

[View this email in your browser](#)



In this Issue

Executive Summary Statistics Bulletin

- [LAA Statistician's Comment](#)

Crime

- [Crown Court](#)
- [Police Station Advice](#)
- [Magistrates' Court](#)
- [Crown Court](#)
- [Prison Law](#)

Civil

- [Legal Help](#)
- [Family Legal Help](#)
- [Family Civil Representation](#)
- [Family Mediation](#)
- [Non-Family Legal Help](#)
- [Immigration](#)
- [Mental Health](#)
- [Housing](#)
- [Civil \(non-family\) representation applications](#)
- [Judicial Reviews](#)
- [Exceptional Case Funding](#)

Social Media

 [Twitter](#)

 [APPG Website](#)

Special Bulletin from the APPG on Legal Aid Legal Aid Statistics – Summary Analysis of Statistics April-June 2022



[See here for the full set of tables and user guide](#)

[Executive Summary](#)

Welcome to this Autumn edition of the legal aid statistics bulletin designed to walk you through some of the key criminal and civil legal aid figures from the latest LAA quarterly statistics release. These figures were published on 29 September (and our apologies for the tardiness of this bulletin - it's been an eventful month!), but they relate to work over spring and summer. So we see some of the initial effects of the Criminal Bar's strike amongst other things. For the most part, we have quoted the LAA's language itself and we have indicated our own analysis of the figures and some background to the different practice areas 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 from April-June of this year, and were released on 29 September 2022. With all eyes on the new Prime Minister and updated Cabinet and Ministry of Justice team, here's a quick snapshot of the legal aid system that they have inherited.

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 in touch** if you would like any further information.

LAA Statistician's Comment

The statistician explains that 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. We include their comment in full below.

"This publication shows that expenditure across both criminal and civil legal aid has increased year on year and has also increased more over the recent quarters, following recovery from covid-19.

Criminal legal aid expenditure increased compared to the same quarter last year in schemes that support the court system, including the magistrates' and Crown Court. The incoming workload for representation at the courts had returned to levels seen in the period pre-covid-19 but in the last few quarters we've seen falls in both courts suggesting a sustained fall in cases reaching court. There are increases in expenditure this quarter compared to the previous year although expenditure has still not fully recovered to pre-pandemic levels.

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. Other non-family workload has not recovered to the same extent and this is driven by the slow recovery of housing work following the impact of covid-19 although in the last quarter this has increased. Overall civil legal aid workload still remains below pre-pandemic levels although trends are increasing in domestic violence, mental health and, within exceptional case funding, immigration.

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

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 in the Crown and Higher Courts. There were very few changes to crime in the LASPO Act – however other factors come into play including reduced fixed fee payments and how payments are made.

Crown Court

"Although Crown Court work comprises a relatively small portion of criminal legal aid in terms of volume, it accounts for around two-thirds of all criminal legal aid expenditure. Conversely, advice relating to the police station makes up the largest portion of workload, but a much smaller proportion of expenditure. When compared to the same period last year Overall Crown Court expenditure increased this quarter up by 23% compared with the same period of the previous year."

This increase is attributed to rising disposals in the Crown Courts from extra sitting days being allocated to reduce the backlog of trials.

Police Station Advice

"This category made up two thirds of the Crime Lower workload between April and June 2022 but less than half of the expenditure. The workload in this period has increased by 5% compared to the previous year, which has shifted volumes to near pre-covid levels, with expenditure increasing by 5% (£1.4m). This reverses the general downward trend seen over the last few years with a decrease in police station advice workload since 2013-14 being seen in **arrest statistics for England and Wales, which has had a similar decline historically**.

The majority of the police station advice workload (89% in April and June 2022) consists of suspects receiving legal help with a solicitor in attendance at the police station, with the rest mainly consisting of legal advice over the telephone."

Magistrates' Court

"Legally-aided representation in the magistrates' court comprised almost one-third of the workload and just under half of expenditure in Crime Lower between April and June 2022. The volume of completed work (covered in this report) in the magistrates' court decreased by 9% this quarter when compared to the same period of the previous year. Expenditure also decreased by 7% (£1.9m).

These falls incorporate the accelerated Criminal legal aid reforms since October 2020 which cover payment for work on sending cases to the Crown Court. This new category shown in the tables accompanying this bulletin had 9,505 claims costing around £2.2m completed this quarter."

Behind the numbers: On 10 October, after 6 months of intermittent industrial action, and exactly 5 weeks of a full-out indefinite strike, on 10 October, the Criminal Bar Association

centred around demands for a 25% immediate fee increase applicable to all cases.

The initial Ministry of Justice (MoJ) offer of a 15% increase in fees (to cover new cases but not the backlog of c.60,000 cases) was not put to the membership, leading previous Lord Chancellor Brandon Lewis to concede a 15% increase in legal aid fees to apply to "the vast majority of cases currently in the crown court." This included an extra £3m of funding for case preparation and £4m for pre-recorded cross-examination of witnesses and vulnerable victims. The MoJ has estimated the package of reforms and fee uplifts to represent a "further investment of £54 million in the criminal bar and solicitors."

However, despite these assurances, solicitors' fees will currently increase by just 9%. That remains the case despite the Independent Criminal Legal Aid Review (CLAIR) describing solicitors to be in a more parlous financial position than their colleagues at the Bar. Regular readers of this bulletin will know that the then Sir Christopher Bellamy recommended that a 15% increase to fees was the bare minimum needed to make criminal defence practices financially viable. The Law Society has advised that the dispute over criminal legal aid funding is far from over and that its members must receive parity on the 15% fee increase offered to barristers by November. The Society warned that it will advise members to shun criminal defence work if solicitors do not receive a fair deal.

Earlier this month the previous Lord Chancellor, Brandon Lewis, reassured practitioners that solicitors would benefit from the government's revised criminal legal aid offer and further plans would be set out as part of the government's response to the Bellamy review at the end of November.

Whether the newly reappointed Lord Chancellor continues on the same path is unclear. During his previous tenure as justice secretary, he declined to meet the criminal bar to discuss his £135m reform package.

The heads of criminal defence firms throughout England and Wales are due to meet on 8 November in Birmingham to discuss next steps should the government's response to CLAIR be unsatisfactory.

Crown Court

"Completed work volumes within the litigator (solicitor) fee scheme decreased by 7% in April to June 2022 compared to the same period of the previous year, where a 12% increase in trial claims is masked by falls due to extended sentencing at the magistrates' court and a corresponding decrease in committals for sentence and appeals. This recovery in trial workload is from extra resource within the HMCTS estate and completion of more jury trials from the outstanding backlogs.

In the advocate fee scheme, completed claims increased by 5% compared to the same period last year. Figures here should be interpreted with caution due to temporary scheme changes from accelerated reforms that paid cracked trials at the higher trial fee. This is now captured accurately by the underlying systems and this quarter we have a 28% fall in trial workload but a corresponding 78% increase in cracked trial workload."

Ed: What is a cracked trial, we hear you ask? A "cracked trial" is where the acting

reimbursed.

In the **Litigator Graduated Fee Scheme** or **LGFS** (predominantly work carried out by solicitors) "expenditure increased by 19% in April to June 2022 compared to the same period of the previous year. In the advocate fee scheme (**AGFS**), the value of payments increased by 26% compared to the same period of the previous year. Figures for expenditure on work completed in the Crown Court should be interpreted with caution as they may be revised in subsequent quarters as claims are assessed further on appeal and further payments added to the value of some completed claims.

The Very High-Cost Case (VHCC) scheme covers those Crown Court cases which, if the case were to proceed to trial, would likely last more than 60 days. These cases can span several years and, while they may involve small numbers of defendants, the associated expenditure is high in comparison.

There were 5 defendants represented in the VHCC contracts that concluded in the April to June 2022 quarter. Expenditure on this work over the duration of the contracts (i.e. on the closed-case basis) was £1.9m. While workload comprises a tiny proportion of legal aid in the Crown Court overall, the VHCC scheme represents around 1% of the cost, although down from over 15% ten years ago.

The large falls in completed expenditure were a consequence of the reduction in the number of jury trials completing in the Crown Court, as all expenditure across the case will be in the final main bill. These types of cases are more likely to be impacted as they need more courtroom space and distancing measures and are likely to include witnesses and members of the public in the jury pool. Trial completed expenditure has been more adversely affected than guilty pleas and cracked trials, where a defendant changes their plea before the trial, with litigator fee expenditure much lower. Previously it was more than £60m and it is now recovering to levels seen pre-covid."

Prison Law

"Workload this quarter decreased by 7% compared with the same period in the previous year, driven by advocacy assistance at parole board hearings which decreased by 18% compared to last year and has decreased by 14% since last quarter. Advocacy at parole board hearings currently makes up just over two-fifths of prison law workload, but a much larger proportion of costs (75%), so expenditure on prison law overall decreased by 15% over this period.

Since April to June 2020, the workload and expenditure for advocacy assistance at prison discipline hearings has remained low. Year-to-year comparisons show that workload decreased by 31% and expenditure decreased by 24% this quarter compared to last year."

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 offer prison legal aid. In 2010 the Association of Prison Lawyers 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 **Independent Criminal Legal Aid Review** recognised as crucial and recommended for inclusion within the proposed investment at paragraph 14.4.2. It was not, however, an area of law included within the

Civil

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

“Although workload for family and non-family law cases are similar, non-family comprises a relatively small proportion of civil legal aid expenditure. Public family legal aid makes up two thirds of family legal aid work and over 81% of expenditure.

Civil legal aid closed case expenditure increased this quarter; up by 16% compared to April to June 2021. This increase is primarily driven by family civil representation expenditure increasing by 20% over the same period.”

Ed: On 3 October the LAA announced that civil contracts, which had been due to expire in Aug 2023, will be extended to Aug 2024. This was good news for many civil legal aid providers as the tender process can be a time-consuming and costly one. However, as the LAA only carries out large-scale tenders across all civil contracts periodically, the last time that new providers could get a contract and existing providers could expand was in September 2018. Since then **264 civil legal aid** providers have dropped out of the market. The LAA’s announcement means that new providers will be unable to tender for a contract for two more years and those providers wanting to expand cannot.

Legal Help

Legal Help pays for advice from a solicitor or legal adviser. They can negotiate on their client's behalf, gather evidence, and write letters but this level of work does not generally cover litigation. To qualify for the scheme a client must either:

- a)** be on Income Support or Income-based Jobseekers Allowance, Income based Employment and Support Allowance, Guarantee Credit or Universal Credit.
- b)** 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.
- c)** 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, there was a 3% decrease in legal help new matter starts compared to the same period of 2021. The volume of completed claims increased by 2% while expenditure decreased by 11% in April to June 2022 compared to the 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 and expenditure has not returned to the levels seen pre-pandemic. In the

over the same period. The implementation of 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 one-quarter of pre-LASPO levels."

Ed: 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. This had dropped to 573,770 the following year and for the year 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 obtain legal support. This may have something to do with the fact that in 2010-2011 there were 3228 providers undertaking Legal Help work. In 2021-2022 this figure had dropped to 1590, a figure which can only decrease as new providers will be unable to tender for a contract (see above).

Family Legal Help

"There was a steep decline to family legal help immediately following the implementation of LASPO Act in April 2013, with a more gradual decline over the last 6 years.

From 1 September 2021, callers to the Civil Legal Advice (CLA) helpline with family issues are no longer referred to specialist telephone advice. Consequently, in April to June 2022, family legal help starts decreased by 29% compared to the same quarter last year. Completed family claims also decreased by 11% and expenditure is down by 12%."

Family Civil Representation

"While civil representation for public family law remains available, the LASPO Act removed legal aid for most private family law including issues such as contact or divorce. However, legal aid remains available for such cases where there is a risk of domestic violence or child abuse.

Certificates granted for family work decreased by 3% in April to June 2022 compared to the previous year. Whereas, certificates completed increased by 9% and associated expenditure has increased by 20% compared to the same quarter the previous year. The volume and expenditure for closed case domestic violence civil representation increased substantially following the initial impacts of COVID-19. In April to June 2022, certificates completed for domestic violence increased by 15% compared to the same period of the previous year and expenditure has increased 36%. At a cost of £15m in April to June 2022, this is the highest quarterly domestic violence expenditure seen in our series.

In April to June 2022, applications for civil representation supported by evidence of domestic violence or child abuse decreased by 11% compared to the same period of the previous year. The number of these granted decreased by 8% over the same period. The proportion of applications granted remained steady at around 70% from the inception of this type of application until the end of 2015, before increasing to around 80%. The provisional figure for the latest quarter is 84%."

Family Mediation

One of the aims of LASPO was to encourage people to use alternative methods of

the referrals – without legal aid for private family law, the referrals to mediation declined drastically.

“A Mediation Information and Assessment Meeting (MIAMs) is an initial meeting between one or both parties and a mediator to see if family mediation could be used to reach agreement without using the courts.

MIAMs, family mediation starts, and outcomes decreased significantly following the covid-19 restrictions in March 2020. Since, volumes and expenditure had rapidly increased to levels temporarily exceeding pre-covid figures. However, in the latest quarter, MIAMs have decreased by 16% compared to April to June 2021 and currently stand at just a third of pre-LASPO levels. Family mediation starts decreased by 19% and total outcomes decreased by 20%, of which 62% were successful agreements, and are now sitting at around 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. Workload that remains in the immigration category consists largely of asylum-related work.”

Immigration

“Having fallen by over 45% in April to June 2020, new matter starts in immigration increased by 21% in April to June 2022 compared to the same quarter of the previous year. Completed claims in immigration increased by 14% in the last quarter compared to the previous year whereas expenditure is down by 6%.”

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 new matter starts decreased by 6% when comparing the latest quarter to the previous year. Completed claims also decreased by 3% and expenditure decreased by 3% over the same period.”

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 2013. The trend then fluctuated for around 18 months but since 2014 it has been falling. Housing legal aid was particularly affected by covid-19 with starts and

to the same quarter the previous year. There were also increases in completed claims (5%) but decreases in expenditure (28%).”

Civil (non-family) representation applications

“Non-family certificates completed make up 11% of the total civil representation workload and 9% of the expenditure. There are only a small number of immigration and mental health cases in civil representation as most work in these areas consists of controlled legal representation. Housing work represents a large proportion of non-family certificates completed. In the latest period, completed certificates increased by 14% compared to the same period of the previous year.”

Judicial reviews

“Of all civil representation applications granted, around 3,000 a year relate to judicial review; 653 in the last quarter. The number granted in April to June 2022 increased by 12% compared with the same quarter in 2021. Around two thirds of judicial reviews were for public law.”

Exceptional Case Funding

The Exceptional Case Funding (ECF) scheme was introduced as part of LASPO. An ECF application for civil legal services is made where a case falls outside the scope of civil legal aid but the client or conducting solicitor believes failure to provide funding would be a breach of the Human Rights Act 1998.

There were 877 applications for ECF received from April to June 2022. This is a 10% decrease from the same quarter last year. 827 (94%) of these were new applications.

Of the 877 ECF applications received between April and June 2022, 94% (822) had been determined by the LAA as of 01 September 2022. 77% (634) of these were granted, 12% (96) were refused and 8% (67) rejected

Rohini Teather
Head of Parliamentary Affairs
October 2022

Visit the APPG on Legal Aid Website



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.

For more information contact:
rohini.teather@lapg.co.uk

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.

Copyright © 2021 Legal Aid Practitioners Group, All rights reserved.

You are receiving this email because you have expressed an interest in the work of the APPG on legal aid or generally in issues affecting access to justice.

Our mailing address is:

Legal Aid Practitioners Group
12 Baylis Road
London, England SE1 7AA
United Kingdom

[**Add us to your address book**](#)

Want to change how you receive these emails?

You can [**update your preferences**](#) or [**unsubscribe from this list**](#).

This email was sent to <<Email Address>>

[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)

Legal Aid Practitioners Group · 12 Baylis Road · London, England SE1 7AA · United Kingdom