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The All-Party Parliamentary  
Group on Legal Aid

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## Special Bulletin from the APPG on Legal Aid Legal Aid Statistics – Summary Analysis of Statistics January- (Released 30 June 2022)

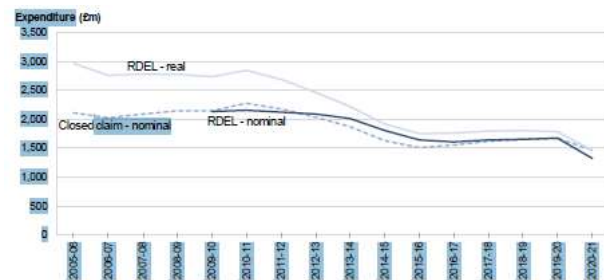


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## [Executive Summary](#)

Welcome to the new subscribers to this bulletin designed to give you a whistle-stop tour through the LAA's quarterly statistics and some of the figures in both the criminal and civil legal aid scheme. In this issue, thoughts are on the policies and the priorities of the next Cabinet. With that in mind, we set out some of the figures in both the criminal and civil legal aid scheme. We also discuss how many new matters are being commenced under legal aid. For the most part, we have quoted the LAA's language itself and we have indicated our own analysis of the figures where appropriate.

Statistics about the legal aid scheme are produced quarterly by the Justice Statistics Analytical Services division of the Ministry of Justice. The latest statistics cover the quarter ending 31 March 2022. We are told that figures for this latest quarter continue to be impacted by the covid-19 pandemic with courts and other parts of the justice system recovering from the reduced workload and the associated expenditure across both criminal and civil legal aid has increased year on year and has also increased more over the recent quarters, due to the highest level since 2014-15. More on that in the Statistician Comment below.



## [Statistics Bulletin](#)

The LAA bulletin can be [accessed in full here](#). At 18 pages, it provides the usual useful overview in both civil and crime of, *inter alia*:

- numbers of new cases
- numbers of closed cases
- expenditure

There are comparisons with the same quarter from the previous year and also comparisons with the pre-LASPO figures. The main points are summarised below. As ever, do get

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incoming workload for representation at the courts had returned to levels seen in the period pre-covid-19 but in the last two quarters we've seen falls in both courts suggest expenditure this quarter compared to the previous year, however when compared to pre-covid-19 and two years previously, expenditure has still not fully recovered.

Civil legal aid volumes and expenditure show a mixed picture compared to last year. Overall civil expenditure is returning to pre-pandemic levels driven by family law expenditure and this is driven by the slow recovery of housing work following the impact of covid-19 although in the last quarter this has increased. Overall civil legal aid work increasing in domestic violence, mental health and immigration within exceptional case funding.

Client diversity has remained unchanged across the schemes with consistent proportions across age, gender, disability and ethnicity. Over the last 5 years there has been a fall the most recent year there has been a slight increase. The legal aid provider base in both civil and criminal legal aid that completed work during the last year has slightly increased.

It was expected that criminal and civil legal aid volumes would return to, and even temporarily exceed, historic trend levels and more recent falls could be due to this return to Ed: we note that LAA figures are not yet available for the impact of the Criminal Bar's strike on numbers in the courts this month, but include **those figures that are in the p** of the Criminal Bar's action throughout July. We would expect the 8.8% figure to rise drastically in the next set of figures.

Hearing Date(1)	Weekly total listed hearings(2)	Total number of hearings disrupted on the day due to 'Bar Action'(3)	Bar Action impacted hearings' as % of weekly total listed hearings(2,3)	Number of trial hearings disrupted on the day due to 'Bar Action'(3,4)
09/05/2022	10,179	246	2.4%	50
16/05/2022	10,068	226	2.2%	40
23/05/2022	10,563	166	1.6%	40
30/05/2022	5,567	139	2.5%	29
06/06/2022	10,979	219	2.0%	60
13/06/2022	10,360	191	1.8%	45
20/06/2022	10,335	189	1.8%	34
27/06/2022	10,041	884	8.8%	242

## Crime

Criminal legal aid is reported as "Crime Lower" and "Crime Higher". Crime Lower includes police station advice, magistrates' court and prison law. Crime Higher covers work crime in the LASPO Act – however other factors come into play including reduced fixed fee payments and how payments are made.

Criminal legal aid expenditure increased compared to the same quarter last year in schemes that support the court system, including the magistrates' and Crown Court.



Hesham Puri  
LCCSA President

(i) Legal aid spend since 2008. Figures are £m. Statista.com

Characteristic	Criminal legal aid	Civil legal aid	Central funds
2020/21	617	843	32
2019/20	918	810	58
2018/19	955	795	52
2017/18	992	754	55
2016/17	977	731	51
2015/16	999	696	57
2014/15	1,039	801	73
2013/14	1,146	978	96
2012/13	1,201	1,141	118
2011/12	1,374	1,189	124
2010/11	1,470	1,282	98
2009/10	1,401	1,223	113
2008/09	1,516	1,168	95



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We thought it might be worth mentioning the industrial action by the barristers in light of the above. Criminal defence barristers are self-employed with the majority of their work being funded by the Criminal Justice Bar Association released the following figures as part of a briefing to MPs.

Due to years of under-investment in the Criminal Justice System, the profession has suffered an average decrease of 28% in real earnings since 2006.

During a single year of the pandemic, average earnings for criminal barristers from legal aid collapsed by 23%. In that same year, £240m remained unspent in AGFS payment CBA reports that 83% of criminal barristers were forced into personal debt or had to use savings.

The CBA has released figures that show that junior criminal barristers earn a median income of only £12,200 in their first 3 years of practice. This equates to £6.25ph for a 40 hour week, a significant concern given the levels of debt needed to train and qualify and the current cost of living crisis. This in turn has quadrupled the rate of attrition and led to the loss of a quarter of the profession, another 300 were forced to leave criminal practice, including 40% of the most junior criminal barristers.

The result of this was that, from March 2021 to March 2022, more than 1,000 criminal trials were postponed at the last minute for lack of an available barrister as we saw in the case of involving serious sexual and violent offences.

The Government has announced that legal aid fees will rise by 15 per cent from September, but the increase was not originally proposed to be retrospective, meaning that fee paid at old rates. Law firm Mishcon de Reya (acting in a pro bono capacity) sent a letter before claim on this point to the Ministry of Justice earlier this month. The proposed State for Justice not to apply any increase in barristers' fees to existing criminal legal aid cases.

The Ministry of Justice had previously stated that it cannot apply any fee increase to work done in the future under existing Legal Aid Representation Orders, as to do so would

However, **the Ministry, in a letter dated 11 July** has since accepted that the Lord Chancellor has the power to increase fees payable to barristers on existing representation date from which any new Statutory Instrument came into effect.

The CBA inform us that the proposed 15% uplift takes a standard fee that is currently at £91 up to £105 but will continue to leave barristers left unpaid for hours of work. We include ALL preparation time, drafting of skeleton arguments, pre-court conferences, court hearing, post-court conferences and travel.

## **Prison Law**

"Workload this quarter increased by 14% compared with the same period in the previous year, driven by free standing advice and assistance which increased by 25% compared to last year (figure 5a). Advocacy at parole board hearings currently makes up around two-fifths of prison law workload, but a much larger proportion of costs (76%). Expenditure on prison law workload increased compared to last year, it decreased by 14% when compared to January to March 2020. This is to a much lesser degree reflected in the expenditure rise in parole board workload.

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

Ed: It is worth noting when interpreting these figures that the number of prison lawyers has reduced dramatically in the past decade with a large number of firms ceasing to exist. This tells us that there were around 500 provider offices doing prison law, a figure which has now fallen to 110 across England and Wales. This was an area of law that the **Index** recommended for inclusion within the proposed investment at paragraph 14.4.2. It was not, however, an area of law included within the Government's criminal legal aid recommendations.

## **Civil**

**What do we mean by civil legal aid?** Civil legal aid can be categorised into family and non-family law. Family legal aid covers all work on both private and public family law.

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"Although workload for family and non-family law cases are similar, non-family comprises a relatively small proportion of civil legal aid expenditure. Public family legal aid expenditure.

Civil legal aid closed case expenditure increased this quarter; up by 12% compared to January to March 2021. This increase is driven by family civil representation expenditure exceeded pre-covid levels; up 15% compared to January to March 2020 whereas total civil workload remained lower than pre-pandemic figures (down 4%). Total civil expenditure

### **Civil Legal Help Cases**

Legal Help pays for advice from a solicitor or legal adviser. They can negotiate on their client's behalf, gather evidence, and write letters. To qualify for the scheme a client must

- be on Income Support or Income-based Jobseekers Allowance, Income based Employment and Support Allowance, Guarantee Credit or Universal Credit.
- have a gross income of not more than £2,657 per month, (this figure increases if the client has more than 4 children) with a "disposable income" not exceeding £733 per month
- have a case that is 'in scope', i.e. permitted within Schedule 1 of the Legal Aid Sentencing and Punishment of Offenders Act 2012.

"In the latest quarter, Legal Help new matter starts remained unchanged compared to the same period of 2021. The volume of completed claims increased by 6% while expenditure same period in 2021.

Overall, the recovery of Legal Help starts, the volume of completed claims and expenditure has been slow following the impact of covid-19. Although positive, Legal Help workload pandemic. In the current quarter, new matter starts have decreased by 3% from the same period of 2020. The volume of completed claims has fallen by 8% and expenditure the LASPO Act in April 2013 resulted in large reductions in Legal Help workload, with the decline further exacerbated by the effects of covid-19. Workload now sits at less than 2013 levels.

Percentages are all well and good, but how does this translate to actual numbers of people seen? LAA statistics show that in 2011-2012 there were 679,768 Legal Help starts 2021-2022 is just 126,825. That's just over 100,000 people helped in the initial stages of a legal issue when the matter could be swiftly (and cheaply) resolved if the client could

### **Family Legal Help Cases**

"In January to March 2022 family Legal Help starts decreased by 25% compared to the same quarter last year. Completed claims decreased by 3% and expenditure decreased family Legal Help starts are down by 20%, completed claims have decreased by 11% and expenditure has fallen by 9%. There was a steep decline immediately following the decline over the last 7 years."

### **Family Civil Representation**

"While civil representation for public family law remains available, the LASPO Act removed legal aid for most private family law including issues such as contact or divorce. High risk of domestic violence or child abuse. Certificates granted for family work increased by 2% in January to March 2022 compared to the previous year. Certificates completed in January to March 2022 compared to the same quarter the previous year. Compared to the same quarter of 2020, certificates granted and certificates completed has returned to pre-pandemic levels. Civil representation for public family law has fallen by 21%. The volume and expenditure for closed case domestic violence civil representation increased following covid-19 and continues to exceed pre-covid levels (down 21% compared to March 2020).

In January to March 2022, applications for civil representation supported by evidence of domestic violence or child abuse decreased by 10% compared to the same period of 2021 over the same period. The proportion of applications granted remained steady at around 70% from the inception of this type of application until the end of 2015, before increasing to 84%."

### **Family Mediation**

One of the aims of LASPO was to encourage people to use alternative methods of dispute resolution, such as mediation. It is well known that post-LASPO there was a considerable decline in making many of the referrals – without legal aid for private family law, the referrals to mediation declined drastically.

"Mediations decreased by 11% in the last quarter compared to the previous year and currently stand at around a third of pre-LASPO levels. Family mediation starts decreased by 11% which 61% were successful agreements, and are now sitting at over half of pre-LASPO levels."

### **Non-Family Legal Help**

"Controlled legal representation relates to representation at tribunal but unlike civil representation, the decision on whether to grant legal aid is delegated to providers.

Legal Help and controlled legal representation make up over 95% of both immigration and mental health legal aid cases.

The LASPO Act 2012 - *the bulletin itself still errs in referring to the "2013" act* - made changes to the scope of legal aid for immigration law, but some areas remained in scope, such as asylum-related work."

### **Immigration**

"Having fallen by over 45% between January to March 2020 and April to June 2020, new matter starts in immigration increased by 26% in January to March 2022 compared to the same period of 2021. Immigration increased by 5% in the latest quarter compared to the previous year and expenditure increased by 3%. While Legal Help starts for immigration reflect the increase, expenditure is yet to return to pre-pandemic levels (down 7% and 22% respectively)."

### **Mental Health**

"Within mental health, most funding is spent on providing assistance to sectioned clients appealing the terms of their detention before a mental health tribunal. Mental health legal aid starts increased by 11% in the latest quarter to the previous year. Completed claims also remained unchanged while expenditure decreased by 4% over the same period. Compared to the respective pre-

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## **Housing**

"Over 80% of legal aid housing work volume is made up of Legal Help. The volume of legally aided housing work halved between July to September 2012 and July to September 2020 with starts and completed claims nearly halving again between January to March 2020 and April to June 2020. Recent quarters have displayed a gradual recovery following a 27% increase in housing work starts compared to the same quarter the previous year. There were also increases in completed claims (29%) although falls in expenditure (Legal Help starts have increased by 7% while completed claims remains down by 4% and expenditure down by 28%.

Housing work represents a large proportion of non-family certificates completed. There has been a gradual decline in housing certificates completed and expenditure since 2012 compared to the same period of the previous year and halved compared to the same period of 2020."

### **Some background on housing law**

The number of providers of specialist housing legal advice has fallen dramatically since the introduction of the LASPO. The number of housing and debt provider offices fell from 1,200 in 2011/12 to 200 in 2017/18. The number of cases where legal aid was provided for initial advice fell by more than 75 per cent in the first year of LASPO's implementation and the number of grants for legal aid for housing work also nearly halved, from 4,253 providers in 2011/12 to 2,824 in 2017/18, including solicitor firms and not-for-profit organisations.

Under the Ministry of Justice's (MoJ's) proposed Fixed Recoverable Costs (FRCs) regime, (*Extending fixed recoverable costs in civil cases: the Government response* (September 2020) or vastly extended multi-track, the winning party will recover fixed costs in respect of the litigation. Regardless of how many hours were done to conclude the cases, the prescribed amounts are considerably less than the *inter partes* costs litigators would expect to recover in most cases on the current standard basis paid at hourly rates, and unbelievably, the fixed costs would be lower than the hours charged at legal aid rates.

House Law Practitioners Association (HPLA) tells us that the financial sustainability of the housing legal aid sector relies on the ability to recover reasonable assessed or agreed rates. Where a legally aided litigant is successful in a case and the opponent is ordered to pay their costs, the solicitor is entitled to recover such costs from the opponent at *inter partes* rates.

In an open letter last month, various representative bodies, including HPLA, Shelter, LAPG and Law Centres Network told a number of MPs and Ministers that the next legal aid duty scheme and September 2023 for face to face housing legal aid contracts. They added that housing legal aid providers are likely to have to seriously consider whether such fixed recoverable costs.

The government has recently announced a two year delay in the extension of fixed recoverable costs to legally-aided housing possession cases. However as very few of these cases are successful, HPLA and representative bodies fear that this concession will not ameliorate concerns about the impact of the new costs regime on legal aid practitioners. Cases involving disrepair that can be recovered at market rates. Representative bodies are therefore seeking a complete exemption of legally-aided cases from the fixed recoverable costs regime.

### **Civil (non-family) representation applications**

"The number of civil representation certificates granted in the last quarter increased by 2% compared to the same period of the previous year. The number of certificates completed increased by 15% over the same period.

Compared to the same period of 2020 (pre-covid), certificates granted in the last quarter is down by 6%. However, the number of certificates completed has returned to pre-covid levels. Associated expenditure has increased by 21% over the same period."

### **Judicial reviews**

"Of all civil representation applications granted, around 3,000 a year relate to judicial review; 603 in the last quarter. The number granted in January to March 2022 decreased by 10%. The statistics do not mention what the remaining matters were in relation to but based on the previous few quarters, these are likely to be mostly related to public law."

And that, as they say, is that from us for the summer. As ever, thank you for supporting us by reading this bulletin. We hope that you and yours have a well-earned rest over our new Cabinet in September.

**Rohini Teather**  
**Head of Parliamentary Affairs**  
**28 June 2022**

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The APPG on Legal Aid is co-sponsored by the Legal Aid Practitioners Group

In association with Young Legal Aid Lawyers

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## About the APPG on Legal Aid

The All-Party Parliamentary Group on Legal Aid aims to promote parliamentary and public understanding of the importance of the role of publicly funded legal services. It is chaired by Karen Buck MP. Secretariat support is provided jointly by the Legal Aid Practitioners Group (LAPG) together with Young Legal Aid Lawyers (YLAL) with funding from The Legal Education Foundation.

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## About the APPG Plus Project

LAPG and the APPG on Legal Aid have been funded by The Legal Education Foundation to engage with MPs and councillors and their caseworkers to ensure that there is a good understanding of what is left in legal aid in the wake of LASPO, and to offer constructive advice, resources and training on how busy MPs and their caseworkers can engage better with lawyers and advice charities in the legal aid sector. In doing so, we aim to assess current access to justice issues facing the public and to help inform future decision making at a policy level.

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