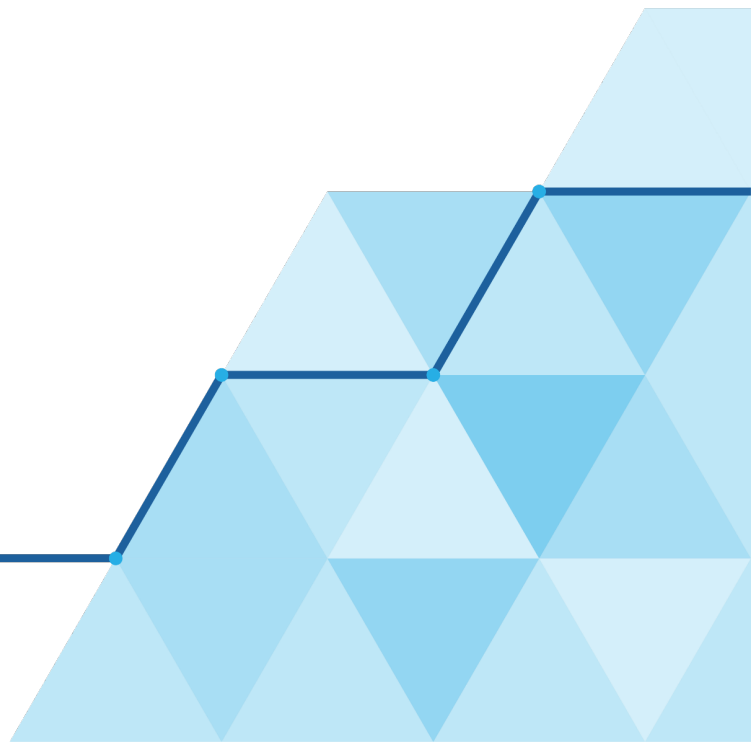




Ministry
of Justice

Review of Civil Legal Aid: Call for Evidence Analysis Summaries



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Background

1. The Call for Evidence forms part of the evidence gathering phase for the [Review of Civil Legal Aid](#) (RoCLA) and is being published alongside the Overarching Report.
2. The Review of Civil Legal Aid Call for Evidence was published on 10/01/24. It invited comments in response to 17 substantive questions which aimed to identify options which will improve the sustainability of the civil legal aid system, ensuring it is capable of delivering access to justice over the long term.
3. The Call for Evidence period closed on 21/02/24 and this report summarises the responses. Feedback from all written responses and participation in the roundtables has been analysed to produce this summary. The views expressed in this document form a summary of the responses we received and do not necessarily express the views of the Ministry of Justice.
4. The findings from this Call for Evidence will be used to support the policy development that emerges from RoCLA.

Summary of responses and demographic information

5. We received 203¹ distinct responses to the Call to Evidence. Of these, 150 (74%) were responses written on behalf of organisations relevant to the remit of civil legal aid work. 53 (26%) were from individuals.
6. Of the 150 organisations, most were charities (62, or 41%), including Citizens Advice centres. Solicitors' firms were next frequent (28, or 19%), and after that, Law Centres (21, or 14%) and professional bodies (18, or 12%). Other respondents include coalition/non-governmental organisation lobbying groups, private/consultancy companies, local authorities, think tanks, regulatory/statutory bodies and law clinics.
7. Of the 53 individual respondents, most were lawyers or legal advisers (22 were solicitors, nine were barristers, five were from law centres or clinics). Others were charity caseworkers/volunteers, researchers, service users and members of the public.
8. Across all responses, immigration and asylum was the most frequently discussed area of civil law (in 87 responses), followed by family matters (in 68 responses).
9. Responses were split between London-based organisations (60 in total), those working nationally (51), and those working in specific regions (85).
10. Six regional roundtables were also conducted as part of the Call for Evidence, with over 50 participants across all categories of law. The feedback from these have been fed into the analysis summaries where appropriate.
11. Respondents could choose which questions they answered and not all respondents answered all the questions.

¹ This number excludes duplicate responses from the same source, portal/email duplicates, and two blank responses that were likely tests. It counts supplementary material in with the relevant response as one. It includes two duplicate responses submitted from differing sources.

Analysis summaries

Analysis results: Q1

Do you have any suggestions of changes that could improve civil legal aid – both short-term and longer-term changes?

Summary of findings

The findings highlight several key themes for improvements. The most frequent concern is with administrative systems, followed by issues related to fees. There is also a strong call for the expansion of the scope of legal aid. Further areas that were frequently mentioned include revising means tests and eligibility requirements, and better utilisation of technology. Other noteworthy themes involve challenges in recruitment and retention, enhancing relationships with the Legal Aid Agency (LAA) and opportunities such as increased open dialogue on cases, speeding up funding decisions, and improving the collection and use of data.

Findings

Responses covered a broad range of themes for improvement. The five most frequently mentioned themes, in order, were:

Improvement of the administrative systems: Respondents frequently highlighted the need for comprehensive reform of administrative systems to enhance efficiency and reduce bureaucratic hurdles, ensuring smoother operations and better service delivery. This included what respondents regarded as arbitrary contract restrictions and excessive auditing and billing processes. Moreover, evidential requirements were seen within feedback as overly stringent and often excessive, especially within domestic abuse cases. The LAA's systems and decision-making was also raised in feedback. For example, respondents frequently mentioned the Client and Cost Management System (CCMS) as problematic. Decision-making was also seen as slow and causing delays in processing applications. Suggestions for improvement in this area include the need to integrate case management systems and LAA software to reduce the need to duplicate data. Moreover, participants also suggested restructuring the LAA to regional commissions.

“The fees are paltry and the Escape Claim remuneration system is too bureaucratic, wasteful and involves too many transaction costs which are disproportionate to the small amounts involved. For example, we recently had an immigration claim rejected because the profit costs didn't match the reported CWA [contracted work and

administration] costs. The difference was £0.07 caused by the casework management system rounding up figures when generating the running record of costs.”²

Increase in fees and reform of the fee structures: Many participants called for an increase in civil legal aid fees and a complete overhaul of the current fee structures, arguing that the existing rates are insufficient to cover the costs of providing quality legal services and do not reflect the true value of the work. The most common suggestion for increasing fees was in line with inflation. An increase of 15% was the second most commonly specified fee increase. Participants also suggested a more flexible and dynamic fee structure that could adapt to different types of work.

“The existing rates are not sustainable and firms are going out of business as a result. Junior lawyers cannot afford to work in legal aid and the number of practitioners is reducing as more experienced practitioners retire. The current system is simply not sustainable and relies heavily on lawyers willing to do unpaid overtime.”³

“[...]Without significant financial investment into the legal aid system, any changes to the contract either proposed by the LAA, or requested by the representative bodies, are unlikely to do very much to improve the sustainability of the sector and increase access to justice for clients. It is well recognised that current fee levels make legal aid work unsustainable.”⁴

Expansion of the scope of legal aid: There was significant advocacy for expanding the scope of legal aid under the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), with suggestions to include more types of cases and broader categories of legal issues to ensure greater access to justice. Feedback was supportive of the inclusion of more categories of law and more case types within existing categories, as well as expanding legal aid services. Participants also wanted inclusion of cases that are currently excluded but represent significant needs for vulnerable populations.

- A large number of responses called for legal aid to be expanded to include pre-National Referral Mechanism (NRM) immigration advice, as well as more cases of modern slavery.
- A large number of responses called for an expansion of legal aid to include social welfare law, to enable practitioners to resolve the full range of clients’ often clustered legal problems.
- A large number of responses called for all cases involving children, victims of domestic abuse, or other vulnerable individuals to be included within the scope of legal aid on a means-tested basis.

² A response from The Hackney Community Law Centre to the Call for Evidence.

³ Practitioner in family law, London. Response to the Call for Evidence.

⁴ A response from Legal Aid Practitioners Group (LAPG) to the Call for Evidence, page 12.

Improvements to the means test and eligibility requirements: Concerns were raised about the current means test and eligibility requirements being too stringent and excluding many who need legal aid. Respondents suggested revising these criteria to make legal aid more accessible to a larger portion of the population.

Improved use of technology: Feedback frequently emphasised the potential of technology to streamline processes, reduce costs, and improve access to legal aid services. Respondents called for better integration of digital tools and platforms to enhance efficiency and user experience.

Additional areas for improvement mentioned in the responses, included:

Initiatives to promote the recruitment and retention of legal aid practitioners: Respondents emphasised the need for targeted initiatives to attract and retain legal aid practitioners, including providing professional development opportunities and creating a supportive work environment to ensure a sustainable workforce.

Promotion of improved working relationships with the Legal Aid Agency: Many participants highlighted the importance of fostering better working relationships with the LAA, suggesting regular communication, collaborative problem-solving to enhance cooperation and service delivery.

Process for speeding up legal aid funding decisions: There were numerous calls for streamlining and expediting the process for legal aid funding decisions, with suggestions to implement more efficient procedures and reduce bureaucratic delays to ensure timely access to necessary legal resources.

Better use of technology: Respondents advocated for more user-friendly IT, with many pushing for standardised processes and the increased ability to sign documents digitally.

Analysis results: Q2

What are the civil legal aid issues that are specific to your local area?

Summary of findings

To note, this question asked for localised civil legal aid issues. Respondents, in the main, chose to respond to this question with a national scope. Therefore, feedback does not remain within the local prescription as set out in the question. Nevertheless, a summary of responses received are listed below.

The findings highlight several key themes for improvement, predominately within national parameters. The most significant concern is the insufficient availability of providers, followed by insufficient or inadequate representation for vulnerable people. Further areas highlighted include high turnover of providers, lack of quality legal services, and attracting providers to enter the civil legal aid market.

Findings

Responses covered a broad range of themes for improvement. The five most frequently mentioned themes, in order, were:

Insufficient availability of providers: Responses frequently highlighted the lack of providers in their local area as being a main cause of concern within the provision of legal aid services. Responses also highlighted a lack of providers specialising in a specific category/area of law, and that providers do not have capacity for the demand. Respondents suggested that the system currently relies on practitioners doing unpaid overtime.

“In 2013 there were 57 members of the Law Society children panel in Devon. These were spread between 30 law firms. This is post LASPO - so big teams/firms such as Foot Anstey and Michelmores and Ashfords had already withdrawn. Today there are 38 members spread between 17 Law firms.” This respondent estimates 17 will retire in the next 5 years.⁵

Insufficient/inadequate representation and support for vulnerable people:

Respondents highlighted concern for vulnerable people’s ability to access legal representation, most references listed asylum seekers and people at risk of homelessness as the main areas of concern. Particularly, asylum seekers were identified as an area of concern. It was suggested that a single portal for asylum/immigration clients to login to and download their documents would be helpful to mitigate the risk of their lawyer not sending them. Moreover, other groups were identified such as people at risk of homelessness, children, and victims of domestic abuse as disproportionately affected by current legal aid structures and systems. Suggestions in this area included where asylum/immigration clients have been desperate for help/advice, a respondent cited signposting them to a ‘Right to Remain’ toolkit, which arms them with information about what to expect at every stage of the asylum claim.

“During the year September 2022 - September 2023, we saw 54 asylum seekers in our Immigration Clinics and wider services. Of these, at least 41 had no legal representation via legal aid before their substantive asylum interview. Of those who

⁵ A response from Walker Family Law to the Call for Evidence.

had been refused their initial asylum claim, under half had found representation of some type.”⁶

High turnover rates of providers: Participants cited retention of providers in the civil legal aid market as being a concern, particularly due to a lack of financial compensation. Generalised issues such as lack of quality legal aid services and retention issues were also raised. For example, participants raised concerns over providers becoming uninterested in legal aid work and an array of retention issues such as working conditions.

Lack of quality legal aid services: Concerns were raised about the quality of legal services, with particular reference to the access to quality providers and cases being assigned to junior or more inexperienced staff. Respondents also raised the high workload, suggesting that this would lead to quality control issues and cause delays within the system.

Attracting providers: The majority of respondents who highlighted attracting providers to enter the civil legal aid market as an issue did so in reference to all categories of civil legal aid law.

Additional areas for improvement mentioned in the responses, included:

Litigants in Person (LiPs): Respondents raised concerns with an increase in LiPs on the court system. Feedback reported this creates additional costs and places stress on the individuals involved.

“LiPs often struggle to understand their legal entitlements and create additional work for judges and court staff. Judges have estimated cases involving litigants in person take 50% longer on average.”⁷

Analysis results: Q3

What do you think are the changes in the administration of civil legal aid that would be most beneficial to providers?

Summary of findings

The findings highlight several key themes for improvements. The most significant issues raised were the simplification and streamlining of processes, along with financial eligibility.

⁶ A response from Citizens Advice Bournemouth, Christchurch & Poole to the Call for Evidence.

⁷ A response from The Law Society to the Call for Evidence, page 32.

Other noteworthy themes include the reform of the civil legal aid system to expand the scope of legal aid and increase early legal advice provisions, the LAA's auditing process and collaboration with providers, and an increase in legal aid fees.

Findings

Responses covered a broad range of themes for improvement. Some of these themes do not relate directly to the question, but we have chosen to report these as participants raised them. The five most frequently mentioned themes, in order, were:

Simplification and streamlining of processes: Many respondents felt that streamlining the contract tendering and billing processes, and imposing cost limits for high-cost cases would be beneficial. Respondents deemed this as necessary to simplify the process and reduce administrative burdens. Moreover, high-cost case plans were deemed not compatible with the CCMS (Client and Costs Management System), which causes practitioners frustration through repeated applications. Suggestions in this area included simplifying paperwork and introducing an interim payment for Controlled Work.

“Excessive bureaucracy is a major problem for legal aid providers and a disincentive for undertaking legal aid work. It creates largely unremunerated administrative costs and diverts scarce resources away from the core task of assisting clients.”⁸

Financial eligibility: Respondents felt there should be an increase in financial eligibility, and a reassessment of how potential clients are assessed for legal aid. For example, it was felt that individuals in receipt of Universal Credit should continue to be passported for financial eligibility for legal aid.

Reform of the legal aid system: Responses frequently expressed the need to expand the scope of legal aid to include more cases/services, more categories of law, and increase the provision of early legal advice. Respondents also called for a simplification of the regulations to reduce complexity. Moreover, participants reported fee structures as generally overly complex and felt that there should be more bolt-on options to ensure that administrative tasks get paid appropriately.

The LAA's ways of working: Participants expressed the need for the LAA to accept alternative audit standards as frequent auditing was seen as an administrative burden. A dedicated case worker was suggested to alleviate this problem. Other noteworthy themes arising from this question were improved collaboration between the LAA and providers to reduce LAA delays. Respondents raised concerns over the LAA being adversarial in their approach.

⁸ A response from The Law Society to the Call for Evidence, page 2.

“This level of micromanagement requires considerable decision making on the part of LAA caseworkers. Reports from practitioners suggest that poor and inconsistent decision making at case level from the LAA has impaired operations of providers.”⁹

Increase in legal aid fees: Fees arose again as prominent feedback within responses. Participants expressed the need for fees to be aligned with the correct economic conditions, for example, inflation. Other suggestions included aligning fees with private sector rates and introducing interim payments for Controlled Work.

Additional areas for improvement mentioned in the responses, included:

Administrative changes: Most frequently, respondents cited contracts as being the most problematic area, along with cost limits and high-cost cases. A small number of respondents reported that payments on account is an issue.¹⁰ Suggestions for improvement included removing office requirements subject to a provider’s ability to continue to provide in-person advice at suitable premises. Currently there is a 50% allowance for remote work, except in immigration and asylum where the limit has been lifted to 75%. Discounting immigration and asylum, this means that the number of Controlled Work Matters where the client does not attend the provider’s office in person must not exceed 50%, excluding cases where the provision of remote work was required as a reasonable adjustment under the Equality Act 2010. The feedback suggests that the 50% allowance should be adjusted to allow for more remote work.

LAA systems/platforms: The most common cited problem in this area was listed as the functioning of the CCMS system. Generally, respondents felt that the CCMS system was overly complex, required data to be repeatedly input, and does not satisfactorily accommodate Exceptional Case Funding (ECF) applications and cases.

Analysis results: Q4

What potential risks and opportunities do you foresee in the future for civil legal aid: i) in general; and ii) if changes are made to the current system?

⁹ A response from The Law Society to the Call for Evidence, page 27.

¹⁰ Payment on Account” or “PoA” means a payment made by the LAA, on account of amounts due in respect of Contract Work, before the LAA have paid the final Claim for the relevant Matter or case, but excluding any Monthly Payments.

Summary of findings

The findings highlight several key themes relating to risks and opportunities. The most significant of the risks raised was the diminishing provider base, followed by the effectiveness of legal aid and a client's ability to access quality representation. Other noteworthy themes arising also included the increase in LiPs. Moreover, the impacts of these problems were broadly felt among respondents to be poorer outcomes for individuals, a negative impact on vulnerable groups, and wider implications for the provision of access to justice. Within opportunities for change, feedback suggested increased funding, and administrative/protocol changes.

Findings

Responses covered a broad range of themes which can be broken down into three categories, risks, impacts, and opportunities. The most frequently mentioned themes, in order, were:

Risks: Respondents felt that the diminishing provider base was the biggest risk to legal aid. Feedback on this topic consisted of concerns over the financial viability of providers and the risk of provider closures if action is not taken. This was followed by effectiveness of legal aid and the increase in LiPs.

Impacts: The impacts of these problems were seen as being poorer case outcomes for individuals and the negative impact this would have on vulnerable groups such as those on low income, victims of domestic abuse, and people at risk of homelessness. Respondents also raised concerns about an individual's access to justice, and the impact on other elements, such as court backlogs.

Opportunities: The majority of feedback that addressed opportunities to improve the system expressed a need to reinvest in legal aid by increasing funding and making the necessary administrative and protocol changes to ensure it functions effectively. This included suggestions to make social welfare law more financially viable for trainees and for the LAA to make necessary administrative changes to reduce the burden on providers.

“When calculating the value for money for the public purse there should be consideration of the outcomes for citizens and communities, and the savings for other government departments rather than purely the number of cases and the administrative costs of the LAA. The MoJ should undertake regular cost benefit analysis of legal aid to demonstrate the cost savings overall, generated to the Treasury.”¹¹

¹¹ A response from The Law Society to the Call for Evidence, page 36.

Analysis results: Q5

What do you think are the possible downstream benefits of civil legal aid?

Summary of findings

The findings highlight several potential benefits. The two most popular benefits include legal aid generating a financial/resource saving, contributing to the prevention of a problem, or early intervention in a case which in turn would foster better resolutions. Other noteworthy benefits include improved outcomes for vulnerable individuals and contributing to the effectiveness of the justice system holistically.

Findings

Responses covered a broad range of themes. The five most frequently mentioned themes, in order, were:

Financial/resource saving: In particular, respondents cited a reduction in public spending, particularly on the healthcare system, as a downstream benefit. Avoidance of costly court proceedings was also identified by respondents.

“Research shows that for every £1 of legal aid expenditure on employment advice, the state potentially saved £7.13 under the pre-LASPO scheme. Work undertaken by the New Economics Foundation for the Law Centres Federation suggested that the ‘social return’ for legal help for clients with the most complex problems could be as high £10 to every £1 invested.”¹²

Prevention/early intervention for better resolutions: Principally, the downstream benefit of early intervention was seen as allowing individuals to better access legal advice to reduce the escalation of legal issues. This would produce better outcomes for individuals and avoid, where possible, appeals.

Improved outcomes for vulnerable individuals: This was particularly felt with reference to asylum seekers, children, and people at risk of homelessness.

Immigration/asylum: A large number of responses received for this question were in relation to the immigration/asylum sector, with feedback suggesting downstream benefits include reduced stress levels and less burden on health services. However, feedback also highlighted that this could contribute to an increase in pressure on local authorities to provide accommodation.

¹² A response on behalf of the Camden Community Law Centre and a response on behalf of the Hackney Community Law Centre to the Call for Evidence.

Help in family and/or public law: A large number of responses received for this question were in relation to the family/housing sector, particularly in relation to better outcomes for children, their education and health. Feedback also reported that mediation could be a useful tool as an alternative to court proceedings which in turn could reduce the stress placed on families and prevent child arrangement disputes.

“Civil legal aid offers downstream benefits that extend beyond mere cost savings. By facilitating access to entitled benefits, preserving housing stability, and improving health outcomes, legal aid plays a vital role in promoting societal well-being and economic prosperity, while also upholding the principles of access to justice, legal empowerment, and trust in institutions. Recognising the broader impact of legal aid on legal confidence, awareness, and capabilities is essential for the Ministry of Justice to fully appreciate its significance in maintaining the rule of law and ensuring equality of opportunity for all members of society.”¹³

Additional areas of benefit mentioned in the responses included:

Increased effectiveness of the justice system: Respondents reported the benefits in this area contributing to a reduction in pressure on the court system, an overall increase in access to justice, and other benefits such as an increased trust in the justice system and a more efficient allocation of funds/judicial resources.

Analysis results: Q6

What are your views on the incentives created by the structure of the current fee system?

Summary of findings

The findings highlight some key areas. The most frequently cited themes are the common disincentives within the current system, the long and short-term impacts of these disincentives, and changes needed within the current fee system.

Findings

Responses covered a broad range of themes for improvement. The five most frequently mentioned themes, in order, were:

¹³ A response from LAPG to the Call for Evidence, page 55.

Common disincentives mentioned within the current system: Feedback suggests that there are several disincentives within the current system, including: (1) the fee levels which feedback reported is causing providers to suffer financially; (2) the fee structures which feedback suggested disincentivises the collection of expert advice and early resolution of problems; and (3) administrative processes and audits which participants reported causes significant backlogs.

“The current rates and remuneration offer no incentives for legal aid providers, hence the significant decline in provider numbers in recent years. We note that the MoJ’s own civil legal aid provider survey found that the majority of providers do legal aid work for ‘moral’ or ‘habitual’ reasons rather than for financial reward.”¹⁴

“The current fixed fee system operates as a disincentive for providers. The main issue is that the fixed fees are too low. This problem is exacerbated by the fixed fee structure that requires providers do work to the value of three times the fixed fee before the ‘escape threshold’ that enables the case to proceed on an hourly rate basis is reached. This means that work done that exceeds the fixed fee limit but does not reach the escape threshold goes unremunerated.”¹⁵

Long-term results of the current fees system: Concerns were raised about the long-term longevity of providers under the current fee levels and that current levels were putting livelihoods of practitioners at risk. As well as this, recruitment and retention problems were a common theme within feedback. Participants also cited the tendering process as a particular problem. Participants also brought into question the quality of advice being provided due to the financial pressures on providers. Much of the feedback said that providers are relying on subsidies to continue their legal aid work.

“Recruitment and retention – Salaries are low, and caseloads are high. This makes it difficult to recruit staff especially at a more senior level. Trainees are likely to leave shortly after qualification to pursue non legal aid careers with better salaries and work / life balance. Once skills and capacity are lost, they are difficult to rebuild. The MoJ needs to have a strategy to make legal aid careers more attractive. Short term incentives such as the limited fees increase for immigration whilst welcome, do not in themselves build resilience into the system or act as a sufficient incentive for new entrants.”¹⁶

Short-term results of the current fees system: Participants highlighted that the main short-term impacts of the fees system are providers cherry-picking cases, often favouring more complex cases as they are more lucrative, and practitioners not taking on certain

¹⁴ A response from The Law Society to the Call for Evidence, page 37.

¹⁵ A response from The Law Society to the Call for Evidence, page 38.

¹⁶ A response from The Law Society to the Call for Evidence, page 2.

types of work - for example, work paid through fixed fees. Feedback also suggested that the high workload is causing providers to prioritise quantity over quality, which in turn causes high levels of burnout.

“When hourly rates and fixed fees are lower than the cost of delivering services, providers are operating at a loss and that practitioners have no choice but to be selective about the types of cases that they can afford to take on.”¹⁷

Changes/improvements needed: For the providers, respondents cited fee increases, structural changes, and improved billing features as essential to a well performing legal aid system. Suggestions for improvement in this area centred around increasing fees in line with inflation, streamlining fee processes, and more bolt-on fee options. Suggestions for improvement also alluded to improved contracts and billing processes and removing the formal tender process and replacing this with regular reviews and checks without the need to re-tender. There was also a suggestion for senior practitioners to get increased remuneration to reflect the complexity of the case and to avoid cherry-picking of cases. For users, respondents cited the expansion of eligibility for legal aid as the main desire, as well as clear signposting so that clients are able to identify their problem and seek the appropriate level of help.

“There are currently no financial incentives to do legal aid work. The rates of pay have not increased for more than a decade and were cut by 10% back in 2011. No account has been taken of inflation and the rising costs of running a business, nothing else has remained frozen in time. Our accounts for 2008/09 pre LASPO showed that our legal income was approximately 57% of a turnover of £1.9m, the most recent accounts show that this reduced to 26% on a turnover of £1.5m.”¹⁸

There are limited incentives to do legal aid work: Many participants told us there are no incentives to the current fees system. This was particularly felt within feedback received from the round table events.

“I don’t think there is a single incentive in the system to take part. People take part because they believe in it not because there is any incentive to do it.”¹⁹

Other noteworthy feedback includes:

Early resolution is disincentivised within the current system: Respondents raised concerns with the extent to which the current system encourages early resolution. Participants highlighted that it does not, citing financial constraints and fee structures as

¹⁷ A response from LAPG to the Call for Evidence, page 59.

¹⁸ A response from South West London Law Centre to the Call for Evidence.

¹⁹ Roundtable participant, 30 January 2024.

common problems. Suggestions included a more person-centred approach so that clients can take autonomy in solving their problems.

Analysis results: Q7

Is there anything in particular in civil legal aid that prevents practitioners with protected characteristics from starting and continuing their careers?

Summary of findings

The most prevalent concern listed in feedback was the low paying nature of legal aid work, followed by providers choosing to leave the legal aid profession. A number of protected characteristics were mentioned; chiefly, sex, disability, pregnancy and maternity, as well as those with caring responsibilities.

Findings

Responses covered a broad range of themes for improvement. The five most frequently mentioned themes, in order, were:

Fees and working conditions: Generalised concerns particularly pertained to the fee levels afforded, specifically to those just starting out in the profession who need to balance student loan repayments. As well as this, difficult working conditions were also cited, and work life balance was deemed unattainable.

“Once qualified there is little career structure and as experience is generally not rewarded by increased legal aid fees, there is no guarantee of increases in salary commensurate with experience. This explains why so many people leave legal aid work early in their careers to carry out private work or to work in organisations such as local authorities. Public bodies will attract lawyers because of not only superior salary levels and career progression but also flexible working and pension schemes.”²⁰

“Conditions within the sector all very poor. Findings by Young Legal Aid Lawyers found in 2023 that immigration lawyers practitioners routinely worked over their contracted hours and find it difficult to take leave with a majority of respondents saying that they were working beyond their capacity. In addition, those working in immigration legal aid

²⁰ A response from LAPG to the Call for Evidence, page 72.

reported high levels of burnout and vicarious trauma and described limited training and supervision leading to fear and concern around their work and their role.”²¹

Concerns regarding career development: Participants listed pay rates, limited career opportunities/development and a difficult working environment as reasons why providers are leaving the profession. Feedback also suggested that people with protected characteristics could be disproportionately affected.

“The most common salary for legal aid practitioners is between £30,000 and £39,999 and the majority of practitioners earn less than £49,999. A third of legal practitioners surveyed in LAPG’s Legal Aid Executive Summary (2022), who had left their area of practice legal aid indicated that this was because the area they left was no longer a financially viable”²²

Concerns regarding the beginning of practitioner’s careers: Some concerns were raised over practitioners beginning their careers with providers, specifically around the number of supervisors, the cost to train individuals and trainees leaving shortly after qualifying. Moreover, feedback raised concerns over a lack of specialist training.

“In a report released March 2022, 41.9% of 18-35 year olds surveyed in LAPGs Legal Aid Census said that they had faced financial barriers to entering the legal aid sector. This is in comparison to 35.9% of 36-50 year olds, and 22.3% of those aged 51 and above, suggesting that these financial barriers are worsening. It is not a coincidence that the age group of 18-35 has found entering the sector more of a challenge, given that most would have entered the legal aid sector post-LASPO cuts.”²³

The impacts of the current system on the diversity of providers: Feedback also raised some concerns over the consequences of the current system, this included an impact on the diversity of the sector and reports of an ageing profession. Feedback reported that this leads to high turnover, meaning diversity within the sector is difficult to maintain.

Providers’ perspective for practitioners starting their careers: There were numerous reasons given for the difficulties of starting a career in legal aid. Reasons include the poorly paid training contracts and a poor reputation of legal aid. Suggestions in this area focused on putting more emphasis on social welfare within the Solicitors Qualifying

²¹ A response from Vauxhall community law and information centre to the Call for Evidence. Also cited findings from the young legal aid lawyer, Page 3 <https://younglegalaidlawyers.org/young-legal-aid-lawyers-release-a-new-report-overstretched-unsustainable-a-case-study-of-the-immigration-and-asylum-legal-aid-sector>.

²² A response from Vauxhall community law and information centre to the Call for Evidence. Also cited https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Exec-Summary_Final.pdf.

²³ A response from Vauxhall community law and information centre to the Call for Evidence. Also cited https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Exec-Summary_Final.pdf.

Examination (SQE) qualification, as well as funding civil legal aid opportunities for individuals studying law or new trainees.

As well as this, practitioners with protected characteristics and other barriers were regarded as having an increased struggle when accessing the legal aid profession, including:

- **Those with caring responsibilities:** Particularly women with children.
- **Disability:** Particularly individuals with a neurodiversity such as dyslexia as there is prescribed written work that can take longer to complete that goes uncompensated.
- **Sex:** Particularly women with children.
- **Pregnancy/maternity:** The lack of part-time work and flexible working.

Analysis results: Q8

How can the diversity of the profession be increased in legal aid practice, including ethnicity, sex, age and socio-economic background?

Summary of findings

The feedback suggested areas of improvement. Most notable being the need to improve the financial viability of working in legal aid, followed by improving the working conditions and environment.

Findings

Responses covered a range of themes for improvement. Most frequently mentioned themes, in order, were:

Improve the financial viability of legal aid work: Most prominently, feedback suggested an increase of fees is necessary to recruit and retain staff into the profession. Frequently, participants highlighted the most effective way to ensure diversity within the sector is fair and competitive pay as well as ensuring practitioners are paid for all the work they do, including the administrative tasks.

“It is no longer really possible or feasible to start a career in legal aid, due to poor pay rates, added to this legal aid is a highly complex and stressful areas of law to deal with. We are extremely lucky and grateful to the staff that have stayed with us. They have a

strong sense of duty towards our legal system and want equality before the law be a reality rather than an ever decreasing aspiration.”²⁴

Improve working conditions/environment: Respondents highlighted the need to provide adequate training support. Respondents called for the LAA to continue to support providers with employing diverse lawyers through training schemes such as the Housing Loss Prevention Advice Scheme (HLPAS). As well as this, responses focused on practitioners’ workload and improvements to administrative processes. All of which, feedback said, would aid diversity within the profession. Participants raised many generalised areas for improvement such as:

- Use of name blind recruitment,
- Improved workplace adjustments,
- Increased support for part-time workers and more flexible working opportunities.

Structural improvements: Respondents suggested many structural changes that would have to take place to improve the diversity of the sector, such as:

- Simplified contracts for providers, to attract new recruits into the profession.
- Inclusive administrative systems, such as an option to add an individual’s pronouns to the CCMS system.

Analysis results: Q9

What barriers/obstacles do you think individuals encounter when attempting to access civil legal aid?

Summary of findings

The feedback suggested there are many barriers individuals encounter when attempting to access civil legal aid. Responses focused heavily on themes relating to the legal aid systems such as the amount and quality of providers. Moreover, many respondents also highlighted potential user problems such as awareness of the system, the capability of the individual, and the limited scope of legal aid under LASPO.

Findings

Responses covered a range of themes for improvement. Most frequently mentioned themes, in order, were:

²⁴ A response from South West London Law Centre to the Call for Evidence.

System-focused feedback: Most frequently, feedback cited the lack of quality providers within a client's locale which contributed to an increase in poor advice to clients and poorer outcomes for individuals. Moreover, financial eligibility and evidential requirements were also raised. Participants specifically raised concerns with the requirement for evidence of domestic abuse along with the complexity of the means test. Respondents also frequently raised concerns over the scope of legal aid.

User-focused feedback: Within user-focused answers, participants listed a client's lack of awareness of their legal problems and where to get help as the main barrier. Along with this, the limited scope of financial eligibility often prohibits clients from accessing legal aid, such as when capital is trapped, for example, within a family home. Some respondents also referenced the lack of capability of the client leading to barriers, such as remote-only advice creating a barrier for individuals who have limited technological capabilities.

“Clients often have a lack of understanding of the tests that need to meet in order to show that they are eligible. Can try to explain this as much as possible but does not always work. Clients often do not know why they need to show their bank statements for specific dates, or why they have to provide lots of information to carry out a full means assessment... [They] Do not understand the introduction of gateway evidence and why they had legal aid before, but cannot get it now.”²⁵

As well as this, responses also highlighted certain groups who are particularly affected, including:

- **Asylum seekers:** Concerns were raised over a steady decrease of immigration and asylum providers, coupled with the Home Office's streamlined asylum process which placed greater demand on the system.

“Women applying for indefinite leave to remain (ILR) as victims of domestic abuse were experiencing challenges with accessing legal aid because legal aid lawyers were choosing to take on asylum cases which attracted a higher fixed fee.”²⁶

- **Victims of domestic abuse:** Participants raised issues with provider understanding of domestic abuse, leading to individuals feeling judged and unheard.
- Feedback also raised other groups, such as children, people at risk of homelessness, and low-income individuals.

²⁵ Practitioner for a provider, Essex.

²⁶ A response from the Rights of Women to the Call for Evidence. Also cited [Microsoft Word – LASPO PIR submission ROW.docx \(rightsofwomen.org.uk\)](#).

Analysis results: Q10

What could be done to improve client choice such that it is easier for clients to find civil legal aid providers and make informed decisions about which one best meets their needs?

Summary of findings

In answer to the question, respondents said that an increased supply of legal aid providers is the principal area which will lead to positive change. Following this, participants also cited improved promotion of wider services, reduction of the administrative burden on users, and accessibility of information as changes that would make a difference in client choice.

Findings

Responses covered a range of themes for improvement. Most frequently mentioned themes, in order, were:

Increased supply of legal aid services: Within this, concerns were raised over the availability of providers and respondents suggested improving recruitment and training, and uplifting fees would facilitate a larger provider base. Moreover, there were also references to geographical disparities in access and issues with access to legal aid within different categories of law.

“There are simply not enough civil legal aid providers to give clients a choice in the first place. Most potential clients for civil legal aid across the country do not have access to a civil legal aid provider. From January to March 2023, neither the applicant nor respondent had legal representation in 40% of family dispute cases. In the 2022-23 financial year, only 64% of the population of England and Wales lived within 10 kilometres of a provider of legal aid housing advice, for issues such as eviction proceedings. This is down from 73% in 2013-14.”²⁷

Promotion of wider advice services: Suggestions in how to improve clients’ choice centred around improving the promotion of the sector, such as through improved partnerships with other services, improved referral and triage services. Participants also raised the importance of early legal advice services; they reported this would ensure swift access to justice and be more cost effective.

“Respondents to the survey (unprompted) outlined the following actions which could be done to improve client choice: (1) Promotion of information (38% of respondents) (2)

²⁷ A response from Vauxhall community law and information centre to the Call for Evidence. Also cited <https://www.nao.org.uk/wp-content/uploads/2024/02/governments-management-of-legal-aid.pdf>.

Expanding the scope of funding (24% of respondents) (3) Increase the number of practitioners (31% of respondents).”²⁸

Administrative burden for users: A number of responses referenced the administrative burden placed on users, namely making it easier to change provider where necessary. Moreover, as previously highlighted, medical evidence was brought into question as being unnecessarily burdensome to obtain, specifically within domestic abuse cases.

Improved accessibility and information: Most frequently, participants advocated for increased information on how clients can find providers. Suggestions included up-to-date directories of providers. Participants also raised concerns over an individual’s access to information. Feedback suggested information needs to be given using clearer, simpler language, available in more languages, and easier to find.

Expand the scope of legal aid: Participants also reiterated the suggestion to expand legal aid’s eligibility.

Analysis results: Q11

Do you think that some people who are eligible for civil legal aid may not know that it is available and/or how to access it?

Summary of findings

In answer to the question, many respondents cited instances where people did not know they were eligible for legal aid due to the lack of available information on legal aid, client’s limited understanding around their legal needs, and how easy legal aid information is to understand and apply.

Findings

Responses covered a range of themes for improvement. Most frequently mentioned themes, in order, were:

Some people who are eligible for legal aid do not know: Participants cited the lack of availability of legal aid information, along with the often-complex nature of legal aid information as key drivers of the lack of awareness. Suggestions included simplifying the messaging around legal aid, specifically within immigration cases. Suggestions also

²⁸ A response from The Chartered Institute of Legal Executives to the Call for Evidence, page 28.

included collaborating with other government departments (Department for Work and Pensions, Home Office) to provide signposting about legal aid.

“The lack of public knowledge of civil legal aid is evident to our service on a daily basis. When we are signing clients up to legal aid, we often have to explain to people how it works, and what it entails. When we are handling incoming enquiries, people on low income or in receipt of welfare benefits often ask us whether we charge, out of concerns for affordability. It is our concern that people do not reach out to legal help because they do not know that it can be accessed for free if they meet the financial requirements. We regularly hear from fellow lawyers working in the corporate and commercial sector who are unaware that certain areas of legal aid still exist.”²⁹

Information is not solely the problem: Many respondents moved away from assessing the accessibility of information on legal aid and instead cited problems such as lack of providers, the scope of legal aid under LASPO, and the means test for legal aid as key contributors to the lack of accessibility.

Analysis results: Q12

How do you think that people receiving civil legal aid can be supported in cases where they have multiple or ‘clustered’ legal issues and some of these are outside of the scope of civil legal aid?

Summary of findings

In answer to the question, respondents referred to many solutions that could be employed, such as expanding the scope of legal aid, allowing exceptions for clustered issues to be included within the scope of legal aid, and improving legal aid’s holistic support offer.

Findings

Responses covered a range of themes for improvement. The most frequently mentioned themes, in order, were:

Support for people with clustered issues and potential solutions: Participants felt that the scope of legal aid should be expanded and should offer more holistic support. Suggestions included reforming fee models to allow providers to offer holistic support and reduce the rigidity of contracts to expand the categories of law providers can work on. As well as this, early legal advice and expertise across multiple areas were seen to help

²⁹ A response from Vauxhall Community Law and Information Centre to the Call for Evidence.

individuals with clustered issues. Funding across multi-agency services was also raised, both from local authorities and in the way of grants, which would allow for increased support for those facing clustered issues. Feedback reported that to increase support for individuals with clustered issues the Government would need more grants for legal aid providers and comprehensive guides to support individuals to navigate the legal aid system and identify their problems and appropriate solutions.

“Even if a client is successful in finding a legal aid advisor to represent them, the advisor will likely only be able to partially resolve their issues and an individual may have to seek advice elsewhere, which they need to fund themselves. For example, although the asylum application would be in-scope for legal aid, if the individual wanted to advance claims based on strong family connections here this would not be covered by legal aid unless ECF (Exceptional Case Funding) is granted.”³⁰

“Legal aid work has become increasingly siloed with agencies and caseworkers specialising in limited areas of work. As some areas of legal aid have become even more unprofitable than others, more contracts have been given up and this separation has increased.”³¹

The impact of support for clustered cases on the legal system: Concerns were raised over the effects of clustered problems on the legal aid system, such as fragmented cases and delays to proceedings.

The impact of support for clustered cases on the users: Respondents highlighted that if support for clustered issues were increased, this could link to an increased sense of access to justice. Suggestions for improving support included allowing Specialist welfare benefits providers to apply for a standalone welfare benefits contracts; and funding specialist second-tier advice services for out-of-scope areas like welfare benefits, which would enable legal aid providers to more quickly resolve or at least properly diagnose out of scope issues for their clients.

“Intersectionality of issues is not realistically reflected in the current regime - People often experience clusters of problems relating to several areas of law which cannot be addressed within the existing restrictive legal aid framework.”³²

³⁰ A response from the Southampton and Winchester Visitor Group to the Call for Evidence.

³¹ A response from Citizens Advice Staffordshire North & Stoke-on-Trent to the Call for Evidence.

³² A response from The Law Society to the Call for Evidence, page 2.

Analysis results: Q13

How do you think that the Exceptional Case Funding scheme is currently working, and are there any ways in which it could be improved?

Summary of findings

In answer to the question, respondents chiefly cited suggestions for improvement to the ECF process, for example to the application process. This was followed by participants saying providers are unwilling to take on ECF cases.

Findings

Responses covered a range of themes, including both concerns and areas for improvement. Most frequently mentioned themes, in order, were:

Suggestions for improvement to the ECF process: Much of the feedback received focused on suggestions for improvement, these centred around a reassessment of eligibility criteria to allow more people to access ECF, payment for ECF applications even if they proved to be unsuccessful, and a simpler application process.

“It is impossible to contact the Exceptional & Complex Case Team, the turn-around times on determinations are slower and decision-making appears to have a culture of refusal. LAA knowledge and understanding of how ECF interacts with Individual Case Contracts and cases that move onto licensed in-scope work after an initial period of ECF is poor, and we are frequently passed from pillar to post to try to resolve issues on these complex cases.”³³

Complexity and bureaucracy of ECF cases: Concerns were raised by participants over the complexity involved in the ECF cases, specifically the lengthy and complicated processes involved, the overly detailed financial requirements and the long waiting times. Many participants raised concerns over the cost effectiveness of ECF and suggested this disincentivises practitioners from taking on cases. Feedback also suggested that direct applications from users were rare and that this placed additional resource on the providers to fill out the application themselves. Feedback also raised concerns over the consistency of the LAA’s decision making regarding ECF cases.

“Few people meet the criteria and for those who may, there is no emergency decision-making path and the LAA can take some time to make decisions. As a result, most legal aid contract-holders, lacking capacity to take on all the eligible people who

³³ A response from the Child Poverty Action Group to the Call for Evidence, page 17.

approach them with meritorious cases, are generally reluctant to take on exceptional case funding applications as there is no guarantee they will be paid for their work.”³⁴

“ECF applications are too complex for people to complete without legal assistance, and is therefore inaccessible. 100% of pro bono lawyers who answered the question doubted that the applicant could complete the ECF application without legal help. When people do have legal support to apply for ECF, they are largely granted ECF, supporting the argument that legal aid should be restored for these cases. 70% of pro-bono lawyers said the complexity of immigration law was the reason why the applicant required legal aid. Once ECF is granted, applicants are faced with the additional hurdle of finding a legal aid lawyer to take their case.”³⁵

Impact on an individual’s access to justice: Participants highlighted that challenges relating to ECF applications are impacting vulnerable individuals and causing delays to legal representation. Respondents raised particular concerns with the lack of provision for immigration legal aid, saying it rendered ECF applications a ‘waste of time and effort’ as applicants may not be able to find an available legal aid provider even if their ECF application is granted.³⁶

ECF criteria/eligibility: Feedback suggested that the ECF criteria is too tightly defined/too limited. Suggestions included bringing cases where ECF applications are routinely granted back in scope of legal aid, or a simplified application procedure could be implemented for these instances.

“During the Parliamentary debates on LASPO, the government estimated that there would be 5,000- 7,000 [ECF] applications a year, of which 53-74% would be granted. Application numbers and grant rates have increased significantly since an initial low start in 2013/14 of 1516 applications with a 5% grant rate, to 3,405 in 2022/23 with a grant rate of 73%, but the overall level of applications is still significantly lower than originally predicted.”³⁷

“The process [ECF] is too complicated for individuals to undertake without the support of a legal professional yet applications for ECF are made at risk, with funding only being granted if the application is successful. Solicitors are unable to grant exceptional funding themselves, and all applications for ECF must be sent to the LAA. The LAA’s target time for responding to an initial application is 25 working days, with the target time for responding to an urgent application is ten working days. Practitioners have told

³⁴ A response from Hackney Community Law Centre to the Call for Evidence.

³⁵ A response from Greater Manchester Immigration Aid Unit to the Call for Evidence, quoting [ECF report](#).

³⁶ A response from Citizens Advice Staffordshire North & Stoke-on-Trent to the Call for Evidence.

³⁷ A response from The Law Society to the Call for Evidence, page 49.

us via the Westminster Inquiry that the ECF application process is time-consuming, onerous and leads to delay.”³⁸

Analysis results: Q14

What are the ways in which technology could be used to improve the delivery of civil legal aid and the sustainability of civil legal aid providers?

Summary of findings

In answer to the question, participants highlighted risks involved with the use of technology such as challenges for vulnerable individuals and that technology cannot address sustainability challenges of the legal aid sector. However, feedback also suggested some opportunities within the use of technology such as remote provision and simplified processes.

Findings

Responses covered a range of themes relating to opportunities with technology and the risks it can pose. The most frequently mentioned themes, in order, were:

Risks: Feedback suggested there would be risks involved with the use of technology, including challenges for vulnerable clients, especially those who may be digitally excluded, such as individuals without access to the internet. Much of the feedback also told us that technology would not solve the fundamental problems of the current legal aid system and that improved technology would only offer supplementary benefits and not address the core issues.

“Research shows that in Great Britain in 2023, an estimated 7 per cent of households did not have internet access. Internet access varied significantly by age, and 31 per cent of those aged 65 and over did not have internet access in the home in 2023. There are also variations when looking at whether people live alone, or whether they have limitations or impairments that impact their use of communication services.”³⁹

Opportunities: Respondents fed back that technology could simplify processes and improve systems for providers, including by enabling better integration between LAA systems and case management. Moreover, suggestions included an improved CCMS system that is more user-friendly, and that would allow digital signatures, translation

³⁸ A response from LAPG to the Call for Evidence, page 88.

³⁹ A response from the Association of Personal Injury Lawyers to the Call for Evidence

software, and improved collaboration between Government agencies. Participants also highlighted that technology could enable greater remote service provision for advice and within court hearings. As well as this, feedback suggested technology could allow increased accessibility for users, giving them more autonomy to choose providers through increased access to remote advice.

Analysis results: Q15

Please provide any specific evidence and thoughts on how the system could make the most effective use of remote advice services and the implications for services of this.

Summary of findings

In answer to the prompt, respondents mainly provided negative implications of using remote advice, such as technological barriers and the quality of the interaction. Many participants did, however, list some benefits, such as increased accessibility and timely assistance.

Findings

Responses covered a range of themes, including both negative and positive impacts of increasing the use of remote advice. The most frequently mentioned themes, in order, were:

Negative implications: Within the negative implications, participants raised concerns about the technological barriers faced by some clients, especially vulnerable clients and those with limited IT knowledge and access. It was also felt that the quality of interaction may decrease as remote advice would not be suitable for all cases and vulnerable clients could be disproportionately affected. Feedback also suggested that providers may have difficulties establishing the necessary technological infrastructure to sustain remote provision. Suggestions included Government grants to fund the expansion of remote legal advice, in order to support providers who may lack sufficient resources to invest.

Positive implications: Feedback suggested increased accessibility as a positive for those with barriers to travel and for those in more remote regions. It was felt that remote advice could provide timely assistance and prove more cost-effective for providers and users. Moreover, it would allow a provider to have shorter but more frequent discussions with their clients which could lead to better outcomes. Suggestions included designing user-friendly technology based on simpler processes but maintaining the infrastructure for in-person legal aid as well.

The system could make more effective use of remote advice: Remote advice could be best used to give clients a choice of how they attend mediation, allow them to sign documents virtually, and attend hearings virtually. For providers, this could aid with office requirements and increase contract flexibility.

Analysis results: Q16

What do you think are the barriers with regards to using technology, for both providers and users of civil legal aid?

Summary of findings

In answer to the question, participants cited the barriers for users as more prevalent, followed by the barriers for providers. Feedback also gave indications as to the categories of law that would benefit more from increased technology use and those for which there would be greater challenges of doing so.

Findings

The most frequently mentioned themes, in order, were:

Barriers for users: Feedback raised concerns over clients having limited access to technology, due to both limited access and capability as well as financial constraints. Feedback also suggested there would be specific challenges for vulnerable individuals, as well as language and interpretation barriers. Moreover, respondents also cited instances where it had been hard to get the necessary information from a client due to past trauma, which is exacerbated when communicating remotely. Suggestions included the LAA investing in accessible forms of documents for disabled clients.

“When surveyed, over 70% of practitioners responded that client understanding of technology was a barrier in relation to civil legal aid. This was accompanied with over 40% of respondents highlighting that clients had refused to use technology – impacting on civil legal aid.”⁴⁰

Barriers for providers: Respondents also cited some barriers for providers, chiefly the investment and time needed to develop and maintain technological infrastructure. Some respondents also suggested providers would be resistant to the change technology brings, due to gaps in their own IT capability.

⁴⁰ A response from The Chartered Institute of Legal Executives to the Call for Evidence, page 31.

“25% of practitioners reported that ineffective training was a barrier to using technology, coupled with 13% highlighting that they did not have adequate time to learn the technology.”⁴¹

Respondents said that remote hearings could be beneficial in all categories of law. Participants also provided particular categories of law that would particularly benefit from increased technology use, the most frequent being:

- **Family:** Some participants said family law could benefit from increased technology use as it could assist with privacy for the family and helping the family find a mediator.
- **Housing and Debt:** This would be particularly helpful where clients have childcare responsibilities or a disability.
- **Welfare Benefits:** Respondents highlighted that remote advice would work particularly well for specialist second-tier advice, provided welfare benefits advice is properly funded.

Participants also suggested categories of law in which it may be more challenging to increase the use of technology, the most frequent being:

- **Immigration and Asylum:** Clients in this category of law may be more likely to experience challenges with digital access, language barriers, and trauma, for which greater use of technology may be inappropriate. This could lead to a disconnect between the client and lawyer and disproportionately affects the most vulnerable.

Participants also listed some more generalised barriers such as technological access and the administrative burden associated with certain categories of law, specifically, family, welfare benefits, community care, and housing and debt.

Analysis results: Q17

What do you think could be done to encourage early resolution of disputes through the civil legal aid system?

Summary of findings

Respondents raised potential ways to make early resolution viable through funding and support, such as increased fees - particularly for mediation. Many participants also highlighted the risks of over-relying on early resolution as these services may not always meet the needs of the client and/or case.

⁴¹ A response from The Chartered Institute of Legal Executives' response to the Call for Evidence, page 31.

Findings

The most frequently mentioned themes, in order, were:

Steps to be taken to make early resolution more viable through funding and

support: It was widely felt that to make early resolution work more viable for providers, increased fees would be needed, particularly for legal help work, and more funding should be directed towards mediation and alternative dispute resolution.

The scope of legal aid: Feedback also called for early legal help without the need to go through the eligibility criteria as set out under LASPO.

The potential risks of an over-promotion of early resolution: Respondents raised concerns over potential problems with the over promotion of early resolution, particularly in cases concerning domestic abuse and safeguarding for children. Feedback suggested that early case resolution may not always meet the needs for the case/user. It was felt that some cases cannot be resolved with early resolution and attempts to do so would have negative consequences.

“The prospect is very dangerous in family cases. I have recently done a case in a pilot court and really serious issues of domestic abuse and child safeguarding were at risk of being overlooked due to the push to resolve the case early.”⁴²

Steps to be taken to make early resolution viable through accessibility and

processes: Participants highlighted that improved information, such as clear signposting to mediation services, would aid early resolution. Moreover, simplified processes such as complaint procedures were seen to improve the early resolution system. Participants also reported that quicker applications would reduce adjournments.

Wider system reform to make early resolution viable: Feedback reported that system-wide reforms need to be implemented in order to encourage early resolution, including increasing the number of legal aid solicitors, making better quality legal advice available, and improved collaboration between Government departments and agencies. This was thought to make early resolution more viable as an individual’s problem can be identified quicker and referred onto legal aid.

“We believe early legal advice is a vital part of the solution. In Scotland, a World Bank report found that for every £1 spent on legal aid in family cases, the state saves £5 elsewhere (through, for example, reduced court spending and fewer people relying on benefits).”⁴³

⁴² Barrister at a Chambers, London, response to the Call for Evidence.

⁴³ A response from Resolution to the Call for Evidence. Also cited [World Bank Document](#).

Support for law centres and third-sector organisations: Feedback suggested that there is more that can be done to support law centres and third-sector organisations such as funding translators and enabling increased remote advice. For example, feedback suggested that law centres often have to rely on the language skills of the staff to help clients and that family members who translate can often be inappropriate for the sensitive nature of the case.

Analysis results: The responses who fed back in general terms, instead of feeding back question-by-question

Summary of findings

Of the 203 responses, 29 respondents chose to respond to the Call for Evidence in general terms, rather than following the question-by-question format. These responses mainly spoke to four themes: user-focused, provider-focused, system-focused, and structure-focused.

Detailed findings

Unlike the question-by-question analysis, the below feedback does not reflect the frequency of issue raised. Responses covered a broad range of themes, which are summarised by the four categories below:

User-focused

Within feedback raised on user-focused issues, the below themes were most prevalent:

Remote advice: Feedback emphasised exercising caution in expanding the use of remote advice so as not to disproportionately affect people who cannot physically or practically access legal aid remotely, such as those at risk of homelessness and people who do not speak English.

Clustered issues: Respondents highlighted the intersectional nature of the legal problems within clustered issues, particularly within cases of asylum, deprivation, health and domestic abuse. Participants raised concerns over the current legal aid system and its lack of help for people facing complex clustered issues. Suggestions included funding training and e-learning on the impact of trauma for victims of domestic abuse, refugees, and other vulnerable groups.

Scope of legal aid: The scope of legal aid was a consistent problem identified within feedback. In particular, respondents advocated for the scope to include kinship cases and for the means and merits test to be reviewed for cases of children subject to care proceedings.

Increase in LiPs: Participants highlighted that an increase in LiPs has negative consequences on the individuals and courts in question, causing court delays and placing high levels of stress on individuals.

Inadequate representation: It was highlighted that a lack of specialist providers within categories of law, particularly immigration and asylum, was leading to poor outcomes and insufficient choice of providers for users.

Lack of awareness of legal aid: It was felt by some participants that users often have little knowledge of their legal issue(s) and low awareness of the legal aid system. This can result in delays in interacting with the legal aid system, in which time their case may grow in complexity and cause worse outcomes for users.

“I have seen the positive side of legal aid. I had the opportunity to shadow a Duty Solicitor at Brentford County Court. We had a hearing the client was facing a substantial amount of rent arrears. The client was present with her daughter. The hearing concluded of a positive outcome for the client, as the Duty Solicitor attended the hearing with the client. The client came out the court room feeling very relieved, having the child seen this she ran up to hug myself and thanked me. Legal aid when accessible can have a life changing impact on lives I have no doubt of that, if only people could see how increased funding really can change people’s circumstances and get them the justice they deserve.”⁴⁴

Provider-focused

Within feedback raised on provider-focused issues, the below themes were most prevalent:

Administrative burden: Many administrative barriers were listed within feedback, including micro-management, resources management, a complex tendering process which could benefit from more structure, and strict auditing process. Accreditation for practitioners is seen as too expensive. There was also a sense that decisions needed to be made faster on applications. Feedback suggested this had a great impact on practitioners doing legal aid. It made their work more burdensome and took time away from providing advice/representation to their clients.

Fees: Consistently within feedback, fees are seen to be too low and fixed fees are reported to disproportionately affect smaller providers as it means they can only afford one to two members of specialist staff. Participants expressed the need for fees to rise in line with inflation, and to exempt housing changes from fixed recoverable cost changes.

“In 2010/11 civil legal aid funding was at 1.26 billion pounds, it was then cut further and fell to 686 million pounds by 2015/16. This indicates that the cases are rising yet the funding from the Government is decreasing. The LASPO had faced big cuts which made it harder for people who require help in family, employment, housing, and debt

⁴⁴ Housing and Welfare Benefits Casework Manager, London, response to the Call for Evidence.

problems to receive legal aid. The resulted in Law Centres who specialized in these area's decreasing by 59%.”⁴⁵

Working with the LAA: Feedback suggested the LAA portal is difficult to navigate, and within the LAA, error rates high. Feedback said that the LAA make the practitioner's job more difficult, and change is needed to support providers through the legal aid process.

Practitioner careers: To improve the in-flow of practitioners entering the civil legal aid profession, the suggestion of funding social welfare traineeships was offered. Participants additionally reported that salaries are too low and they struggle to retain staff.

Working conditions: Participants expressed that the heavy workload and often difficult cases leads to burnout among providers.

“Funding cuts led to less legal representatives working within the legal aid department, Solicitors and caseworkers are unable to help more clients as they are restricted, the public feel frustrated that they have not got access to the Justice System. Overall, the concept of legal aid really does help the marginalized and disadvantaged in society, however as funding decreases yearly achieving this is becoming increasingly harder for Law Centres overall.”⁴⁶

System-focused

Within feedback raised on system-focused issues, the below themes were most prevalent:

Overall legal aid processes: Among participants, it is felt that the legal aid system is too complex, such as contract and tendering difficulties, and inefficient, for example the fee structures, and this leads to downstream costs in health and social services.

Structure-focused

Within feedback raised on structure-focused issues, the below themes were most prevalent:

LASPO: Feedback advocated for an expansion in the scope of legal aid, with housing disrepair cases a prevalent example of something to bring into scope.

Early intervention: Participants noted the positive effects of early intervention. The feedback celebrated a collaborative approach, particularly between the Home Office and the MoJ particularly within immigration and asylum cases.

⁴⁵ Housing and Welfare Benefits Casework Manager, London, response to the Call for Evidence.

⁴⁶ Housing and Welfare Benefits Casework Manager, London, response to the Call for Evidence.

Evidence requirements: Feedback suggested that evidence for the means test should be more flexible and decision-making on legal aid eligibility should be undertaken by LAA staff who have sufficient training and expertise.

Exceptional Case Funding: Respondents felt that ECF is too complex and that it needs to be fairer and less discriminatory. Feedback suggested providers are in a 'catch 22' situation whereby the scope of legal aid is so restricted and the ECF too hard to get that individuals go without legal advice and representation. This leads to vulnerable individuals being put at risk of homelessness and delays in proceedings, such as for immigration cases. Participants also reported that very few providers have capacity to take on ECF work.

Remote advice: Feedback reported risks associated with increasing remote provision. Providers may lack the time and funding to be able to invest in technology and building trust and relationships with clients is more challenging when done virtually, particularly with vulnerable clients.

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