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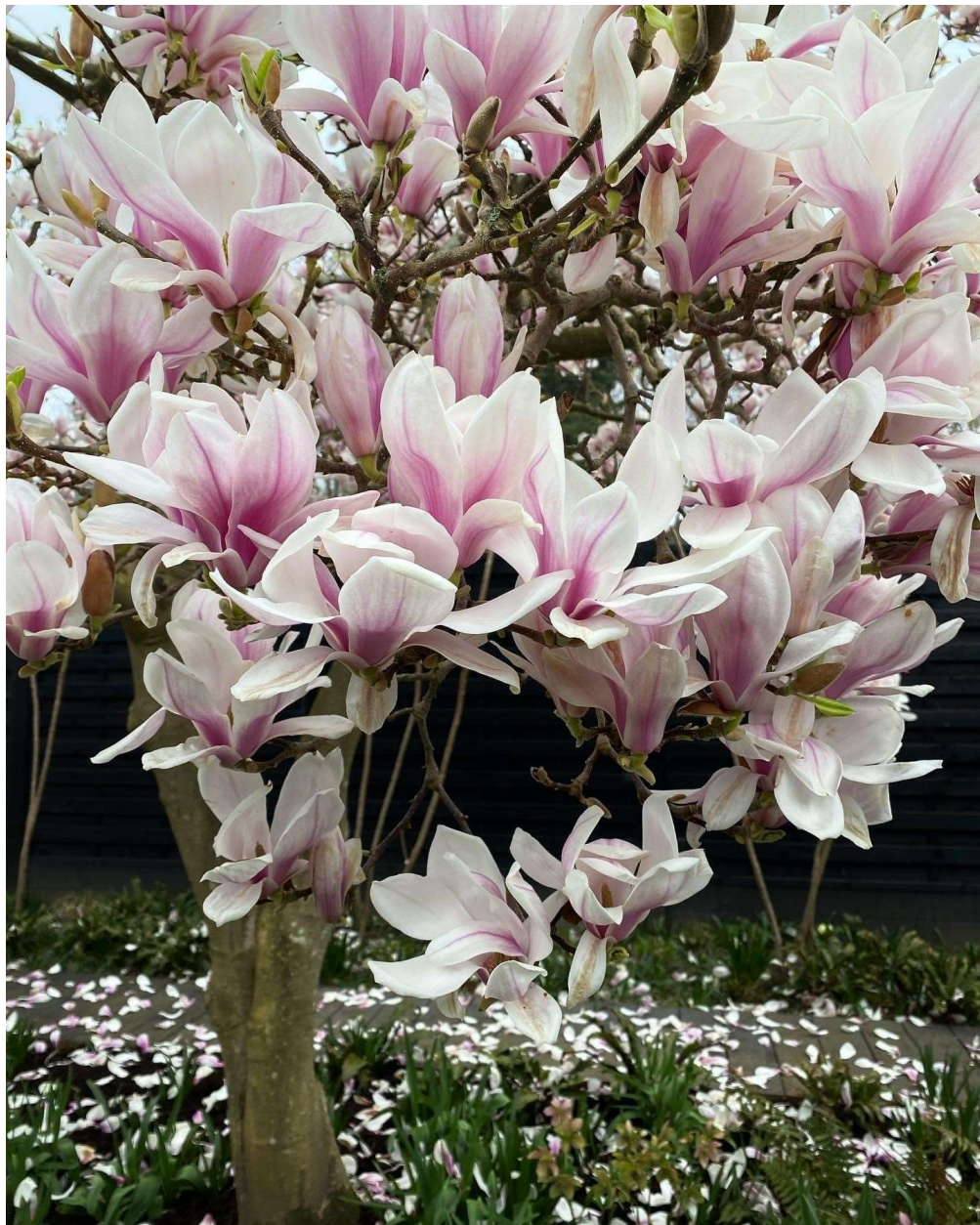
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Legal Aid Statistics

**Special Bulletin from the APPG on Legal Aid
Legal Aid Statistics – Summary Analysis of Statistics October- December 2021
(Released 31 March 2022)**



See here for the full set of tables and user guide

Hot on the heels of the Legal Aid Census (see our March bulletin for further information), comes more data to fill your hearts with springtime statistical gladness.

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 October to December 2021 and came out yesterday 31 March 2022. You'll see that completed workload and the associated expenditure has increased year on year and has also increased more over the recent quarters, due to recovery from covid-19, across both the criminal legal aid and civil legal aid schemes. Total civil expenditure is at its highest level since 2014-15. Some areas have seen large increases but this is mainly due to comparisons against low volumes of workload in the early stages of the pandemic.

Statistics Bulletin

The LAA bulletin can be [accessed in full here](#). It is rather long, however, so we will attempt to summarise here as much as possible.

It provides the usual useful overview in both civil and crime of:

- 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. We summarise the main points below. Please get in touch with rohini.teather@lapg.co.uk if you would like any further information.

So what have we seen this quarter?

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 in the Crown and Higher Courts (a smaller proportion of cases account for two thirds of crime expenditure). 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.

look at each of these in further detail below.

Crown Court

Overall Crown Court expenditure increased this quarter; up by 59% in October to December 2021 compared with the same period of the previous year. When compared against the pre-covid-19 period from October to December 2019 they have fallen by 5% so while the Crown Court is showing recovery signs overall workload and expenditure is still below previous levels and this is mainly within the long running and more complex trials. This is very much in keeping with what practitioners are telling us on the ground and Sir Christopher Bellamy's report.

To put these figures into context, it is worth noting that we heard the following evidence over the course of the Westminster Inquiry. Commission member James Daly MP explained that the business model of his firm in Bury had been that no money was made on work in the Magistrates' court and the hope was that Crown Court work was sufficient to cover costs and to provide some profit.^[1]

Rakesh Bhasin, partner at Edwards Duthie Shamash echoed this view, adding that:

'There are certain areas of our criminal team that are loss-making, certain offences that involve time and effort that make representation not worth it, particularly matters where a client elects trial by jury as we are at risk of simply getting a fixed fee for that work ... Profit, if there is any, tends to be in the Crown Court but even that is being cut. Within the firm I still have to justify how the criminal department makes its money and supports itself. It is not as if we can look to other areas of the firm to support one another, we are carrying a lot of employees and of overheads that we have to pay for.'^[2]

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^[1] APPG on Legal Aid (2020) *Westminster Commission on Legal Aid First Oral Evidence Session – Sustainability of the Criminal Legal Aid Profession*, p6. Available at: https://www.apg-legalaid.org/sites/default/files/29.10%20Criminal%20Legal%20Aid_transcript.pdf (accessed 9 June 2021).

^[2] *Ibid*, p9.

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 October to December 2021. The volume of completed work in the magistrates' court decreased by 4% this quarter when compared to the same period of the previous year. Conversely expenditure increased by 7% (£1.8m). This increase is driven by the accelerated Criminal legal aid reforms since October 2020 which cover payment for work on sending cases to the Crown Court. This new category had 8,959 claims costing around £2m

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While figures should be interpreted with caution as they may be revised in subsequent quarters as cases move into the Crown court, the number of orders granted for legally-aided representation in the **Magistrates' Court** decreased by 23% this quarter when compared to the same quarter of the previous year. This is attributed to the lockdown which happened in last year's quarter. In comparison with October to December 2019, the number of orders granted reduced by 26%. This continues the downward trend of the last 3 years, which has been largely driven by Summary Only cases. The proportion of these applications that are granted remains stable at around 95%.

Orders granted for legally-aided representation in the Crown Court also decreased to a larger degree, by 25% this quarter compared to last year, this follows the recent trends in overall Crown Court receipts although when compared to the figure from two years previously there has also been a 15% fall due to the large reduction in the first quarter of the pandemic year. Within the legal aid figure, orders relating to either-way offences decreased by 30%, while those relating to indictable offences decreased by 19%. The proportion of Crown Court applications granted remains at almost 100%.

Police Station advice

This category made up two thirds of the Crime Lower workload between October and December 2021 but less than half of the expenditure. The workload in this period has decreased by 4% compared to the previous year, with expenditure decreasing by 1% (£337k). This continues the general downward trend seen over the last three years. The decrease in police station advice workload since 2013-14 is also 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 October and December 2021) 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.

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 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 a range of other non-family law areas.

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.

On page 12 of the LAA bulletin there is reference to civil legal help cases i.e. those cases where people are more often advised rather than represented in court.

Overall, the recovery of legal help has been slow following the initial impact of covid-19. Although positive, legal help workload and expenditure has not returned to the levels seen pre-pandemic. In the current quarter, new matter starts remained down by 12% from the same period of 2019. The volume of completed claims has fallen by 16% and expenditure has decreased by 23% over the same period.

The implementation of the LASPO Act in April 2013 resulted in large reductions in legal help workload, with the decline in the overall trend being further exacerbated by the effects of covid-19, workload now sits at less than one-quarter of pre-LASPO levels and at their lowest ebb within the 21 year data set.

As you'll know, the government is seeking to ensure that more clients are eligible for legal aid through the Means Test Review. While these proposals have been welcomed by the sector, providers continue to withdraw from civil legal aid – a 36% reduction since 2012. There are also a number of dormant legal aid contracts, as organisations turn to more economically viable work. The number of new civil legal aid cases has fallen by 69% since LASPO to a record low in 2020/21 of 234,512^[1]. Currently, however, it is unclear from the official statistics as to whether the market has capacity to meet this increase in demand.

[1]

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041144/legal-aid-statistics-tables-jul-sep-2021.ods, table 1.2

Family Legal Help Cases

From 1 September 2021, callers to the Civil Legal Advice (CLA) helpline with family issues are no longer referred to specialist telephone advice.

In October to December 2021 family legal help starts decreased by 22% compared to the same quarter last year. Completed claims decreased by 3% and expenditure decreased by 4%. Compared to the same period of 2019 (pre-covid-19), family legal help starts are down by 28%, completed claims have decreased by 20% and expenditure has fallen by 15%. There was a steep decline immediately following the implementation of LASPO Act in April 2013, with a more gradual decline to family legal help over the last 6 years.

Family Mediation

One of the aims of LASPO was to encourage people to go to mediation. Has that happened? It may have started to but figures over the pandemic indicate that numbers

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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 resolve the issue. Family mediation starts decreased significantly following the covid-19 restrictions in March 2020. Since, volumes and expenditure rapidly increased to levels temporarily exceeding 2019 figures. MIAMs decreased by 17% 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 20% and total outcomes decreased by 13%, of which 61% were successful agreements, and are now sitting at over half of pre-LASPO levels.

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 2019 figures. However, in the latest quarter, MIAMs have dropped by 4% compared to October to December 2019. Family mediation starts decreased by 11% while outcomes continue to exceed pre-pandemic figures (up 2%).

Domestic Abuse

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 8% in October to December 2021 compared to the previous year. Whereas, certificates completed increased by 15% and associated expenditure has increased by 19% compared to the same quarter the previous year. Compared to the respective pre-covid-19 quarter of 2019, family certificates completed remain unchanged and closed case expenditure for family civil representation exceeds pre-pandemic levels (up 18%). Although, certificates granted in October to December 2021 have fallen by 6%. The volume and expenditure for closed case domestic violence civil representation increased rapidly following covid-19 and continues to exceed pre-covid-19 levels substantially (50% and 53% higher respectively – compared to October to December 2019). At 5,397 certificates issued in October to December, this is the highest level seen in our series.

In October to December 2021, applications for civil representation supported by evidence of domestic violence or child abuse decreased by 13% compared to the same period of the previous year. The number of these granted decreased by 15% 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 83%.

Non-Family Legal Help

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and mental health cases. Controlled Legal Representation relates to representation at tribunal and is often longer and more costly than Legal Help but, as with Legal Help, the decision on whether to grant legal aid is delegated to providers (within strict limits set out in the contracts and regulations).

Immigration

The LASPO Act 2012 – *the LAA 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. Having fallen by over 45% in April to June 2020, new matter starts in immigration increased by 19% in October to December 2021 compared to the same quarter of the previous year. Completed claims in immigration increased by 12% in the latest quarter compared to the previous year and expenditure increased by 2%. In the current quarter, the number of immigration matters started mirrors pre-pandemic numbers. The volume of claims completed and expenditure is still slowly recovering, however is yet to return to pre-pandemic levels (down 18% and 27% 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 new matter starts decreased by 8% when comparing the latest quarter to the previous year. Completed claims also decreased by 6% and expenditure decreased by 8% over the same period. Compared to respective pre-pandemic period of 2019, mental health new matter starts, completed claims and expenditure have fallen (by 11%, 13% and 18% respectively)

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 has been particularly affected by covid-19 with starts and completed claims nearly halving again between January to March 2020 and April to June 2020. In October to December 2021 there was a 24% increase in housing work starts compared to the same quarter the previous year. There was also a large increase in completed claims (36%) and decrease in expenditure (6%). Housing legal help has not returned to levels seen pre-pandemic. When compared to the same period of 2019, housing legal aid starts is down by 16%, completed claims by 13% and expenditure remained 15% below comparative pre-pandemic figures. The situation remains precarious for housing law

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Exceptional Case Funding

There were 846 applications for ECF received from October to December 2021. This is a 5% decrease from the same quarter last year and a 12% decrease from the same period of 2019. 781 (92%) of these were new applications. Of the 846 ECF applications received between October and December 2021, 95% (804) had been determined by the LAA as of 01 March 2022. 76% (609) of these were granted, 14% (109) were refused and 8% (63) rejected.

It is worth reiterating, as we do each round of statistics that when LASPO went through Parliament, it was anticipated that the ECF scheme would be a safety net with about 6000 applications per year. In the first year post-LASPO 70 applications were granted. Given these statistics are the final to be released in 2020 we can see that 3404 ECF applications were made in 2020 with 2435 applications having been granted. Things are undoubtedly heading in the right direction, but there is a long way to go before the ECF scheme could be deemed to be the effective safety net that we hoped for.

A word or two from the LAA Statistician

"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 most recent period we've seen falls in both courts. There are increases in expenditure this quarter compared to the post-covid-19 quarter from last 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 the same quarter last year. Overall civil expenditure is returning to pre-pandemic levels driven by family law expenditure higher than the same quarter in the pre-covid-19 period. 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. Overall civil legal aid workload still remains below pre-pandemic levels.

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 or impact from further lockdowns."

Rohini Teather
Head of Parliamentary Affairs
1 April 2022

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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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