTS FAIL REFUGEES, MIGRANTS AND OUR COMMUNITIES MAY 2022 Report written by Dr Jo Wilding. (n.d.). Available at: https://assets.website-files.com/5ea9ba3a86899781dfe3c099/62bc314261e2f338e0953848_No%20access%20to%20justice%20-%20how%20legal%20advice%20deserts%20fail%20refugees%2C%20migrants%20and%20our%20communities.pdf.

Not going to plan? (2019). Available at: <https://www.lgo.org.uk/assets/attach/5693/EHCP-2019-vfC.pdf>.

Ofcom (2022). *Adults' Media Use and Attitudes Report 2022*. [online] Ofcom, p.1. Available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0020/234362/adults-media-use-and-attitudes-report-2022.pdf.

Parker, E. (2018). *Deprivation of Liberty Safeguards*. *House of Commons Library*. [online] Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-8095/CBP-8095.pdf>.

Pleasence, P. and Balmer, N.J. (2010). *The Audacity of Justice: Recession, Redundancy, Rights and Legal Aid. Social Policy and Society*, 9(4), pp.475–488. doi:<https://doi.org/10.1017/s1474746410000205>.

Porter, M.E. (1985). *Competitive Advantage: Creating and Sustaining Superior Performance*. New York: Free Press.

Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). (2019). Available at:

<https://assets.publishing.service.gov.uk/media/5c5b3b2b40f0b676c362b4e0/post-implementation-review-of-part-1-of-laspo.pdf>.

register-of-charities.charitycommission.gov.uk. (n.d.). LAMBETH LAW CENTRE - Charity 1076204.

[online] Available at: <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/3961453/financial-history>

Rourke, D., Cripwell, E., Summers, J. and Hynes, J. (2023). *Adrift: An Explainer for Navigating the Immigration Legal Aid Framework*. [online] Available at:

<https://publiclawproject.org.uk/content/uploads/2023/09/Adrift-explainer.pdf>.

Running on Empty. (2021). [online] The Bar Council. Available at:

<https://www.barcouncil.org.uk/resource/running-on-empty-civil-legal-aid-full-report.html>.

Sen, A. (1999). *Development as Freedom*. Oxford: Oxford University Press.

Stiglitz, J.E. (1986). *Economics of the Public Sector*. W. W. Norton.

Surviving Economic Abuse. (n.d.). *Denied justice: How the legal aid means test prevents victim-survivors accessing justice*. [online]

Tableau.com. (2023). Available at:

<https://public.tableau.com/app/profile/citizensadvice/viz/AdviceTrendsSept2023/Cover>.

Tavistock Times Gazette. (2023). *West Devon 'legal aid desert'*. [online]

Terms of Reference for an Economic Analysis of Civil Legal Aid Purpose. (n.d.). Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1132544/terms-rreference-civil-legal-aid-review.pdf.

The Westminster Commission on Legal Aid INQUIRY INTO THE SUSTAINABILITY AND RECOVERY OF THE LEGAL AID SECTOR. (2022). Available at: https://lapg.co.uk/wp-content/uploads/The-Westminster-Commission-on-Legal-Aid_WEB.pdf.

Title: *Legal Aid Means Test Review -Civil Impact Assessment (IA) Summary: Intervention and Options* RPC Opinion: N/A. (2023). Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1159099/government-response-to-legal-aid-means-test-review-impact-assessment-civil.pdf.

Transforming Legal Aid: Next Steps A Report for The Law Society of England and Wales and the Ministry of Justice. (2014). Available at: [https://consult.justice.gov.uk/digital-](https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/otterburn-legal-consulting-a-report-for-the-law-society-and-moj.pdf)

[communications/transforming-legal-aid-next-steps/results/otterburn-legal-consulting-a-report-for-the-law-society-and-moj.pdf](https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/otterburn-legal-consulting-a-report-for-the-law-society-and-moj.pdf).

Wilding, J. (2019). *Droughts and Deserts. A report on the immigration legal aid market*.

Wilding, J. (2023). *The Legal Aid Market*. Policy Press.

www.barcouncil.org.uk. (n.d.). About barristers. [online] Available at: <https://www.barcouncil.org.uk/about/about-the-bar/about-barristers.html>.

www.extension.iastate.edu. (n.d.). *Understanding Profitability | Ag Decision Maker*. [online] Available at: <https://www.extension.iastate.edu/agdm/wholefarm/html/c3-24.html#:~:text=Profitability%20is%20the%20primary%20goal>.

www.lawcentres.org.uk. (n.d.). *About Law Centres*. [online] Available at: <https://www.lawcentres.org.uk/about-law-centres>.

www.lawsociety.org.uk. (n.d.). *Civil legal aid: a review of its sustainability and the challenges to its viability*. [online] Available at: <https://www.lawsociety.org.uk/topics/research/civil-sustainability-review>.

www.lawsociety.org.uk. (n.d.). *LASPO 4 years on*. [online] Available at: <https://www.lawsociety.org.uk/topics/research/laspo-4-years-on>.

www.lawsociety.org.uk. (n.d.). *Legal aid deserts*. [online] Available at: <https://www.lawsociety.org.uk/campaigns/civil-justice/legal-aid-deserts>.

www.lawsociety.org.uk. (n.d.). *Public legal education*. [online] Available at: <https://www.lawsociety.org.uk/campaigns/public-legal-education#:~:text=PLE%20helps%20to%20create%20empowered>.

www.lawsociety.org.uk. (n.d.). *Tendering for legal aid contracts*. [online] Available at: <https://www.lawsociety.org.uk/topics/legal-aid/tendering-for-legal-aid-contracts>.

www.lawsociety.org.uk. (n.d.). *Annual statistics report 2021*. [online]

www.ons.gov.uk. (n.d.). Domestic abuse during the coronavirus (COVID-19) pandemic, England and Wales - Office for National Statistics. [online] Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseduringthecoronaviruscovid19pandemicenglandandwales/november2020#domestic-abuse-victim-services>.

www.ons.gov.uk. (n.d.). Earnings and hours worked, industry by four-digit SIC: ASHE Table 16 - Office for National Statistics. [online] Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/industry4digitsic2007ashtable16>.

www.ons.gov.uk. (n.d.). National population projections, migration assumptions: 2020-based interim - Office for National Statistics. [online] Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/methodologies/nationalpopulationprojectionsmigrationassumptions2020basedinterim>

www.parliament.co.uk. (n.d.). *The Future of Legal Aid*. [online] Available at: <https://publications.parliament.uk/pa/cm5802/cmselect/cmjust/70/7006.htm>

www.sra.org.uk. (2021). *Breakdown of solicitor firms*. [online] Available at: https://www.sra.org.uk/sra/research-publications/regulated-community-statistics/data/solicitor_firms/.

www.sra.org.uk. (2021). *Population of solicitors in England and Wales*. [online] Available at: https://www.sra.org.uk/sra/research-publications/regulated-community-statistics/data/population_solicitors/.

Young Legal Aid Lawyers. (2019). *Becoming a solicitor*. [online] Available at: <https://younglegalaidlawyers.org/solicitorapps>.

AID CENSUS Report Prepared by. [online] Available at: https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Findings-from-the-2021-Legal-Aid-Census_Final.pdf.

CENSUS Report Prepared by. [online] Available at: https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Findings-from-the-2021-Legal-Aid-Census_Final.pdf.

1956. 3. Economies of large scale as Barriers to Entry. *Barriers to New Competition: Their Character and Consequences in Manufacturing Industries*. Cambridge, MA and London, England: Harvard University Press, pp. 53-113. <https://doi.org/10.4159/harvard.9780674188037.c5>

2010 Standard Civil Contract Payment Annex. (n.d.). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/308903/LAA-2010-payment-annex-2.pdf.



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