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Special Bulletin from the APPG on Legal Aid Legal Aid Statistics July - September 2020

**Legal Aid Statistics – Summary Analysis of Statistics July - September 2020 (Released
17 December
2020)**



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Executive Summary

Statistics about the legal aid scheme are produced quarterly by the Justice Statistics Analytical Services division of the Ministry of Justice. The latest statistics cover the quarter from July to September 2020 and came out on 17 December 2020. We suspect that none of the figures shown below will come as a surprise to practitioners as they continue to show the impact that lockdown had on the legal aid sector, the dramatic fall in work and expenditure over this period. As with the previous quarter, these statistics continue to show the impact that the first lockdown had on the legal aid sector. In criminal legal aid, whilst there has been some call for tentative optimism with increases in matter starts, the statistics

continue to show almost universal decreases on 2019 in terms of completed work. There is a similarly mixed picture in terms of civil legal aid with decreases on 2019 being seen in all areas other than mediation starts and representation applications.

When compared to the previous quarter there does not seem to be evidence of a fast recovery to pre-pandemic levels of work, rather the sharp decrease seems to have levelled off rather than plummeting further. The statistics report regularly highlights changes on the previous quarter and this is reflected in the bulletin.

It is a strange time to produce a bulletin analysing trends and figures - with the announcement's over the weekend the position has changed once again and as this bulletin went to print, there was still uncertainty as to what the Tier 4 measures and restrictions would mean for the courts and the advice providers. We can only hope that the new year will bring with it less interesting times than we have seen this year.

Crime expenditure and workload have both decreased substantially this quarter compared with the same period last year. The volume of completed work in the Magistrates court has also substantially decreased.

Mediation Information and Assessment Meetings have increased on the same quarter compared with the same period last year. Outcomes of mediation were unchanged on last year but starts were 3% reduced over the same period.

Applications in domestic violence or child abuse cases decreased by 22% on 2019. The volume of these applications granted also decreased by 23%, only slightly greater than the decrease in the number of applications.

The number of exceptional case funding applications decreased by 8%.

The provisional figures for October show signs of improvement in terms of work being completed and the statistician's comment notes the expectation criminal and civil legal aid volume "will return to, and may temporarily exceed, historic trend levels". This must be taken with caution given (1) the same appeared to be the case for July's preliminary figures and (2) from November onwards we have again seen a national lockdown and greater restrictions than were in place throughout the summer and autumn.

Bulletin

The bulletin can be [accessed here](#). At 21 pages, the bulletin is slightly longer than that of the previous quarter and provides a useful overview in both civil and crime of:

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

There are comparisons with the same quarter from the previous year and also comparisons with the pre-LASPO figures. The main points are summarised below. Please get in touch if you would like any further information.

Civil

Civil Legal Help Cases

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

"In the last quarter, there was a 21% decrease in legal help new matter starts compared to the same period of 2019. The volume of completed claims decreased by 25% and expenditure decreased by 27% in July to September 2020 compared to the same period in 2019. The implementation of the LASPO Act in April 2013 resulted in large reductions in legal help workload, with the overall trend falling to less than one-third of pre-LASPO levels." These figures showed a marked decrease in matter starts, completed work and expenditure on the previous quarter. IN other words, significant issues with access to justice. Not perhaps surprising but worrying nonetheless. We noted in the previous stats bulletin that it would be interesting to see whether the downwards trend of work would have been reversed in this quarter, this certainly seems to have been a rather optimistic thought as the downwards trend has not been substantively reversed in any fashion and at best appears to be slowly levelling off.

Family Legal Help Cases

"In April to June 2020, family legal help starts decreased by 20% compared to the same quarter last year. Completed claims also decreased by 22% and expenditure decreased by 17%." Some improvements can be seen here when compared with the previous quarter, there were "increases across starts 8%, completed claims 7% and expenditure 12% in family legal help cases". Given the large amount of family work conducted remotely over this period – as we noted in our October bulletin and heard from witnesses in our oral evidence session – it is perhaps comforting though unsurprising to see this increase.

Family Mediation

Regular readers of this bulletin will be aware that one of the aims of LASPO was to encourage people to go to mediation. Figures were very low for a number of years but have risen more recently. In family mediation, Mediation Information and Assessment Meetings (MIAMs) increased by 8% in the last quarter compared to the previous year but still only stand at around a third of pre-LASPO levels. Matter starts decreased by 3% and outcomes decreased by 1%. Overall these volumes are comparable to pre-pandemic levels and show "almost fully recovery".

Non-Family Legal Help

Legal help and controlled legal representation make up over 95% of both immigration and mental health cases. Controlled legal representation relates to representation at tribunal and is often longer and more costly than legal help but, as with legal help, the decision on whether to grant legal aid is delegated to

providers (within strict limits set out in the contracts and regulations).

The LASPO Act 2012 – the bulletin itself errs in referring to the “2013” act - made changes to the scope of legal aid for immigration law, but some areas remained in scope. Workload that remains in the immigration category consists largely of asylum-related work. Having fallen by 40% over the five years following 2013-14, new matter starts in immigration decreased by 15% in July to September 2020 compared to the same quarter of the previous year. Completed claims in immigration decreased by 32% in the last quarter compared to the previous year and expenditure decreased by 41%. Although figures show a decrease on 2019 there does appear to be some evidence of a gradual recovery in immigration workload with a 50% increase in new matter starts when compared to the previous quarter.

Within mental health, most funding is spent on providing assistance to sectioned clients appealing the terms of their detention before a mental health tribunal. Mental health new matter starts decreased by 5% when comparing the latest quarter to the same quarter in the previous year. Completed claims decreased by 8% and expenditure decreased by 16% over the same period. When compared with the previous quarter that was an 11% increase in new matter starts, a 5% increase in completed claims and a 1% increase in expenditure.

Around 80% of housing work volume is made up of legal help. The volume of legally-aided housing work halved between July to September 2012 and July to September 2013. The trend then fluctuated for around 18 months but between 2014 and 2018 it decreased. In July to September 2020 there was a massive 46% decrease in housing work starts compared to the same quarter the previous year. Those of you who tuned into our Civil Oral Evidence session on 17 December will have heard about the impact that this has had on housing advice providers throughout England and Wales. There were also decreases in completed claims (41%) and decreases in expenditure (30%). Similar to other legal help areas of law the quarter showed an increase of 29% in new matter starts compared to April – June but decreases in completed claims of 11% and expenditure of 9%.

The number of civil representation certificates did not change compared to the same period of the previous year but the number of certificates completed decreased by 20% and expenditure decreased by 8%. Compared to the previous quarter completed claims were down 4% and expenditure up 7%.

Exceptional Case Funding

There were 837 applications for ECF received from July to September 2020, up from 691 applications in the period from January to March 2020. This is an 8% decrease from the same quarter last year and shows some recovery since the last quarter. 772 (92%) of these were new applications.

Of the 837 ECF applications received between July and September 2020, 97% (811) had been determined by the LAA as of 1 September 2020. 71% (574) of these were granted, 13% (108) were refused and 13% (103) rejected.

Of the ECF applications received between July to September 2020, immigration (68%), inquest (7%) and family (15%) remained the most requested categories of law. The increase in ECF applications over the last two years is driven by an increase in immigration applications. The number of applications fell across most categories of law in April to June 2020 compared to the previous year.

It is worth reiterating, as we do each round of statistics that when LASPO went through Parliament, it was anticipated that the ECF scheme would be a safety net with about 6000 applications per year. In the first year post-LASPO 70 applications were granted. Extrapolating out this period to provide an estimate for the rest of the year's applications is difficult given the – hopefully – unique situation affecting the legal sector within this period. Extrapolating out would give 2,724 cases per year. At the last oral evidence session we heard from a range of speakers from different practice areas, e.g. Public law, Housing, SEN. All expressed their concerns and disappointment with the scheme and fears as to its suitability in its current guise.

Crime

Overall Crown Court expenditure decreased this quarter; down by 60% in July to September 2020 compared with the same period of the previous year. This shift has been driven by a falling volume of completed trials in the Crown Court with trial expenditure in the graduated fee schemes falling by more than 75% over the same period.

Criminal legal aid is reported as “Crime Lower” and “Crime Higher”. Crime Lower includes police station advice, magistrates’ court and prison law. Crime Higher covers work in the Crown and Higher Courts (a smaller proportion of cases account for two thirds of crime expenditure). There were very few changes to crime in the LASPO Act – however other factors come into play including reduced fixed fee payments and how payments are made.

For **police station advice** the workload in this period has decreased by 1% compared to the previous year, with expenditure also decreasing by 4% to £30.1m. The decrease in police station advice workload since 2013-14 is also seen in arrest statistics for England and Wales which has had a similar decline historically.

The majority of the police station advice workload (85% between July and September 2020) consists of suspects receiving legal help with a solicitor in attendance at the police station, with the rest mainly consisting of legal advice over the telephone.

Applications and grants for representation in the criminal courts

While figures should be interpreted with caution as they may be revised in subsequent quarters as cases move into the Crown court, the number of orders granted for legally-aided representation in the **magistrates’ court** decreased by 6% this quarter when compared to the same quarter of the previous year. This is largely due to the impact of Covid-19 but continues the downward trend of the last 3 years, which has been largely driven by Summary Only cases. The overall number of receipts in the magistrates’

courts including those not involving legal aid showed a similar decrease, 36% down, compared to the same quarter of the previous year. The proportion of these applications that are granted remains stable at around 95%.

Orders granted for legally-aided representation in the **Crown Court** increased by 5% this quarter compared to last year. Reduced hearings at the lower court in previous periods are now being actioned, causing an increase in the workload for the Crown Court, with representation slightly above levels previously seen. There was also a 7% increase in all Crown Court receipts³ during the same period. Within the legal aid figure, orders relating to either-way offences increased by 6%, while those relating to indictable offences increased by 14%. The proportion of Crown Court applications granted remains at almost 100%.

Early assessment of the impact of Covid-19 on legal aid activity up to end of October 2020

The figures released by the LAA on the 17 December cover legal aid activity up to the end of September 2020. However, since the start of the lockdown, LAPG has been pushing for the LAA to release data on the numbers of new certificates granted across all areas and all other management information available to give us an indication of the impact of the lockdown on providers.

The figures below represent the headline activity figures for criminal and civil legal aid. 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 9% decrease in police station attendance in October 2020 (39,000) compared to the monthly average between July and September 2020 (42,800 per month).

Applications received for representation in Crown Courts

- a 1% increase in applications received for representation in the Crown Courts in October 2020 (8,200) compared to the monthly average between July and September 2020 (8000 per month).

Applications received for representation in magistrates' courts

- a 15% increase in applications received for representation in the magistrates' courts in October 2020 (18,700) compared to the monthly average between July and September 2020 (16,200 per month).

Civil legal aid

Legal help

- a 17% increase in legal help new matter starts in October 2020 (9,500) compared to the monthly average between July and September 2020 (8,100 per month). Family starts increased by 12% and non-family increased by 18% over the period.

Housing Possession Court Duty Scheme

There have been no Housing Possession Court Duty Scheme (HPCDS) starts since April 2020 compared to an average monthly figure of 2,400 per month between January and March 2020.

Family mediation assessments

- Family mediation starts, assessments and outcomes have all returned to expected levels in the latest quarter. The provisional October figures are lower, but this is likely due to early extraction of data.

Civil representation applications

- Civil representation applications have also returned to expected levels in the latest quarter, and provisional October figures are consistent with this.

APPG Concluding Remarks

I wish that I had something positive and uplifting to say in this final statistics bulletin of the year, but the picture, not surprisingly, continues to be a worrying one for providers and clients alike. We've seen these figures brought to life many times over by various witnesses over three oral evidence sessions and they are hard to read. So I will end by hoping that the new year and the promise of the vaccine brings with it a change in these numbers and in the fortunes of providers throughout England and Wales. Good health and a happy festive period with your loved ones to you all and thank you for reading.

Rohini Teather
Head of Parliamentary Affairs
21 December 2020

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About the APPG on Legal Aid

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

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About the APPG Plus Project

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

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