

[View this email in your browser](#)

You are receiving this email as you have expressed an interest in the work of the APPG on Legal Aid.



June Bulletin from the APPG on Legal Aid

Sunshine and Statistics

Welcome to the June Bulletin of the APPG on Legal Aid. The summer skies seem to have returned for the moment and with many people starting to meet loved ones, life feels as if it may be returning to a new kind of normality. So much has changed over the course of the last few months and what this will look like in terms of education, the economy and for opportunity for everyone in our society remains to be seen.



Here at the APPG we have been busy training caseworkers in the House of Commons, attending meetings with various representative bodies and Government departments and planning our inquiry into the sustainability and recovery of the legal aid sector in the wake of the COVID-19 crisis. More on those below.

It's also Legal Aid Lawyer of the Year awards time again! The last few months have been difficult ones for everyone, but the legal aid world has reacted as it always does in a crisis, pulled together and shown incredible solidarity. This has been clear in many respects since the crisis started, and is reflected in the strength of this year's nominations and the efforts of everyone in Team LALY in putting together a virtual awards ceremony which will be just as heart-warming and uplifting as the live ceremonies have been in the past.

The first ever virtual LALY awards will take place at **7pm Tuesday on Tuesday the 7th July**.

The ceremony will be live streamed on YouTube. LAPG is not charging to view the ceremony as they want to make this the most inclusive LALY awards possible. You can [register for your free place here](#).

A sneak peek with some familiar faces can be found [here](#).

We hope you will join us to celebrate with all of our finalists and the legal aid community at large.

This edition has four sections giving you a jam-packed round-up of all things legal aid related from June.

1. [Coming up](#)
2. [APPG+ Training Events](#)
3. [Legal Aid news](#)
4. [Justice Questions](#)

1. Coming up

Inquiry into the Recovery of the Legal Aid sector

As noted in last month's bulletin, the APPG will shortly begin an inquiry into the recovery of legal aid after the COVID-19 crisis. The Westminster Commission on Legal Aid will be a cross-party initiative formed under the auspices of the APPG to examine the state of the legal aid sector as it emerges from the COVID-19 pandemic. The Money and Pensions Service has highlighted the significantly adverse GDP effects, business failures and what we in the profession know to be true; some sectors will be hit harder than others. They have also identified that many of the worst impacts will be felt by those who are already least financially resilient – low income families, younger people and students, parents with dependent children, women, BAME, renters, the self-employed, those working variable hours and those operating within the gig economy.

Prior to the crisis, those delivering legal aid were generally either doing so at a loss or with very low profit margins and/or reliant on subsidies from private work or grant funding. This was not a sector that was financially robust and able to withstand the severe reductions in income that have eventuated from the crisis.

Over a period of six months commencing September 2020 the Commission will:

- i. call for written and oral evidence from practitioners across the civil and criminal sectors; and
- ii. analyse quantitative data from various strands of research.

We aim to establish baseline data about the organisations and lawyers currently working in legal aid and to forecast how many legal aid firms and NfP organisations will still be practicing in this area in three to five years time. The intention behind this research is to better understand the impact upon access to justice and equality both for practitioners and members of the public and to influence the policy agenda that will determine whether the legal aid system can recover from the crisis, and whether it will be sustainable in the longer term.

Should you wish to hear more about the Inquiry then please get in touch with Rohini.Teather@lapg.co.uk.

Legal Aid Lawyer of the Year Awards – 7th July 2020



This year's Legal Aid Lawyer of the Year awards, the only non-profit making celebration of access to justice lawyers, will be held online for the first time and you'll forgive me for using terms like magical and uplifting, because it truly will be. There are 35 finalists vying for 12 coveted awards in categories including: Criminal Defence, Family Law, Legal Aid Newcomer and Outstanding Achievement. The ceremony is an incredibly special evening and this year will be no exception as Team LALY is busy making it as thrilling and engaging as possible. The virtual setting will also have the benefit of making this the most inclusive LALYs ever.

For more information on the awards, finalists and how to join the ceremony can be [found here](#).

2. APPG+ Training Events

We have been working with the House of Commons Library and Learning and Development Teams to develop a range of COVID-19 specific training courses. These are tailored towards MPs and their caseworkers and structured around questions frequently answered by the House of Commons Library specialists. To date we have delivered sessions on possession proceedings, homelessness and employment law, all tailored to address COVID-related issues. By popular demand, these sessions will be repeated in July. For further information or to discuss your specific training needs, please get in touch with Rohini.Teather@lapg.co.uk.

3. Legal Aid in the News

LAA Statistics showing the impact of COVID-19 on legal aid activity released today

The official figures released by the LAA today cover legal aid activity up to the end of March 2020. Full analysis of the latest round of statistics will follow tomorrow, but by way of a taster, please find below some data on legal aid activity in April.

LAPG has been asking the LAA to release these figures and other relevant management information since the end of March to give us an indication of the impact of the Corona virus pandemic on providers.

The below represents the headline activity figures for criminal and civil legal aid. Reader, be warned, it is not a comforting read. No information has been included on expenditure as these figures will be subject to further checks and greater revision. They should be treated as preliminary and indicative. With that in mind, the provisional figures show that there was:

Criminal legal aid

Police station attendance

- a 41% decrease in police station attendance in April 2020 (26,200) compared to the monthly average between January and March 2020 (44,400 per month)

Applications received for representation in Crown Courts

- a 45% decrease in applications received for representation in the Crown Courts in April 2020 (4,100) compared to the monthly average between January and March 2020 (7,500 per month)

Applications received for representation in magistrates' courts

- a 42% decrease in applications received for representation in the magistrates' courts in April 2020 (10,200) compared to the monthly average between January and March 2020 (17,500 per month)

Civil legal aid

Legal help

- a 34% decrease in legal help new matter starts in April 2020 (6,700) compared to the monthly average between January and March 2020 (10,200 per month)

Housing Possession Court Duty Scheme

There were **no** Housing Possession Court Duty Scheme (HPCDS) starts in April 2020 compared to an average monthly figure of 2,300 per month between January and March 2020. Provisional figures show there was a 94% decrease in the number of HPCDS cases closed in April 2020 (150) compared to the monthly average between January and March 2020 (2,600 per month).

Family mediation assessments

- a 34% decrease in family mediation starts in April 2020 (380) compared to the monthly average between January and March 2020 (580 per month). Over the same period, assessments decreased by 41% and outcomes by 36%.

Civil representation applications

- a 16% decrease in civil representation applications in April 2020 (8,700) compared to the monthly average between January and March 2020 (10,300). Family applications decreased by 13%, whilst the larger decrease in non-family applications (34%) was driven mainly by a fall in housing applications.

The overall picture is a dramatic one, particularly in crime and housing, but not perhaps surprising. More on this tomorrow.

Behind the scenes

Legal Twitter offers a certain amount of insight into the work that is being done in the sector by the various membership organisations and Government departments. Like the proverbial swan, however, there is a huge amount of effort being expended beneath the surface which may not always be apparent. Below is just a little taste of it.

Meetings

The COVID-19 months have been extremely difficult for legal aid providers across the sector. LAPG together with a number of the other representative bodies such as The Law Society, The Bar Council, the CBA, and LCCSA to name a few, have been pushing the Legal Aid Agency (LAA) and Ministry of Justice (MoJ) to introduce changes to the legal aid scheme to ease the financial pressure that providers are under and to ensure that work done is paid for as quickly as possible. Asks have included more flexibility to make claims for payments on account, standard monthly payments to ensure steady cash flow, and the introduction of interim payments for work in progress and disbursements in controlled work cases.

Throughout the lockdown, these bodies have also been lobbying the various Government departments to deliver an additional package of financial relief measures to support providers through the crisis. We have been told that a support package has been developed by the LAA and MoJ, which has now been put to Treasury and we await the outcome.

We will report further as soon as we have more information as to the shape and substance of this.

Consultations

In the meantime, a number of consultations have been taking place. In the criminal world, the MoJ has been consulting on the accelerated areas under the Criminal Legal Aid Review. In addition, and as a result of the COVID-19 crisis, the LAA are proposing to make changes to the way that civil legal aid bills are assessed with a plan to take that process out of the court and bring it in-house. A further initiative proposed by the LAA has been to increase the frequency that providers can claim payments on account in licensed work areas. Further details on each of the consultations are below.

Proposed amendments to the 2018 Standard Civil Contract General Specification in respect of Payments on Account (POA)

POA's have been the subject of much discussion at meetings between representative bodies and the MoJ/LAA over the weeks of lockdown. Accordingly, the proposal to change the maximum number of claims that practitioners can make each year from two to four, has been welcomed, as helping to alleviate some of the financial pressures currently faced by civil legal aid providers. Representative bodies have argued however that these measures do not go far enough as there are so many different business models and approaches for claiming POAs across the sector. Suggestions have included: allowing providers to claim within the first month of working on a matter, instead of waiting three; allowing providers to claim as often as they need to; and allowing providers to claim up to 100% of their costs, instead of the 75% allowed under the current guidance.

Proposed amendments to the Costs Assessment Guidance in respect of Court Assessed Bills

A more controversial consultation has revolved around the decision by the LAA to move the processing of civil legal aid bills in-house. This was stated to be in response to delays in court assessments of bills as a result of lockdown. The LAA has wanted to do this for a number of years but each time it has been raised it has met with vociferous objections by providers. By way of background, the LAA has always had the contractual right to process these bills internally but it has an operational agreement in place for costs judges within HMCTS to carry out the assessments. The advantage of this system was that the judicial process was independent of the LAA and the identity of the decision maker was known. Under the new system, the identity of the LAA caseworker will not be disclosed and as such their experience and training is not accounted for to the provider. While the evidence suggests that some courts have lacked the resources to prioritise bill assessment as a consequence of the lockdown measures, this is an issue that was being addressed by HMCTS. The picture has also been a mixed one nationally, with some providers reporting delays and others reporting no changes in the assessment capacity of their local courts. Prior to the lockdown there were reports of some court delays but this is something that has been exacerbated by the lockdown. The move is thus seen by many providers as a permanent solution for a temporary problem, or the use of a sledgehammer to crack a nut.

Criminal Legal Aid Review: Accelerated Areas Consultation

As regular readers of this bulletin will be aware, the Criminal Legal Aid Review (CLAR) has been ongoing for many months. Practitioners in criminal legal aid speak of operating on a precipice having had no increase in remuneration rates for 25 years. Many have engaged with the process in the hope of bringing about a lasting and much-needed change.

The announcement by the MoJ to address certain aspects of criminal fees described as accelerated areas within the current consultation was initially welcomed. However, there have been some concerns expressed by the representative bodies in relation to the approach adopted and whether the proposals constitute a fair settlement to practitioners. Contentious elements include the disparity between what is being offered to litigators (£12-21 million) and advocates (£20-29 million) in percentage terms and a significant investment made in the Crown Prosecution Service (CPS), which is now recruiting hundreds of new lawyers, compounding the drain of talent from criminal defence firms. There are concerns that this will result in more and more firms withdrawing from the legal aid market and/or declining to act in certain cases, for which the remuneration is wholly inadequate. In 2010, there were 1,861 firms doing criminal legal aid. This figure dropped to 1,271 last year and currently stands at 1,147.

Legislation to abolish some jury trials may be the next step

One of the biggest stories of this week was Lord Chancellor Robert Buckland QC's evidence session with the Justice Committee session. As the Lord Chancellor referred to the growing backlog of cases he indicated that legislation to allow trial without jury could be passed within weeks. Trials under consideration include 'either-way' cases (those more serious criminal cases such as burglary or drugs offences that can be heard in the Magistrates' or Crown Court).

The current proposals seem to depart significantly from recent ministerial statements emphasising the fundamental importance of jury trials. In explaining the change, the Lord Chancellor added that 200 extra sites are required to deal with the rising number of cases waiting to be heard, with 10 alternative venues signed off this week. The measures included trials with just a judge and two magistrates as a 'last resort' but said this option would provide an extra 40% capacity. He went on to say that his preferred option, which involves reducing the number of jurors to seven, would increase capacity by only 5-10%, further suggesting that a one judge-two magistrates option would apply only to cases where the maximum sentence is two years' imprisonment.

The Lord Chancellor confirmed that the government wants to implement one of the two options by September, which would require primary legislation to be brought forward before parliament goes into recess on 21 July, but that these changes are only intended to be temporary and not the basis of a permanent change. He also stated that other options are being actively explored including longer operating hours and opening courts at weekends.

The number of outstanding 'more serious' cases has only increased slightly since the start of lockdown, from 39,214 in the Crown court in March to 40,526 on 24 May. But the number of cases waiting in the magistrates' courts has risen over that period from 406,610 to almost 484,000.

YLAL report into Access to Justice for Asylum Seekers and Migrants

A [new report](#) by Young Legal Aid Lawyers ('YLAL'), "A Sector at Breaking Point: Justice Denied for Victims of Trafficking", confirms that there is a market failure in the asylum and immigration legal aid sector, with victims of trafficking often unable to access legally aided asylum and immigration advice and representation. The report also finds that the Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020 further restrict access to justice for this vulnerable group.

The report's evidence is drawn from a rapid consultation with the anti-slavery support sector about the state of access to justice for victims of trafficking. YLAL's survey was open for responses 15-17 June 2020. Despite being live for fewer than three days, it received 34 responses from individuals working in at least 18 organisations.

Respondents were clear that access to legal aid for asylum and immigration matters is essential for victims of trafficking to recover from their trauma and access support mechanisms. As one respondent put it, "it is everything."

Key findings of the report include:

- 70.6% of respondents stated that it was either 'impossible' (2.9%), 'extremely difficult' (20.6%) or 'difficult' (47.1%) to find legal aid representation for victims of trafficking.
- 44.1% of respondents stated that victims of trafficking had left their service before they were able to find them an immigration representative.
- Victims of trafficking are incurring debt and returning to exploitation in order to pay for private immigration representation due to legal aid providers being unavailable.
- Lack of access to asylum and immigration legal aid lawyers puts victims of trafficking at risk of exploitation from unregulated asylum and immigration advisers.

Please write to your MP asking them to take action and bring YLAL's report to the attention of the Legal Aid Minister.

You can find a template letter [here](#).

Civil Justice Council Report on the Impact of COVID-19 on civil court users

Rapid Review: The Impact of COVID-19 on the Civil Justice System

Report and Recommendations

Dr Natalie Byrom
Sarah Beardon
Dr Abby Kendrick

The Civil Justice Council has conducted a rapid review into the impact of the COVID-19 pandemic on the civil justice system, with a particular focus on the swift expansion of the use of remote hearings. The review was conducted with the support of The Legal Education Foundation and ran from the 1st to the 15th May 2020, focussing on court users whose hearings took place between the 1st and 7th May 2020. Dr Natalie Byrom, Director of Research at the Legal Education Foundation, who led the research, noted both that "the volume of response reflects a wide recognition of the importance of understanding the impact of COVID-19 on the justice system" and also highlighted the "immediate steps" recommended by the report to "ensure that remote hearings support access to justice".

The rapid review found that whilst 71.5% of lawyers responding said their experience of online hearings had been positive or very positive, the majority of respondents wanted to return to in-person hearings and that they would not support wholesale changes once the virus has subsided.

The Master of the Rolls, Sir Terence Etherton, welcomed the review and said he is "immensely grateful to the members of the working group for producing this report". He further acknowledged that "the report makes a number of recommendations which we will consider carefully. In particular responding to concerns expressed...about the consequences of the current stay on housing possession claims ending". The Master of the Rolls has established a cross-sector working group to help address these concerns as part of the immediate steps taken by the Civil Justice Council and judiciary in response to the report.

You can read more about the report and access it in full [here](#). The Law Society Gazette's coverage of report can be found [here](#).

COVID-19 Has 'Significantly Reduced' Value of Criminal Legal Aid Offered

The Law Society has said that the Government must do more than it has currently proposed in order to save the criminal legal aid market from collapse.

The Ministry of Justice is currently reviewing criminal legal aid fees and announced their first proposals in February: a £50m offer which The Law Society branded as "woefully inadequate" at the time and have maintained it is now unlikely to provide anything close to what is necessary to save firms from unrecoverable financial difficulties. The Law Society has said that firms' financial difficulties have been exacerbated by the plummet in the number of arrests and cases going through the courts since lockdown measures have been imposed.

The Law Society has urged the Government to reverse fee cuts of 8.75% imposed in 2014, increase fees paid for youth court and vulnerable client work, and allow payments on account for approved disbursements in appeal and review cases. The president of the Law Society, Simon Davis, has said that "criminal legal aid problems are facing a triple whammy – immediate cash-flow problems, short to medium term permanent loss of income and the pre-existing crisis of sustainability" and that unless there is Government action "there is a serious risk of widespread market collapse".

You can read more about this story [here](#).

Debates in Parliament

Access to Justice

On the 9th June 2020, Justice Questions included a discussion raised by Jessica Morden MP and Karen Buck MP on what steps the Ministry of Justice had taken to ensure access to justice during the Covid-19 outbreak.

Alex Chalk MP, the Parliamentary Under-Secretary of State for Justice, replied by acknowledging the real challenges for the justice system created by the pandemic but paid tribute to the practitioners, judiciary and court staff that had enabled 159 courts across the UK to remain open as well as noting that jury trials were restarted on the 18th May.

The Under-Secretary of State for Justice's response was followed up by further questions from Jessica Morden MP on the backlog of criminal cases caused by Covid-19 as well as additional questions from Karen Buck MP on the financial pressures placed on legal aid providers.

The Under-Secretary of State for Justice responded by expressing a willingness to meet with Jessica Morden MP and other Gwent MPs to further discuss the backlog and its effects on their area. In response to Ms Buck's questions he noted that over £400 million of support has been made available for legal aid providers and expressed his support for legal aid and the necessity that providers are kept in business so they can continue to do their important work.



You can read the full debate [here](#).

Government Support for Law Firms during Covid-19

On the 4th June 2020, Questions to the Attorney General included a discussion raised by Catherine West MP on what consideration the Government had given to hard-pressed legal aid lawyers who may need more flexibility with billing or business rate relief to keep going during the pandemic.

Michael Ellis MP, the Solicitor General, responded by first recognising the importance of the question and the need to provide support in these difficult times. He further noted the changes the CPS had made to its fee-paying scheme as well as noting the Bar Council's contentment at the work the Government had done to relieve financial pressure whilst recognising more could be done.

The Solicitor General's response was followed up by a further question from Ellie Reeves MP on the inequalities facing BAME members of the legal sector, noting that 55% of BAME barristers earn more than half their income from legal aid. Ellie Reeves MP further asked what urgent action the Solicitor General would take to reverse LASPO 2012 and restore funds to legal aid?

The Solicitor General replied by reiterating the Government's existing support for the legal aid system and the steps that had already been taken to expedite fee schemes and noting the introduction of up-front fixed fees of £500 for covid-19 matters being dealt with by a legal professional. He additionally noted that, whilst the Government was taking every measure to support the profession, that challenges remained.

You can read the full debate [here](#).

4. Justice Questions

Karl Turner (Kingston upon Hull East), asked the Secretary of State for Justice:

- What assessment he has made of the potential merits of suspending claim frequency limits for civil **legal aid** practitioners?
- What assessment he has made of the effect of the covid-19 outbreak on the number of law firms holding a criminal **legal aid** contract?
- How many accredited police station representatives there are in England and Wales as at 1 June 2020?
- How many Duty Solicitors there are in England and Wales as at 1 June 2020?
- How many new law firms have obtained a criminal **legal aid** contract in each year since 2010?
- How many paralegals work for firms of solicitors with a criminal **legal aid** contract?
- How many claims were submitted to the **Legal Aid** Agency for police station attendances in England and Wales in the most recent period for which figures are available?
- How much was spent on free and independent police station advice across England and Wales in the most recent period for which figures are available?

Sir Edward Davey (Kingston and Surbiton), asked the Secretary of State for Justice:

- What proportion of **legal aid** applications made by victims of domestic violence have been rejected as a result of capital threshold means testing in each of the last five years?
- What recent assessment he has made of the adequacy of the capital threshold for means testing **legal aid** for domestic violence victims; and if he will make a statement?
- How many applications have been (a) granted and (b) rejected for **legal aid** from victims of domestic violence in each of the last five years?
- When the review into means testing of **legal aid** for victims of domestic violence will conclude; and if he will make a statement?

Mr David Lammy (Tottenham), asked the Secretary of State for Justice:

- How many times the **Legal Aid** Agency has assessed that **legal aid** has been overpaid to a provider in each month in 2020?
- How many applications for **legal aid** has been made to the **Legal Aid** Agency in each month in 2020; and how many of those applications have been successful?

Zarah Sultana (Coventry South), asked the Secretary of State for Justice what assessment he has made of the potential merits of the recommendations of the Law Society's submission to Criminal **Legal Aid** Review, published in February 2020?

Christian Wakeford (Bury South), asked the Secretary of State for Justice what progress his

Department has made in its review of the means test; and when he plans to bring forward proposals?

Baroness Whitaker, asked Her Majesty's Government in the light of the risk of the restriction in place to address the COVID-19 pandemic leading to a significant loss of income for **legal aid** firms, what assessment they have made of the impact of the **Legal Aid** Agency's practice if (1) permitting only two claims a year for ongoing cases, and (2) only paying 75 per cent of such claims?

Mr Barry Sheerman (Huddersfield), asked the Secretary of State for Justice what steps he is taking to ensure that **legal aid** for refugees and asylum seekers is effective in providing fair and high quality representation and advice?

Thangam Debonnaire (Bristol West), asked the Secretary of State for Justice what steps the Government is taking to ensure that people facing possession proceedings for their home are able to access the advice of a duty solicitor if court proceedings take place online or by phone?

Ms Angela Eagle (Wallasey), asked the Secretary of State for Justice:

- with reference to the Equality and Human Rights Commission's response to the Post-Implementation Review of the **Legal Aid**, Sentencing and Punishment of Offenders Act 2012, what progress his Department has made on implementing the recommendations in that report.

- with reference to the Equality and Human Rights Commission's response to the Post-Implementation Review of the **Legal Aid**, Sentencing and Punishment of Offenders Act 2012, what estimate his Department has made of the number of cases of people with protected characteristics unable to access **legal aid**.

Lord Clement-Jones asked her Majesty's Government:

- What assessment they have made of reports (1) that Law Centres are experiencing financial problems as a result of court closures and consequential loss of **legal aid** income due to COVID-19, and (2) that some Law Centres are facing closure as a result; and what assessment they have made of the role of Law Centres in providing (a) direct legal services, and (b) hubs for volunteer pro bono lawyers.

- What consideration they have given to using unspent funds from the **legal aid** budget for this financial year to fund law centres and other **legal aid** providers, based on what they would have received in any six month period, to ensure their viability.

- What consideration they have given to using unspent funds from the **legal aid** budget for this financial year to fund law centres and other **legal aid** providers based on what they would have received in any six month period to ensure their viability.

Lord Hylton, asked her Majesty's Government what plans they have to reintroduce **legal aid** for refugee family reunion cases?

Afzal Khan (Manchester, Gorton), asked the Secretary of State for Justice if he will restore access to **legal aid** for asylum seekers in the UK?

You can read all of the questions and answers [here](#)

Ro Teather
Head of Parliamentary Affairs
25 June 2020

Visit the APPG on Legal Aid website



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

In association with Young Legal Aid Lawyers



Supported by The Legal Education Foundation.



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 © 2020 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](#).