



DEBATE PACK

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Spending of the Ministry of Justice on legal aid

By Doug Pyper, Georgina Sturge, Sally Lipscombe, Sue Holland

Summary

A Westminster Hall debate on the spending of the Ministry of Justice on legal aid is scheduled for Thursday 22 October at 3pm. The Member leading the debate is Sir Robert Neill MP.

Contents

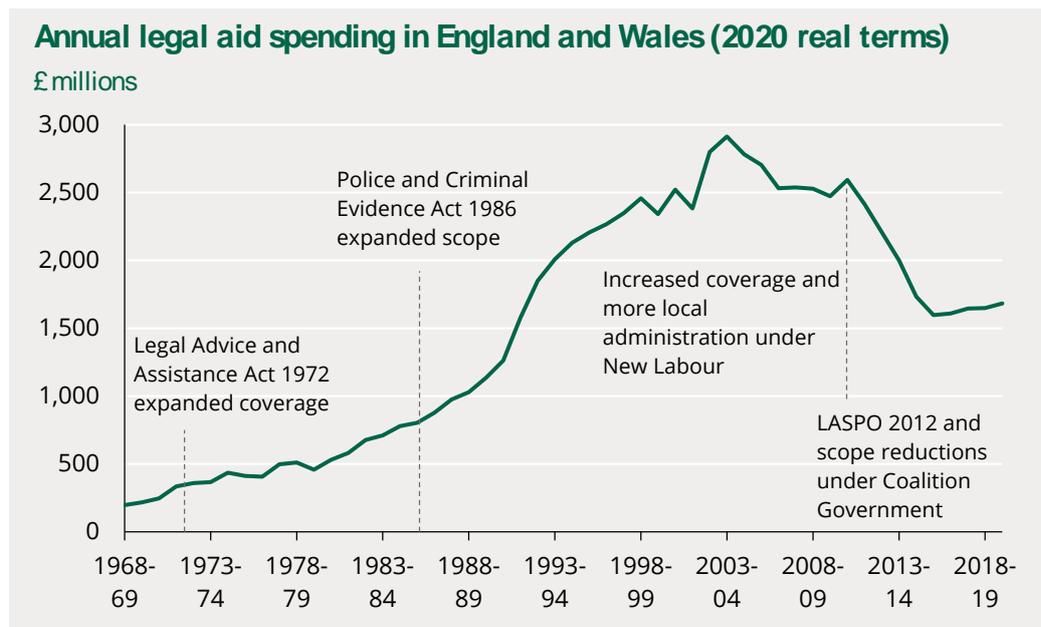
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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

1. Background

1.1 Spending on legal aid

The state-run legal aid scheme as we know it today came into being in 1949, with the passage of the Legal Aid and Advice Act. The scheme was slow to establish itself but by 1969 its annual net spending was around £13 million (£197 million in 2019-20 prices), split evenly across civil and criminal legal aid.



Sources: **1968-1979:** HM Treasury, Public expenditure plans (various years); **1980-89:** HM Treasury, Government expenditure plans (various years); **1990-2001:** HM Treasury, The Government's Expenditure Plans: Lord Chancellor's and Law Officers' Departments (various years); **2002:** Lord Chancellor's Department, Resource accounts 2002 to 2003 ; **2003-2006:** Department for Constitutional Affairs, Resource accounts 2004-05, 2005-06, and 2006-07; **2005-2019:** Ministry of Justice, [Legal aid statistics quarterly: April to June 2020](#)

Notes: Shows net resource expenditure (RDEL); does not include capital expenditure (CDEL) or AME; figures inflated to 2019-20 prices using HM Treasury, [GDP deflators at market prices, and money GDP September 2020 \(Quarterly National Accounts\)](#); includes expenditure on civil and criminal legal aid and central funds and excludes administration expenditure (where this is specified).

The Legal Advice and Assistance Act 1972 heralded what some have described as a 'golden period' of legal aid provision, lasting until 1986.¹ Spending increased slightly from 1973 onwards with the introduction of the Green Form Scheme and increased more rapidly year-on-year from 1979. This latter rise followed the expansion of the scheme's coverage in 1979 and the establishment of Advice UK, an umbrella organisation to coordinate the work of independent legal advice services across England and Wales.² Duty solicitor schemes became required in Magistrates courts in 1984 and the Police and Criminal Evidence Act 1986 established the right to free legal advice at a police station. Between 1979 and 1988, net spending on legal aid doubled to around £479 million or £1.0 billion in 2019-20 prices.

¹ Hynes, S., and Robins, J. (2009) 'The justice gap: whatever happened to legal aid?', p.26

² Ibid., p.27

Between 1986 and 1997 the Government sought to reduce the cost to the taxpayer of the legal aid scheme by changing the scope of eligibility and making changes to the administration of legal aid. This included replacing the Law Society with the Legal Aid Board as administrators of the scheme, under the Legal Aid Act 1988. Despite the changes, total public expenditure on legal aid doubled again between 1988-89 and 1994-95, to over £2.1 billion in 2019-20 prices. It increased by around 20% per year during this period. Some of this can be explained by a steep rise in police recorded crime during that time; rises of 17% and 16% in 1990-91 and 1991-92, respectively.³

Under New Labour, legal aid spending averaged around £2.6 billion in real terms per year, rising to a peak of spending in 2003-04. There were various changes to the structure of the scheme from 1998 onwards, including the replacement of the Legal Aid Board with the Legal Services Commission, the introduction of the Criminal Defence Service and the Community Legal Service, and the creation of Community Legal Advice Centres and Networks (CLACs and CLANs). These efforts to devolve oversight of legal aid provision were accompanied by a cap on overall expenditure in 1999 and increases in the scope of eligibility in 2002.

Continuing high costs led to calls for further reform from the mid-2000s to the time of the change of Government in 2010. The ending of the Legal Services Commission's local planning structure in 2005-06 and changes to the system of tendering for certain types of case brought expenditure down slightly from around £2.9 billion in 2003-04 to £2.5 billion in 2009-10.

Spending was cut sharply from 2010-11 onwards, at a rate of around 10% per year. This was in the context of reforms that were solidified by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). LASPO greatly reduced the coverage of civil legal aid by removing certain types of case from the scope. It also replaced the Legal Services Commission with the Legal Aid Agency, completing the recentralisation of oversight of the scheme. Between 2010-11 and 2015-16, overall net spending on legal aid fell by 38% in real terms, from around £2.6 billion to £1.6 billion (2019-20 prices). The years since have seen a slight uptick in spending and in 2019-20, net spending was around £1.7 billion.

Criminal legal aid

Between 2010-11 and 2019-20 criminal legal aid expenditure fell by over a third (35%) in real terms.⁴ In 2019-20, criminal legal aid spending was around £897 million, compared with around £1.4 billion in 2010-11.

A breakdown of criminal legal aid spending is only available using a slightly different measure of cost: closed case expenditure. Closed case expenditure shows the total value of payments made to legal aid providers in relation to pieces of work that are completed in each period, even where a portion of the work may have taken place over previous periods.

In terms of closed case expenditure, just over two thirds of the total in 2019-20 was spent on 'Crime Higher', which includes the Crown Court, the Court of Appeal, Senior Court Costs Office and Supreme Court. Crown Court litigator schemes and advocate

³ Home Office, 'A summary of recorded crime data from 1898 to 2001/02', in [Historical crime data](#), 21 April 2016

⁴ Using RDEL measure of expenditure. Ministry of Justice, [Legal aid statistics quarterly: April to June 2020](#), table 1.0

schemes accounted for £344 million and £207 million of expenditure, respectively. The largest categories of 'Crime Lower' expenditure were police station advice and magistrates court representation.

According to the closed case measure, overall expenditure fell by 38% between 2010-11 and 2019-20. Crime Lower expenditure fell by 51%, including a fall of 59% in expenditure on magistrates court advice. Within Crime Higher, expenditure on Crown Court litigator schemes fell by around 3% while expenditure on Very High Cost Crime fell by 98%. Annual figures are provided in the annex.

The number of providers of police station advice covered by legal aid has fallen by 25% since 2011/12.⁵ The number of people receiving telephone advice from a duty solicitor while at a police station has fallen by around 45%, despite the level of police recorded crime having risen.⁶

Volume of legal aid work

Due to the number of changes to the structure of the legal aid system, it is difficult to compare the volume of cases over time. The type of cases covered by legal aid has changed over time: for example, the type of civil cases included had expanded over time before many types of case were removed from the scope by LASPO in 2012.

Different types of case also involve different levels of expenditure, so simply comparing the number of cases over time does not necessarily indicate how much they 'should' cost. For example, the introduction of free legal advice for those under arrest at a police station in 1986 naturally increased the number of legal aid cases each year, but many of these cases would have consisted of a single phone call. One act of advice-giving is clearly different in terms of scale and cost to one act of legal representation in a Crown Court trial.

The volume of crime has also changed over time, as have other factors which drive demand. This makes it difficult or even impossible to identify the effect that policy changes have had on the volume of cases.

Lastly in terms of caveats, we do not have a consistent way of measuring workload over time as the way in which the scheme has been reported on has changed. Between 1971-72 and 1999-2000, there is information available on the number of 'bills paid' under the scheme. Note that bills here are all weighed equally, even though they could involve drastically different amounts of work. From 2001-02 to 2019-20, we have a consistent series showing the 'volume of work' being undertaken per year.

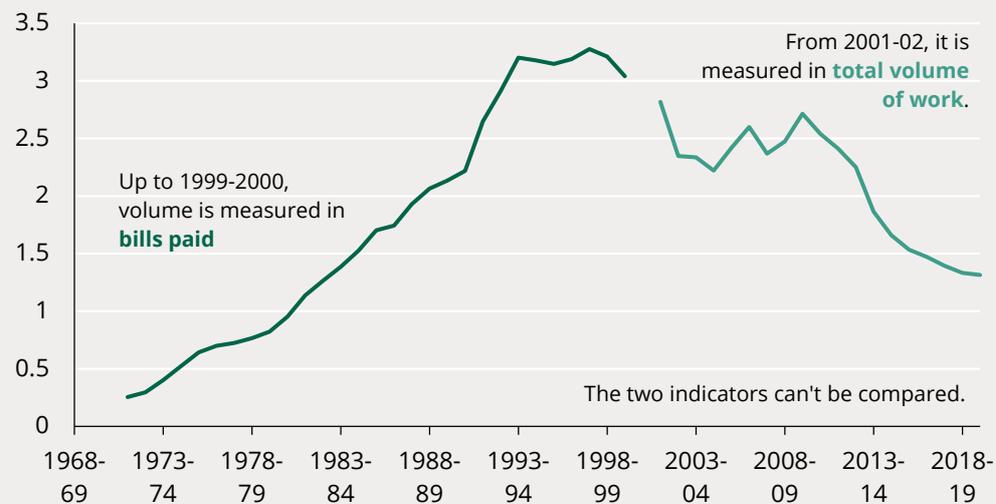
The following chart shows the total legal aid workload per year, according to these two indicators. The number of bills being paid peaked at around 3.3 million in 1997-98, having risen steadily from around 250,000 in 1971-72. Volume of work fell between 2000-01 and 2004-05, despite net spending on legal aid increasing to its highest ever level during this time. The fall in expenditure due to cuts from 2010-11 onwards is mirrored by a similar fall in the overall volume of legal aid work. In 2019-20, the total volume of work was around 1.3 million cases.

⁵ Ministry of Justice, [Legal aid statistics quarterly: April to June 2020](#), table 9.1.

⁶ *Ibid.*, table 2.1

Annual legal aid workload in England and Wales

Millions of cases or bills paid (depending on the year)



Sources: **1971-1979:** Law Society, Legal Aid 26th and 31st Annual Reports of The Law Society and the Lord Chancellor's Advisory Committee; **1980-1984:** Law Society, Legal Aid 35th Annual Reports of The Law Society and the Lord Chancellor's Advisory Committee; **1985-1999: Legal Aid Board, Report on the operation and finance of the Legal Aid Act 1988 (various years); 2001:** Legal Services Commission Annual Report 2001/02; **2002-2019:** Ministry of Justice, [Legal aid statistics quarterly: April to June 2020](#), tables 1.1, 5.2, 6.1

Notes: Bills paid and total volume of work are not comparable; volume of work does not include volume of Exceptional Case Funding claims or claims from central funds; there may be further consistencies over time due to changes in how these indicators have been reported.

Coverage of legal aid

Around 80% of the population of England and Wales was eligible for civil legal aid when it was first introduced in 1950.⁷ There are no consistent annual estimates of the scheme's coverage since then but there are some ad hoc figures. The table below shows the available, robust estimates and is followed by a description of the changes in coverage over time.

⁷ Hynes, S., and Robins, J. (2009) 'The justice gap: whatever happened to legal aid?', p.21

Estimates of civil legal aid eligibility, various years England and Wales

Year	Estimated percentage of the population eligible	Source
1950	80	a
..		
1973	40	a
..		
1979	79.1 (alternative estimate 73.8)	b, alternative estimate c
..		
1982	75.6	b
..		
1987	57.2	b
1988	50.4	b
1989	48.4	b
1990	45.4 (alternative estimate 66.1)	b, alternative estimate c
..		
1992	53	d
1993	48	d
1994	47	d
..		
1998	52	e
1999	51	e
2000	50	e
2001	46	e
..		
2005	41	e
..		
2007	29	e
..		
2016	25	f

Sources: a) Legal Action Group (1992) A strategy for justice: Publicly funded legal services in the 1990s, London: Legal Action Group, p.8

b) Legal Action Group (1992) A strategy for justice: Publicly funded legal services in the 1990s, Appendix 1: Extract from a paper by Michael Murphy, London School of Economics, London: Legal Action Group, p.161

c) Lord Chancellor's Department (1991) Review of financial conditions for legal aid, Eligibility for civil legal aid: a consultation paper, p.85

d) Brooke, H. (2017) 'The history of legal aid 1945 – 2010', in Fabian Society, 'The Bach Commission on Access to Justice': Appendix 6, p.11

e) [HC179599](#), 20 Feb 2008

Notes: These estimates are compiled from several different sources and using different estimation methods, so comparisons between years that use different sources should be made with caution. The 1979-1990 figures are definitely estimates for the number of persons eligible rather than households however it is not clear whether all the other estimates are consistent with this.

f) House of Commons Library, [Civil Legal Aid: England & Wales, Scotland and N Ireland compared](#), 10 June 2016

By 1973, coverage of civil legal aid had halved, to 40% of the population being eligible, before increasing again to 79% in 1979.⁸ Estimates based on data from Family Expenditure Surveys indicate that eligibility for civil legal aid then fell to 58% in 1982, to

⁸ Ibid, p. 21; Legal Action Group (1992) A strategy for justice: Publicly funded legal services in the 1990s, Appendix 1: Extract from a paper by Michael Murphy, London School of Economics, London: Legal Action Group, p.161

50% in 1988, and to 45% in 1990.⁹ Alternative estimates by the Lord Chancellor's Department suggest a more modest fall from 74% to 66% during this period.¹⁰

According to various sources of estimates, eligibility hovered at around 50% between 1992 and 2000.¹¹ Estimates published by the Government in 2008 show the proportion eligible for civil legal aid starting to fall consistently from 1998 onwards. It was estimated at 46% in 2001, 41% in 2005, and 29% in 2007.¹² Figures provided to the House of Commons Library by the Ministry of Justice in 2016 indicate that at that point approximately 25% of the population of England and Wales was eligible for civil legal aid.¹³

These estimates appear to all relate to civil legal aid, rather than criminal. There have, at various points, been different eligibility criteria for legal aid in criminal cases than in civil ones.

1.2 Civil legal aid

As noted, LASPO, along with its secondary legislation, made significant changes to the provision of legal aid in England and Wales. The Coalition Government said its goal with LASPO was to refocus the scope of legal aid on those who need it most. For the Coalition Government, LASPO was a response to a "completely unignorable problem of affordability".¹⁴ When Introducing the LASPO Bill at Second Reading, Ken Clarke said "In any circumstances our system would need reform; in the country's current financial crisis reform is imperative."¹⁵

LASPO changed the **scope** of civil and family legal aid. Whereas previously a legal matter was within scope and qualified for legal aid funding unless it was specifically excluded by the Access to Justice Act 1999, LASPO reversed this position and listed in Schedule 1 those areas of legal problems that now remained in scope. It also provided for an **Exceptional Case Funding** (ECF) scheme to provide legal aid in cases where a failure to provide legal aid would be a breach of an individual's rights under the Human Rights Act 1998 or European Union law.

Regulations under LASPO also made changes to the **eligibility criteria** for civil and family legal aid:

- Applying capital eligibility test to all legal aid applicants;
- Increasing Income Contributions for Contributory Clients;
- Capping the subject matter of dispute (SMOD) disregard at £100,000;
- Removing legal aid in cases with 'borderline' prospects of success.

The Coalition Government said the reforms were designed to target the provision of public funding at those in the greatest financial need; to ensure those who can afford to

⁹ Legal Action Group (1992) A strategy for justice: Publicly funded legal services in the 1990s, Appendix 1: Extract from a paper by Michael Murphy, London School of Economics, London: Legal Action Group, p.161

¹⁰ Lord Chancellor's Department (1991) Review of financial conditions for legal aid, Eligibility for civil legal aid: a consultation paper, p.85

¹¹ Brooke, H. (2017) 'The history of legal aid 1945 – 2010', in Fabian Society, 'The Bach Commission on Access to Justice': Appendix 6, p.11; [HC179599](#), 20 Feb 2008

¹² HC179599, 20 Feb 2008

¹³ House of Commons Library, [Civil Legal Aid: England & Wales, Scotland and N Ireland compared](#), 10 June 2016

¹⁴ [HC Deb 29 June 2011 c987](#)

¹⁵ Ibid.

pay some or all of their legal costs do so; and to reduce unnecessary litigation where the prospects of success are borderline

Regulations also **reduced fees paid** to lawyers in civil and family matters. In addition, the uplifts for some hourly rates were capped or removed and remuneration for pre-permission work on judicial review cases was limited. The Coalition Government saw fees as an area for reducing the overall spend on legal aid.

LASPO post-implementation review

On 30 October 2017 David Lidington, then Lord Chancellor and Secretary of State for Justice, presented the Government's post-legislative memorandum for LASPO to the Justice Committee¹⁶ and announced that he had asked officials to commence a post-implementation review (PIR) of Part 1 of the Act. Such a review had been promised by the Coalition Government during the passage of the Act in 2011 and the Conservative Government reiterated this commitment after its election win in 2015.

Starting in April 2018, the Ministry of Justice (MoJ) held three rounds of consultative group meetings with a range of interested parties. MoJ officials also held a roundtable with members of the senior judiciary and met individual practitioners and smaller groups of interested parties in order to listen to a broad range of views. The MoJ also received evidence submissions from over 80 organisations, carefully chosen to inform the PIR.

Those providing evidence to the review told the MoJ that often those presenting with a legal problem are unlikely to have just one matter of concern and that a hard line between what is in and out of scope leaves people with a solution to only some of their problems. Others submitted that the legal system is not yet sufficiently capable of catering for those without legal representation. The Government also heard that as a result of many solicitors having abandoned legal aid work, there are now 'advice deserts' for certain categories of law, particularly immigration and housing. Some submissions also argued that the financial eligibility threshold is set at a level that requires many people on low incomes to pay a contribution which they cannot afford while maintaining a socially acceptable standard of living.

The MoJ [published the outcome](#) of the review in February 2019.¹⁷ At the same time, it published an [action plan](#) intended to address some of the issues raised during the review.¹⁸ Among other things, the MoJ said it would:

- enhance the support offered to litigants in person;
- launch a new campaign to improve awareness of how people can access support to help them resolve their issues;
- conduct a further review into the thresholds for legal aid entitlement (promising that, whilst the review was ongoing it would 'passport' through the means test all applicants in receipt of universal credit);
- increase the scope of legal aid for separated migrant children;
- reinstate immediate access to face-to-face advice in discrimination, debt and special educational needs cases;

¹⁶ [Legal Aid, Sentencing and Punishment of Offenders Act 2012: Post-Legislative Memorandum](#), Cm 9486, October 2017

¹⁷ MoJ, Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), CP 37, February 2019

¹⁸ MoJ, Legal Support: The Way Ahead An action plan to deliver better support to people experiencing legal problems, CP 40, February 2019

- make changes to legal aid for inquests, to ensure that bereaved families are properly supported.¹⁹

Reaction to the PIR

Bob Neill, chair of the Justice Committee, described the publication of the review as “a critical moment in the future of legal support in the justice system” and “well overdue”.²⁰ Mr Neill reiterated the Committee’s insistence on the need for early intervention to help people as soon as possible after they encounter legal problems. Whilst he welcomed some of the proposals in the PIR and action plan, he warned that the numerous proposals for further reviews and research “risked being seen as ‘kicking the can down the road’.” Mr Neill also cautioned that the Committee wanted clarity on what the MoJ meant by references in the PIR to ‘legal support’; he felt this term suggested “a hand-holding approach rather than providing actual legal advice.” He also argued that raising awareness about access to justice is not enough in itself: “we have heard there’s already a desperate lack of capacity in advice centres so in this case it’s hard to see how simply ‘raising awareness’ will help.”²¹

Richard Atkins QC, Chair of the Bar Council, described the PIR as a “wasted opportunity” offering “little of substance to ease the impact of LASPO on vulnerable individuals seeking justice.”²² The Law Society, on the other hand, greeted the PIR as a ‘shift in the right direction’. Its then-president Christina Blacklaws said:

This post-implementation evaluation is long-awaited and comprehensive and represents the first time in over twenty years that we have seen wide-ranging government proposals to improve the system rather than to make further cuts.²³

Current Justice Committee inquiry

On 7 September 2020 the Justice Committee launched an inquiry into [‘The Future of Legal Aid’](#). The inquiry is currently accepting evidence until 2 November 2020. The relevant page on the Parliament website describes the scope of the inquiry:

The legal aid system in England and Wales was fundamentally changed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). Since then there have been a number of legislative changes and post-legislative reviews of LASPO. The Justice Committee examined the changes to civil legal aid in 2014 and the changes to criminal legal aid in 2018. This inquiry aims to look ahead to the future of legal aid, to identify the major challenges facing clients and providers and how they might be tackled. The inquiry is especially keen to hear about the sustainability of the legal aid market, the impact of Covid-19 and the increasing reliance on digital technology to deliver legal advice and court services.

¹⁹ Ibid., pp5-7

²⁰ Justice Committee press release, [‘Chair comments on MoJ LASPO review’](#), 7 February 2019

²¹ Ibid.

²² Bar Council press release, [‘LASPO Review: Bar Council reaction’](#), 7 February 2019

²³ Law Society press release, [‘Crucial government review signals reduction in hurdles to accessing everyday justice’](#), 7 February 2019

1.3 Criminal legal aid

Eligibility and fee schemes

The rules governing an individual's entitlement to criminal legal aid are set out in LASPO and in Regulations under that Act. Determining whether an individual is eligible for legal aid involves applying two tests:

- a [financial means test](#) – applicants whose financial means exceed a certain threshold will not be eligible for legal aid, or – if they are eligible – may be required to pay contributions towards it
- an “[interests of justice](#)” test – this examines the merits of the case and the potential consequences of a criminal conviction for the defendant (e.g. the risk of custody). The more serious the charge or possible consequences, the more likely it is that the case will qualify for legal aid.

If an individual is entitled to criminal legal aid, they do not receive any payments directly. Instead, payments are made directly by the Legal Aid Agency (LAA) to the solicitors' firms and barristers representing the individual.²⁴ The LAA administers these payments through a number of fee schemes. These schemes pay fixed/standard fees, hourly rates, or graduated fees, depending on the type of work involved. The main fee schemes fall into two categories, “crime lower” and “crime higher”:

- **Crime Lower**
 - Police station advice
 - Representation in the magistrates' court
 - Prison Law
- **Crime Higher**
 - Litigation services in the Crown Court (governed by the Litigators' Graduated Fee Scheme, LGFS)
 - Advocacy services in the Crown Court (governed by the Advocates' Graduated Fee Scheme, AGFS)
 - Very High Costs Cases (VHCC) in the Crown Court
 - Higher courts (e.g. Court of Appeal, Supreme Court)

The Government has noted that litigation work and advocacy work in the Crown Court comprise the biggest portion of legal aid spend, with the AGFS and LGFS having accounted for around 65% of total criminal legal aid spend in 2017-18.²⁵

The Justice Committee's 2018 report

In July 2018, the Justice Committee published a short report on criminal legal aid, which considered recent changes to the LGFS and AGFS and related disputes between the legal profession and the Government.²⁶

The Committee raised concerns regarding the relationship between criminal legal aid and the right to legal advice, and called for an independent review:

²⁴ There is also a small [Public Defender Service](#) that sits within the Legal Aid Agency

²⁵ Ministry of Justice, [Criminal Legal Aid Review: Programme Overview](#), 30 April 2019

²⁶ Justice Committee, [Criminal Legal Aid](#), HC 1069, 26 July 2018

In criminal cases, it has been recognised that there is a common law right to legal advice, together with a right to legal representation under Article 6 of the European Convention on Human Rights. We conclude that there is compelling evidence of the fragility of the Criminal Bar and criminal defence solicitors' firms, which places these rights at risk—a risk that can no longer be ignored. We recommend that the output from the criminal legal aid workstream within the post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 be used to underpin a comprehensive and independent review of criminal legal aid—similar to the recent independent review of legal aid in Scotland—with the aim of devising a scheme that is sustainable and user-focused; the review should be launched no later than March 2019 and be concluded within 12 months.²⁷

The Committee also noted the importance of an “effective” criminal justice system in promoting the rule of law:

An effective criminal justice system is one of the pillars on which the rule of law is built; effectiveness also demands that the fabric of the criminal courts is maintained. The under-funding of the criminal justice system in England and Wales threatens its effectiveness, so undermining the rule of law and tarnishing the reputation of our justice system as a whole, which is widely admired. We conclude that the under-resourcing of the criminal justice system undermines the prospects of successfully promoting our legal system abroad, a stated Government objective.

We therefore recommend that the Government conduct an urgent cross-departmental review of funding for all elements of the criminal justice system, with the aim of restoring resources to a level that enables the system to operate effectively.²⁸

The Government's criminal legal aid review

In response to the Justice Committee's report, and to wider concerns raised in the sector, in December 2018 the Ministry of Justice announced a [review of criminal legal aid fee schemes](#). The review had two stated aims:

1. **Reforming the criminal legal aid fee schemes** so that they fairly reflect and pay for work done, support the sustainability of the market, support just, efficient and effective case progression, are consistent with wider reforms, are simple and proportionate in their administrative burdens, and ensure practitioners of the right skills and experience deal with cases.
2. **Reforming the criminal legal aid market** to ensure that the provider market can respond flexibly to system changes, operate to deliver services by practitioners with the right skills and experience, and operate to ensure the right level of legal aid provision and to encourage a diverse workforce.

On 13 June 2019, the Government announced that there would be an “accelerated” package of measures, in order to address some of the most pressing issues that had been identified. In August 2019, it published its [plan for accelerated work](#), and on 28 February 2020, [the government announced a consultation](#). Proposals set out in the consultation included:

- New payments for litigators and advocates for reviewing unused material;
- Additional payments for advocates with high volumes of pages of prosecution evidence;

²⁷ Ibid, p2

²⁸ Ibid

- Increased payments for advocates on cracked trials;
- Additional payments for litigators for work done on sending cases to the Crown Court.
- Early engagement by defence practitioners (i.e. pre-charge advice)

[The Bar Council](#) welcomed the proposals as a first step, saying that the consultation was an acknowledgement that current rates of pay are too low to maintain a functioning criminal justice system.

[The Law Society responded to the consultation in February 2020](#), saying that while it had been encouraged by the MoJ's accelerated items, it felt that the measures announced would not do enough to secure the short-term sustainability of the profession.

The consultation closed in June 2020, and the Government published its response in August 2020.²⁹ The Justice Secretary said the Government would be proceeding with the proposals as set out at consultation, with the exception of how litigators are paid for work on sending cases to the Crown Court. For that proposal, he said "in light of the responses received, I am increasing the payment from 2 hours' worth of work to 4 hours and will make payment under the magistrates' court scheme".³⁰

He acknowledged that many consultation responses had highlighted concerns about the sustainability of the criminal defence professions, particularly in light of the fact that Covid-19 has led to a fall in cases coming before the courts (and the resulting impact on cashflow for criminal legal aid practitioners).³¹

He said that the "quick wins" in the accelerated package would enable the Government to "inject an additional £36 million to £51 million per year into criminal legal aid". The Law Society said this was "a small step in the right direction for beleaguered defence practitioners whose profession is under threat", but that a "a giant leap in investment is urgently required if criminal legal aid firms are to survive".³²

The Justice Secretary also announced that as part of the next phase of the review, there will be an "independently-led review":

Having reflected on whether our original approach to delivering the review was the right one to achieve these overarching aims, I have decided that the next phase of the Review should involve an independently-led review that will be ambitious and far reaching in scope, assessing the criminal legal aid system in its entirety, and will aim to improve transparency, efficiency, sustainability and outcomes in the legal aid market. It will consider working practices and market incentives and how these can drive efficient and effective case progression and deliver value for money for the

²⁹ Ministry of Justice, [Government Response: Criminal Legal Aid Review An accelerated package of measures amending the criminal legal aid fee schemes](#), 21 August 2020

³⁰ Ministry of Justice consultation hub, [Criminal Legal Aid Review: An accelerated package of measures amending the criminal legal aid fee schemes](#), updated 21 August 2020

³¹ For further details relating to the impact of Covid-19, please see the Legal Aid Agency pages [Coronavirus \(COVID-19\): Legal Aid Agency contingency response](#) and [Financial relief for legal aid practitioners](#), the Justice Committee's report [Coronavirus \(COVID-19\): the impact on the legal professions in England and Wales](#), HC 520, 3 August 2020, and the Government's response [The impact on the legal professions in England and Wales: Government Response to the Committee's Seventh Report](#), HC 898, 19 October 2020

³² Law Society press release, [Increased fees too small a step to save the criminal defence profession, warns Law Society](#), 21 August 2020

taxpayer. Planning is in progress and I plan to launch it as soon as possible after Parliament returns.³³

No further details regarding the timetable of the review have yet been announced.

³³ Ministry of Justice consultation hub, [Criminal Legal Aid Review: An accelerated package of measures amending the criminal legal aid fee schemes](#), updated 21 August 2020

2. Media

2.1 Press releases

Bar Council

[Government paying junior barristers less than national minimum wage](#)

1 October 2020

Ministry of Justice

[Criminal Legal Aid Review: An accelerated package of measures amending the criminal legal aid fee schemes](#)

21 August 2020

Law Society

[Increased fees too small a step to save the criminal defence profession, warns Law Society](#)

21 August 2020

Law Society

[120 criminal firms have collapsed with more to follow – Law Society demands more from government proposals](#)

17 June 2020

Law Society

[Be prepared for justice to fall apart - solicitors issue stark warning to government](#)

28 February 2020

Law Society

[Criminal legal aid review - latest proposals are insufficient](#)

28 February 2020

Bar Council

[Bar Council responds to Government's accelerated criminal legal aid plans](#)

28 February 2020

2.2 News articles

Law Society Gazette

[£51m boost for criminal legal aid - but more needed say lawyers](#)

21 August 2020

Law Society Gazette

[Understanding won't save legal aid firms - we need action, now](#)

By Simon Davis, president, Law Society

29 May 2020

International Bar Association

[Access denied: Britain's broken justice system](#)

13 February 2020

BBC

[Legal aid: UK's top judge says cuts caused 'serious difficulty'](#)

27 December 2019

The Times

[Legal aid cuts leaving defendants to face justice on their own](#)

25 November 2019

Guardian

[Ministers' £6.5m for legal aid a drop in the ocean, say lawyers](#)

7 February 2019

Legal Action Group (LAG),

[Seeing the wood for the trees: the comparative cost of legal aid,](#)

By Anna Barlow

February 2019

Financial Times

[Justice for all? Inside the legal aid crisis](#)

27 September 2018

3. Parliamentary material

3.1 Ministerial statements

[Departmental Update](#)

Member: Robert Buckland | **Department:** Ministry of Justice
31 October 2019 | Written statement | HCWS64

[Legal Aid: Post-Implementation Review](#)

Member: David Gauke | **Department:** Ministry of Justice
07 February 2019 | Ministerial statements | House of Commons | 654 cc443-452

3.2 Debates

[Access to Justice](#) HC Deb 14 July 2020 cc1363

[Ministry of Justice Spending](#) HC Deb 3 October 2019 cc1444-68

[Future of Legal Aid](#) HC Deb 1 November 2018 cc418-58WH

[Legal Aid: Post-Implementation Review](#) HC Deb 4 September 2018 cc65-82WH

[Estimates Day: Ministry of Justice](#) HC Deb 2 July 2018 cc76-102

[Legal Aid](#) HL Deb 19 April 2018 cc1249-51

3.3 Parliamentary questions

[Courts and Legal Aid Scheme](#)

19 October 2020 | Written questions | Answered | House of Lords | HL8703

Asked by: Lord Beecham

To ask Her Majesty's Government what plans they have (1) to increase the rate of legal aid fees paid to barristers, and (2) to reduce the backlog of cases in the magistrates' and Crown courts.

Answering member: Baroness Scott of Bybrook | **Department:** Ministry of Justice

Criminal defence lawyers play a crucial role in upholding the rule of law and the Government greatly values the work they do.

In August we announced that we would be taking forward the policy proposals that practitioners told us mattered most for the Criminal Legal Aid Review (CLAR) accelerated areas. These areas were: unused material, cracked trials, paper-heavy cases, sending cases to the Crown Court, and pre-charge engagement. These policies allowed us to inject up to £51 million into criminal legal aid to further strengthen the market.

We also announced that the next phase of the review would include an independently led review of the market, to ensure it can meet demand now and into the future, provide an effective and efficient service that ensures value for money for the taxpayer.

With respect to the courts, as one of the first among other comparable jurisdictions globally to resume jury trials, our Crown Courts currently list thousands of cases each week. Since late July 2020, magistrates' courts have been completing more cases than have been received. We expect the trend of reducing the outstanding work to continue.

We are also installing plexiglass screens into over 300 courtrooms and jury deliberation rooms enabling us to open safely 250 Crown Court rooms for jury trials by the end of October. We're also investing record amounts - the biggest single investment in court estate maintenance for more than 20 years - and unlocking vital capacity by opening Nightingale Courts to provide extra court rooms.

[Legal Aid Scheme](#)

06 October 2020 | Written questions | Answered | House of Lords | HL8384

Asked by: Baroness Ritchie of Downpatrick

To ask Her Majesty's Government what assessment they have made of the impact of a reduction in the provision of the Standard Monthly Payments to criminal legal aid firms on the number of criminal defence lawyers.

Answered by: Baroness Scott of Bybrook | **Department:** Ministry of Justice

At present, 17% of all crime accounts are paid under the Standard Monthly Payment ('SMP') model. The remainder have opted for Variable Monthly Payments, which pays the actual value of the claim submitted each month. Firms can elect to be paid by either model, according to which may be most advantageous to them. SMPs relate to Controlled Work services only, and therefore reflect a proportion of a Provider's total revenue.

The number of those accounts paid via SMP which have seen a reduction in payments since July 2020 represents 6% of all crime accounts. Where a reduction is necessary, this takes effect following the Legal Aid Agency notifying providers of this in advance. Firms facing financial hardship can discuss payment options further with their LAA Contract Manager.

The LAA have been in contact with providers to assess the impact on their businesses and can confirm that no Criminal Defence Providers have exited the market as a result of a reduction in SMPs.

The LAA has implemented several changes to maintain cashflow to firms and to allow firms to be paid more quickly – through these changes we can inject up to £51 million per year into criminal legal aid. We have begun a review into how criminal lawyers are compensated for their work and there is more information about this here:

<https://consult.justice.gov.uk/criminal-legal-aid/criminal-legal-aid-review/>

In addition to the support schemes offered by the government, we have continued to pay providers on time and introduced a number of measures to speed up payments to providers. All of the measures taken by the LAA are set out on our gov.uk page and there is further information about this here: <https://www.gov.uk/guidance/coronavirus-covid-19-legal-aid-agency-contingency-response#financial-relief-page>

Criminal Proceedings

06 October 2020 | Written questions | Answered | House of Lords | HL8385

Asked by: Baroness Ritchie of Downpatrick

To ask Her Majesty's Government what assessment they have made of the sustainability of publicly funded criminal defence.

Answered by: Baroness Scott of Bybrook | **Department:** Ministry of Justice

The Legal Aid Agency monitors capacity across criminal legal aid contracts and where issues are identified acts to ensure there is ongoing availability of criminal legal advice for the public.

In August we announced that we would be taking forward the policy proposals that practitioners told us mattered most for the Criminal Legal Aid Review (CLAR) accelerated areas. These areas were: unused material, cracked trials, paper-heavy cases, sending cases to the Crown Court, and pre-charge engagement. These policies allowed us to inject up to £51 million into criminal legal aid to further strengthen the market.

As part of our response to the Criminal Legal Aid Accelerated Areas consultation, we also announced that the next phase of the review would include an independently led review of the market, to ensure it can meet demand now and into the future, provide an effective and efficient service that ensures value for money for the taxpayer, and continues to provide defendants with high-quality advice from a diverse range of practitioners. Alongside this we continue to look at the current fee schemes to ensure they keep pace with wider reforms across the justice system.

Barristers: Criminal Proceedings

15 September 2020 | Written questions | Answered | House of Commons | 85026

Asked by: Turner, Karl

To ask the Secretary of State for Justice, what assessment he has made of the implications for his policies of the Bar Council's July 2020 survey which found that 38 per cent of criminal barristers are uncertain whether they will still be practising law in 2021.

Answering member: Alex Chalk | **Department:** Ministry of Justice

Criminal defence lawyers play a crucial role in upholding the rule of law and the Government greatly values the work they do.

To support the profession through the Covid-19 pandemic, we sought to improve the cashflow for the profession and provide support for legal aid practitioners. The changes made ensured that for work done in the Crown Court, practitioners were able to claim hardship payments for £450 worth of work done instead of £5,000, from 1 month after instruction (as opposed to 6 months). The LAA have also halted debt collection and increased the limits for payments on account claims.

The Crown Court resumed jury trials in May with the full support of Public Health England and Public Health Wales. This was ahead of all other comparable systems. Since then we have significantly expanded our capacity, opening more than 100 jury trial courtrooms safely. The Court Recovery plan, published on Monday 7 September, outlines the steps we will take to open 250 rooms by the end of October.

More recently, we announced in August that we would be taking forward the policy proposals from the accelerate areas of the Criminal Legal Aid Review (CLAR) that practitioners told us mattered most. These areas were: unused material, cracked trials, paper-heavy cases, sending cases to the Crown Court, and pre-charge engagement. These policies allowed us to inject between £36million to £51million into criminal legal aid.

As the pandemic has thrown into sharp focus the concerns about the sustainability of the market, in announcing the conclusions to the accelerated areas we also announced that the next phase of CLAR should involve an independently-led review. This review will be ambitious and far reaching in scope, assessing the criminal legal aid system in its entirety, and will aim to improve transparency, efficiency, sustainability and outcomes in the legal aid market.

[Legal Aid Scheme](#)

30 June 2020 | Written questions | Answered | House of Commons | 62407

Asked by: Turner, Karl

To ask the Secretary of State for Justice, what estimate he has made of the funds available to legal aid practitioners with regard to (a) unclaimed costs for completed matters and (b) payments on account.

Answering member: Alex Chalk | **Department:** Ministry of Justice

The most recent statistics published for the Legal Aid Agency cover up to and including March 2020. Figures for quarters of the 2020/21 financial year are scheduled for future release, and as such payment data for part (a) of question 62405 cannot yet be provided. The figures for part (b) of the question are displayed below, matching the equivalent period of April, May and June inclusive for each financial year:

Claims for Civil Representation – First Quarter Only

Completed case expenditure (where costs met by LAA)	Payments on account (live cases)
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Q1 2017/18	£153,943,450.58	£53,508,814.89
Q1 2018/19	£149,331,830.09	£61,087,711.51
Q1 2019/20	£168,696,887.77	£68,007,236.47

The figure of £100m referred to by the Parliamentary Under Secretary of State was based upon estimates produced by the Ministry of Justice relating to unbilled work for completed cases. The breakdown of the estimates is as follows:

- Criminal Legal Aid in relation to representation in the Crown Court and Higher Courts: **£130m**
- Civil Legal Aid in relation to representation in the civil and family courts:- **£80m**

All of the above estimates of unbilled work pertain to the position as at 31st March 2020.

As at 31st March 2020, the estimate produced by the Ministry of Justice of the amounts available for legal aid providers to claim in relation to unbilled work on completed matters were –

- Criminal Legal Aid in relation to representation in the Crown Court and Higher Courts: **£130m**
- Civil Legal Aid in relation to representation in the civil and family courts: **£80m**

As at 31st March 2020, the estimate produced by the Ministry of Justice of the amount available for legal aid providers to claim in relation to payment on account for civil matters pertaining to representation in the civil and family courts was **£165m**.

[Legal Aid Scheme: Companies](#)

25 June 2020 | Written questions | Answered | House of Commons | 62411

Asked by: Turner, Karl

To ask the Secretary of State for Justice, what assessment he has made of the potential merits of allowing legal aid firms to bill more than twice in 12 months for money owed on cases.

Answering member: Alex Chalk | **Department:** Ministry of Justice

Firms can elect to be paid by either Standard or Variable Monthly Payments, according to which model may be most advantageous to them. The MoJ continues to review the potential impacts of the COVID-19 outbreak on legal aid providers and to consider what more might be done to support them. The Legal Aid Agency has published the details of the current options for financial relief available to providers during the COVID-19 outbreak at <https://www.gov.uk/guidance/financial-relief-for-legal-aid-practitioners>.

The number of active housing legal aid providers is published by the Legal Aid Agency online, and has remained largely static since the beginning of the COVID-19 outbreak.

The outbreak has affected the volume of work available to housing legal aid firms, and we are closely monitoring this impact.

At present housing advice is available at 434 offices in England and Wales. The volume of providers holding legal aid contracts at any given time is subject to change due to market forces and other factors. From March to the present date, 7 offices in total have ceased to provide housing services, due to reasons not specifically associated with the effects of COVID-19.

The Ministry of Justice held a consultation on increasing the number of requests for payment on account that may be made per year. The consultation closed on 16 June 2020, and the limit will be increased from two to four permissible within a twelve-month period. This will be implemented once the necessary updates to infrastructure are completed, and the impact of this change will be kept under review.

[Legal Profession: Coronavirus](#)

18 June 2020 | Written questions | Answered | House of Lords | HL5289

Asked by: Lord Clement-Jones

Her Majesty's Government whether they will move to a grants-based system for funding legal services as recommended by the Low Commission report following the COVID-19 pandemic.

Answering member: Lord Keen of Elie | **Department:** Ministry of Justice

The government continues to recognise the importance of the legal support services and the essential role that they play in helping people resolve their legal problems.

Following our 2019 review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 reforms, the Ministry of Justice published the Legal Support Action Plan, which set out our vision for resolving legal problems earlier by ensuring that people can access the right legal support services at the right time, and in the right way for them. Whilst we do not intend to move to a fully grants based system for funding legal services, there are elements of the Legal Support Action Plan that drew on the recommendations of the Low Commission report.

COVID-19 interrupted significant elements of some of this work, as we reprioritised our focus on considering the impact of the pandemic on the legal support sector who support individuals in need of help.

As a result of this, the Ministry of Justice has secured emergency funding for the not-for-profit legal advice sector, including £5.4 million for providers of special legal advice. £3 million of this funding will go to Law Centres and this will be distributed through the Law Centres Network. The remainder of the funding, £2.4 million, will be contributed to the Community Justice Fund, administered by the Access to Justice Foundation (ATJF), in order to provide funding for other non-specialist advice and support providers.

This funding will be additional to the £370 million of funding administered by the National Lottery Communities Fund which qualifying third sector organisations, including those in the advice sector, will be able to bid for directly.

We have also continued existing work with the specialist advice sector and launched a new £3.1 million grant in partnership with the ATJF to enhance legal support for

litigants in person over the next two years. This new grant is in addition to nearly £8m invested by the Ministry of Justice in support of litigants in person in the civil and family courts since 2015 through the Litigants in Person Support Strategy.

[Legal Aid Scheme: Low Incomes](#)

25 February 2020 | Written questions | Answered | House of Commons | 617

Asked by: Byrne, Ian

To ask the Secretary of State for Justice, what funding his Department has allocated to ensure access to free legal support for people on low incomes in (a) Liverpool West Derby constituency and (b) the UK.

Answering member: Alex Chalk | **Department:** Ministry of Justice

The Lord Chancellor has a duty to ensure that legal aid is made available in accordance with the Legal Aid, Sentencing and Punishment of Offenders Act (2012) and last year the Government spent £1.7bn on legal aid.

Legal aid can help meet the costs of legal advice, family mediation and representation in a court or tribunal. Legal Aid is not allocated by constituency but is available for cases where the relevant criteria, such as the financial eligibility of the applicant and/or the degree of legal merit in their case, is met, where applicable. Legal aid may not always be 'free', for instance where contributions are required towards the overall subsidised costs depending on the means of the applicant, or where this must be paid back, such as upon conviction in criminal matters, or where assets are recovered in civil proceedings.

Alongside this, in February 2019 the Ministry of Justice published the Legal Support Action Plan which outlines how the Government aims to improve the breadth of support on offer to people when they experience legal problems. As part of this, a series of pilots will be launched to test early forms of intervention that stop people's problems from escalating and becoming more complex. This includes an investment of up to £5m into a Legal Support Innovation Fund to explore the role technology can play in helping people identify and resolve their legal issues, and we are enhancing the support on offer to litigants in person by providing a further £3m of funding over the next two years, ensuring that those representing themselves in court understand the process and are better supported through it. Many of the measures announced in the action plan will help people, including those on low incomes, access free legal support.

Access to justice is a fundamental right and the Government is committed to ensuring that everyone can get the support they need to access the justice system across England and Wales.

[Legal Aid Scheme](#)

22 July 2019 | Written questions | Answered | House of Commons | 278557

Asked by: Burgon, Richard

To ask the Secretary of State for Justice, what total Government expenditure on legal aid has been since 1989 in (a) nominal and (b) real terms.

Answering member: Paul Maynard | **Department:** Ministry of Justice

The tables below show total Government expenditure on legal aid between 2005-6 and 2018-19 in nominal and real terms. The information requested is not available for the period prior to 2005-6 as each series is presented as far back in time as it can be produced on a basis that is comparable with the most recent figures. Beyond this, measures of overall expenditure may not be directly comparable because the way legal aid is administered and public money is managed and accounted for have changed. In February, the government published the Legal Support Action Plan which committed to a number of changes to legal aid, including improving the Exceptional Case Funding scheme, expanding the scope of legal aid to all special guardianship orders in private family law, and removing the means test for those with parental responsibility who wish to oppose adoption and placement orders. In addition, we are reviewing the legal aid means testing framework to ensure that those who need legal aid are able to access it into the future. The Ministry of Justice, aims to complete the review by Summer 2020. **RDEL - nominal terms (£m)**

Financial Year	Criminal legal aid	Civil legal aid	Central Funds	Total legal aid
2005-06	1,200	843	69	2,112
2006-07	1,190	777	53	2,020
2007-08	1,203	824	65	2,092
2008-09	1,172	903	73	2,148
2009-10	1,101	961	88	2,150
2010-11	1,175	1,026	78	2,279
2011-12	1,115	966	101	2,182
2012-13	995	946	98	2,039
2013-14	967	825	81	1,873
2014-15	889	685	63	1,637
2015-16	861	600	49	1,511
2016-17	863	646	45	1,554
2017-18	891	678	49	1,619
2018-19	879	731	48	1,657

RDEL - real terms (2018-19 prices) (£m)

Financial Year	Criminal legal aid	Civil legal aid	Central Funds	Total legal aid
2005-06	1,534	1,077	88	2,699
2006-07	1,478	965	65	2,508

2007-08	1,458	998	79	2,535
2008-09	1,382	1,065	87	2,534
2009-10	1,280	1,117	103	2,500
2010-11	1,342	1,171	89	2,602
2011-12	1,257	1,088	113	2,458
2012-13	1,100	1,045	108	2,252
2013-14	1,048	895	88	2,031
2014-15	952	734	67	1,753
2015-16	915	638	52	1,605
2016-17	897	671	47	1,614
2017-18	908	691	50	1,649
2018-19	879	731	48	1,657

Note: 2018 - 19 prices are based on the deflator series published by the ONS on 28 June 2019. RDEL (Resource Departmental Expenditure Limit) is current expenditure from within the annual Departmental Expenditure Limits that are set by the Treasury for each government department, and is used in the MoJ and LAA Annual Report & Accounts. It aims to measure the value of all work carried out in each period, regardless of whether it is on cases that have finished. RDEL excludes AME (hence so do the budgeting measures shown in the table). AME (Annually-Managed Expenditure) broadly covers unpredictable or uncontrollable expenditure. In legal aid terms this is work in progress where the payment date is unknown. It can be negative for individual years. In 2013-14, responsibility for Central Funds spending transferred from the Ministry of Justice to the Legal Aid Agency. From October 2014 a new administrative system has enabled these statistics to be based on the general ledger prior to accounting adjustments, and therefore from 2015-16 they are no longer identical to the RDEL figures.

[Legal Representation](#)

10 July 2019 | Written questions | Answered | House of Commons | 272272

Asked by: Burgon, Richard

To ask the Secretary of State for Justice, what assessment he has made of the cost to the public purse of an increase in the level of self-representation in courts.

Answering member: Paul Maynard | **Department:** Ministry of Justice

In February 2019, the Ministry of Justice published an extensive, evidence based post-implementation review (PIR) of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, which included an objective assessment of the impact of reforms.

Litigants in person do require support to help them navigate the justice system, however it is not accepted that the justice system cannot function with the increased presence of

litigants in person, and access to a lawyer is not always the correct or most affordable answer.

Since 2014-15 the MoJ has invested close to £8m to support litigants in person in the civil and family courts through the Litigants in Person Support Strategy. We have committed to increase this support to £3m over the next two years, focusing on broadening the evidence base on how services delivered to litigants in person can be made even more effective.

Through the HMCTS reform programme, the Government is also investing over £1bn to build a modern system for administering justice which will benefit everyone who uses it. By designing systems around the public who need and use our services, we can create a more effective system for them and generate efficiencies for the taxpayer.

Law Centres: Finance

09 July 2019 | Written questions | Answered | House of Commons | 273434

Asked by: Burgon, Richard

To ask the Secretary of State for Justice, how much funding his Department has provided to law centres in each year since 2010.

Answering member: Paul Maynard | **Department:** Ministry of Justice

We recognise the valuable work that Law Centres do in local communities across the country, and we support them in this through legal aid contracts.

Government funding since 2010 is highlighted in the below table:

Financial year Law Centre Costs (£)

2010-11	12,138,324
2011-12	12,514,118
2012-13	10,755,047
2013-14	9,529,420
2014-15	7,476,835
2015-16	6,693,860
2016-17	6,646,359
2017-18	6,341,686
2018-19	7,053,922

As outlined in the Legal Support Action Plan, we are investing up to £5 million to deliver innovative services and test new methods of support to help people resolve their problems quickly and easily, in the way that best works for them. We are also launching several projects and pilots offering support to people with social welfare problems like housing, including an expansion of early legal advice to determine the most effective solutions going forward.

In addition, my officials continue to meet regularly with representatives of law centres to discuss ways in which we can work together to enhance the breadth of legal support available for everyone in society.

Legal Aid Scheme: Finance

04 July 2019 | Written questions | Answered | House of Commons | 270422

Asked by: Fysh, Mr Marcus

To ask the Secretary of State for Justice, what assessment he has made of the potential merits of re-allocating the funding for legal aid for immigration cases to domestic family law mediation cases.

Answering member: Paul Maynard | **Department:** Ministry of Justice

Mediation for family law cases is already available under Part I of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).

The department recently conducted an extensive review of LASPO and has announced several changes as part of the Legal Support Action Plan. These included expanding the scope of legal aid in family law to cover representation for special guardianship orders and placement orders.

Data is not held on successful cases, but the Legal Aid Agency does hold data on cases that have started (and are funded by legal aid). These statistics are included below for both family law mediation and immigration cases for the last three years:

Legal aid in cases involving family law mediation

Financial Year	Family Mediation starts
2016-17	7,611
2017-18	6,302
2018-19	6,515

Note: 'Proportion started' data is not held for family mediation matters, as the application process and decision on whether to grant funding is devolved to the solicitor in question (the provider).

Legal aid in cases involving Immigration

Financial Year	Legal help		Civil representation	
	Grants	Applications	Grants	Proportion granted
2016-17	29,111	1,904	1,404	74%
2017-18	26,609	1,596	1,203	75%
2018-19	28,821	1,535	1,155	75%

Legal help is assistance short of representation. Note: 'Proportion granted' data is not held for Legal Help matters, as the application process and decision on whether to grant funding is devolved to the solicitor in question (the provider).

[Legal Aid Scheme](#)

09 April 2019 | Written questions | Answered | House of Commons | 237042

Asked by: De Piero, Gloria

To ask the Secretary of State for Justice, what the total amount of spending commitments was that his Department made in its post-implementation LASPO review.

Answering member: Lucy Frazer | **Department:** Ministry of Justice

Alongside the post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), we published the Legal Support Action Plan which outlines the steps the Government will be taking over the next two years to enhance the breadth of support to people experiencing legal problems.

We are funding a number of changes to legal aid, including; improving the exceptional case funding scheme, removing the mandatory element of the CLA telephone gateway and expanding the scope of legal aid to include Special Guardianship Orders in private family law.

Alongside this, we are delivering £5m in innovation funding to drive change across the sector and doubling our funding to support litigants in person to £3m for each of the next two years. We will be funding a series of pilots to build a robust evidence base, testing methods of delivering support to make sure that people can access the right type of support at the right time, in the right way for them.

The outcomes and evidence base that we will build up through the projects announced in the Legal Support Action Plan will inform future decisions on how we deliver that support.

[Legal Aid Scheme](#)

09 Apr 2019 | Written questions | Answered | House of Commons | 237042

Asked by: De Piero, Gloria

To ask the Secretary of State for Justice, what the total amount of spending commitments was that his Department made in its post-implementation LASPO review.

Answering member: Lucy Frazer | **Department:** Ministry of Justice

Alongside the post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), we published the Legal Support Action Plan which outlines the steps the Government will be taking over the next two years to enhance the breadth of support to people experiencing legal problems.

We are funding a number of changes to legal aid, including; improving the exceptional case funding scheme, removing the mandatory element of the CLA telephone gateway and expanding the scope of legal aid to include Special Guardianship Orders in private family law.

Alongside this, we are delivering £5m in innovation funding to drive change across the sector and doubling our funding to support litigants in person to £3m for each of the next two years. We will be funding a series of pilots to build a robust evidence base, testing methods of delivering support to make sure that people can access the right type of support at the right time, in the right way for them.

The outcomes and evidence base that we will build up through the projects announced in the Legal Support Action Plan will inform future decisions on how we deliver that support.

3.4 Committee reports

Justice Committee, [Coronavirus \(COVID-19\): the impact on the legal professions in England and Wales](#), HC 520 2019-21, 03 August 2020

Justice Committee, [The impact on the legal professions in England and Wales: Government response to the Committee's seventh report of session 2019-21](#), HC 898 2019-21, 19 October 2020

Justice Committee, [Criminal Legal Aid](#), HC 1069 2017-1926, July 2018

Justice Committee, [Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#), HC 311, 12 March 2015

4. Further reading

4.1 Commons Library briefings

House of Commons Library Briefing Paper Number 43720, [Legal Aid: the review of LASPO Part 1](#), 7 May 2020

House of Commons Library Debate Pack Number CDP-2019-0217, [The spending of the Ministry of Justice](#), 1 October 2019

4.2 Government departments

Ministry of Justice, Legal Aid Agency, [Legal Aid Statistics quarterly, England and Wales April to June 2020](#), 24 September 2020

Ministry of Justice, [Letter from Alex Chalk MP, Parliamentary Under-Secretary of State for Justice, regarding Civil Legal Aid: Remuneration](#), 16 September 2020

Ministry of Justice, [Government response: Criminal Legal Aid Review: An accelerated package of measures amending the criminal legal aid fee schemes](#), 21 August 2020

Legal Aid Agency, [Annual report and accounts 2019-20](#), 21 July 2020, HC 394, 2019-21

Ministry of Justice, [Letter from Alex Chalk MP, Parliamentary Under-Secretary of State for Justice, regarding launch of £3.1 million legal support for litigants in person grant](#), 23 April 2020

Legal Aid Agency, [Financial relief for legal aid practitioners](#), Gov.UK website, 27 March 2020

Legal Aid Agency, [Coronavirus \(COVID-19\): Legal Aid Agency contingency response](#), Gov.UK website, First published 18 March 2020

Ministry of Justice, [Criminal Legal Aid Review: An accelerated package of measures amending the criminal legal aid fee schemes](#), 28 February 2020

Ministry of Justice, [Criminal legal aid review: programme overview](#), 30 April 2019

Ministry of Justice, [Criminal legal aid review](#), Gov.UK website, 14 March 2019

Ministry of Justice, [Legal Support: The Way Ahead: An action plan to deliver better support to people experiencing legal problems](#), 7 February 2019, CP 40

4.3 Organisations

Karl Turner MP, [Coronavirus and the Criminal Justice System: Saving Access to Justice](#), 3 July 2020

Bar Council, [Small Change for Justice: Funding for Justice in England and Wales \(2010-2019\)](#), by Martin Chalkley and Alice Chalkley, July 2020

National Audit Office, [Departmental Overview 2019: Ministry of Justice](#), 11 March 2020

5. Appendix:

Legal aid expenditure and workload, annual figures

England and Wales

	Total legal aid net out-turn (£ million)		Workload	
	Cash	Real (2019-20)	Total bills paid	Total volume
		prices)		of work
1968-69	£13	£193		
1969-70	£15	£212		
1970-71	£19	£241		
1971-72	£27	£327	253,785	
1972-73	£32	£352	295,696	
1973-74	£35	£358	401,961	
1974-75	£50	£426	521,667	
1975-76	£59	£403	642,996	
1976-77	£66	£397	699,144	
1977-78	£92	£487	723,690	
1978-79	£105	£499	765,819	
1979-80	£110	£447	822,672	
1980-81	£152	£519	953,213	
1981-82	£184	£568	1,137,454	
1982-83	£230	£662	1,265,043	
1983-84	£253	£695	1,385,531	
1984-85	£293	£761	1,525,997	
1985-86	£319	£785	1,702,500	
1986-87	£363	£858	1,742,800	
1987-88	£426	£954	1,929,800	
1988-89	£479	£1,006	2,064,700	
1989-90	£569	£1,110	2,133,893	
1990-91	£685	£1,234	2,218,415	
1991-92	£906	£1,543	2,646,465	
1992-93	£1,090	£1,809	2,911,823	
1993-94	£1,212	£1,963	3,201,712	
1994-95	£1,302	£2,082	3,178,128	
1995-96	£1,389	£2,158	3,148,039	
1996-97	£1,478	£2,209	3,189,530	
1997-98	£1,526	£2,271	3,276,711	
1998-99	£1,623	£2,378	3,211,048	
1999-00	£1,553	£2,266	3,040,206	
2000-01	£1,703	£2,438		
2001-02	£1,633	£2,309		2,817,200
2002-03	£1,961	£2,710		2,347,659
2003-04	£2,084	£2,823		2,336,320
2004-05	£2,048	£2,697		2,221,511
2005-06	£2,042	£2,626		2,419,845
2006-07	£1,967	£2,532		2,600,328
2007-08	£2,027	£2,538		2,368,810
2008-09	£2,075	£2,528		2,474,401
2009-10	£2,061	£2,473		2,715,205
2010-11	£2,201	£2,593		2,539,726
2011-12	£2,081	£2,415		2,412,325
2012-13	£1,941	£2,207		2,249,984
2013-14	£1,791	£2,001		1,865,318
2014-15	£1,574	£1,734		1,660,653
2015-16	£1,462	£1,597		1,534,106
2016-17	£1,509	£1,609		1,471,130
2017-18	£1,570	£1,645		1,393,432
2018-19	£1,610	£1,649		1,332,797
2019-20	£1,683	£1,683		1,315,285

Expenditure sources: 1971-1979: Law Society, Legal Aid 26th and 31st Annual Reports of The Law Society and the Lord Chancellor's Advisory Committee; **1980-1984:** Law Society, Legal Aid 35th Annual Reports of The Law Society and the Lord Chancellor's Advisory Committee; **1985-1999: Legal Aid Board, Report on the operation and finance of the Legal Aid Act 1988 (various years); 2001:** Legal Services Commission

Annual Report 2001/02; **2002-2019**: Ministry of Justice, [Legal aid statistics quarterly: April to June 2020](#), tables 1.1, 5.2, 6.1

Notes: Bills paid and total volume of work are not comparable; volume of work does not include volume of Exceptional Case Funding claims or claims from central funds; there may be further consistencies over time due to changes in how these indicators have been reported.

Workload sources: a) Legal Action Group (1992) A strategy for justice: Publicly funded legal services in the 1990s, London: Legal Action Group, p.8

b) Legal Action Group (1992) A strategy for justice: Publicly funded legal services in the 1990s, Appendix 1: Extract from a paper by Michael Murphy, London School of Economics, London: Legal Action Group, p.161

c) Lord Chancellor's Department (1991) Review of financial conditions for legal aid, Eligibility for civil legal aid: a consultation paper, p.85

d) Brooke, H. (2017) 'The history of legal aid 1945 – 2010', in Fabian Society, 'The Bach Commission on Access to Justice': Appendix 6, p.11

e) [HC179599](#), 20 Feb 2008

Notes: These estimates are compiled from several different sources and using different estimation methods, so comparisons between years that use different sources should be made with caution. The 1979-1990 figures are definitely estimates for the number of persons eligible rather than households however it is not clear whether all the other estimates are consistent with this.

Criminal legal aid expenditure by sub-category

England and Wales, £ millions in 2019-20 real terms

Financial Year	Closed case measure of expenditure												RDEL	
	Crime lower						Crime Higher						Total	Total
	Police Station Advice	Magistrates court representation	Advice & Assistance on Appeals	Prison Law	Civil work associated with crime cases	Total	Crown Court litigator schemes	Crown Court advocate schemes	Crown Court legacy schemes	Very High Cost Crime	Higher courts	Total		
2010-11	212	268	4	30	3	517	357	.	20	140	12	.	1,339	1,385
2011-12	197	247	5	26	1	475	389	255	21	93	10	769	1,244	1,294
2012-13	182	228	6	24	1	441	355	275	18	69	10	726	1,167	1,132
2013-14	182	215	4	22	0	424	325	253	19	70	8	677	1,101	1,080
2014-15	162	185	4	17	0	368	344	235	16	59	9	662	1,030	979
2015-16	142	153	2	16	0	313	373	248	13	34	8	676	990	941
2016-17	139	146	2	16	0	303	359	242	13	25	7	647	950	921
2017-18	134	130	2	18	0	284	381	230	11	22	10	654	938	934
2018-19	127	120	2	18	0	267	398	224	10	12	9	652	919	900
2019-20	126	110	1	18	0	255	344	207	10	2	8	572	827	897
Change between 2010-11 and 2019-20	-40%	-59%	-65%	-41%	.	-51%	-3%	.	-52%	-98%	-28%	.	-38%	-35%

Source: Ministry of Justice, [Legal aid statistics quarterly: April to June 2020](#),

Notes: RDEL shows net resource expenditure; does not include capital expenditure (CDEL) or AME; figures inflated to 2019-20 prices using HM Treasury, GDP deflators at market prices, and money GDP September 2020 (Quarterly National Accounts).

Higher courts = Court of Appeal, Senior Court Costs Office and Supreme Court

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