

1. Country information

Country: England and Wales

Legal Aid Organisation name: Legal Aid Agency

Date of establishment: 1st April 2013

Total number of practising lawyers: 140,000 (Barristers and Solicitors combined-private practice)

Total number of PDS (in house): 48

Population: 57 million (2013)

GDP: \$2.5 trillion¹

Poverty: 16.8% of the population are in poverty²

Total number of applications received in the past year: in total we provided 1.8 million acts of assistance; we received 630,000 applications for legal aid representation.

Total number of applications approved in the past year: we granted 600,000 applications

Total number of applications refused in the past year: we refused 28,000 applications.

2. The main providers of legal aid services in your country

- a) We contract with private legal firms who provide our services. They can instruct barristers and experts to assist them in the case. We also employ a small number of public defender service solicitors and barristers.
- b) The public defender service maintains independence from the Legal Aid Agency and the Ministry of Justice. Public Defender Service ('PDS') lawyers are able to operate and advise clients free from any risk or suggestion of political or other interference. The independence of the PDS is set out in the PDS code of conduct and includes a number of provisions which impose duties on their lawyers.

3. The Legal aid Agency organisation and recent business figures

- a) The Legal Aid agency ('LAA') is an executive body of the Ministry of Justice. It was established in April 2013 following the introduction of Legal Aid Sentencing and Punishment of Offenders Act 2012. The LAA replaces previous services that administered legal aid such as the Legal Services Commission.
- b) The following matter types were aided last year (2013/14): Total Legal Aid Spend: \$2.9billion
 - Family \$1.2billion
 - Other Civil \$0.1billion
 - Police Station \$260million
 - Magistrates Court \$325million
 - Crown Court \$980million
- c) The PDS undertakes a small amount of work equating to approximately 0.14% of the total legal aid spend.

4. The Legal Aid Agency's funding arrangements

- a) The legal aid budget forms part of the Ministry of Justice's Budget. In 2013/14 the actual spend was \$2.7bn. This budget is set in consultation with the Treasury and the amount of spending is agreed annually.

¹ GDP figure stated is UK wide GDP.

² Institute of Fiscal studies (2014 report) measured before housing costs

- b) In 2012 the Legal Aid Sentencing and Punishment of Offenders Act 2012 was introduced this led to scope cuts and spending cuts in civil legal aid through a programme called legal aid reform. In 2013 the Legal Aid Transformation programme was introduced this has introduced scope cuts for prison law and fee cuts for crime.
- c) 94% of the fund is spent on paying lawyers' fees experts, PDS and charities. 6% was spent on administration expenses.
- d) In most cases legal aid can cover court fees where representation at court is required and provides protection to legal aid recipients where costs awarded against them.

5. Evaluating performance

The LAA evaluates performance of providers through the use of peer review. Peer review is an independent quality assessment tool and is undertaken either on a sample basis or a targeted basis, the files are evaluated using a standard criteria and ratings system. Ratings are awarded based on the quality of advice and legal work. The quality of advice is assessed on a 1-5 rating with one being excellent and five being failure in performance, if a provider receives a four or a five then a further review will be conducted if the rating is not improved, this could have an impact on the providers contract. The LAA also uses contract management mechanisms to monitor quality and evaluate performance of providers. These include; auditing firms and Key Performance Indicators ('KPI's) which measure the providers' performance against the contract and allow contract managers to identify key areas of concern.

6. Methods of service delivery

- a) The bulk of legal aid cases are undertaken by private practice lawyers although some criminal cases are undertaken by the PDS.
- b) Legal Aid lawyers must hold a legal aid contract in order to undertake legal aid work, to be awarded a contract they must meet the criterion set out in the tender such as the quality standards, regional presence, financial stability criteria etc.
- c) Clients are able to select their own legal aid solicitor (provided they hold a contract in the relevant category of law) or chose a duty solicitor (in crime) to represent/ assist them in their case. If the client selects the duty solicitor in criminal cases then the duty solicitor will be assigned on a rota basis and will be contacted by the police to let them know that there is a client waiting.
- d) This information is not available.

7. The types of legal services provided in England and Wales

Legal aid is available for both civil and criminal matters. A table setting out the categories of law which are covered and the types of advice available in each area is set out in annex A.

8. Criminal legal aid application process and criteria for granting legal aid

To apply for criminal legal aid in the magistrates' court and the Crown Court a provider must submit an application form and supporting financial evidence. This can either be on a paper form or the e-form, an electronic version of the form that allows providers to submit their application online. Clients who are not passported and whose annual income exceeds the

threshold (\$20,491) per annum must submit a financial statement. Legal aid applications should be submitted either to the court or to the LAA (depending on the location).

Civil legal aid consists of a number of different forms of legal services, the funding of which is governed by a number of civil legal aid regulations. In order to apply for legal aid the client will usually need to provide information to satisfy a financial eligibility test and an assessment that the case is meritorious for public funding, for example the prospects of success are good. While legal aid for some advice and assistance can be granted by the provider, usually where advocacy or representation at court is required, the application will be made to the Legal Aid Agency to grant funding.

9.

- a)** Government departments have a duty, in accordance with section 149 of the Equality Act 2010, to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Equality Act 2010;
 - advance equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it; and
 - Foster good relations between persons who share a Relevant Protected Characteristic and persons who do not share it.

All legal service providers that hold a contract with the Legal Aid Agency are required to meet the specific equality and diversity requirements included within the contract (e.g. as set out in section 5 of the [2014 Standard Civil Contract Standard Terms](#)). All legal aid contract holders are also required to ensure that the advice services they provide are accessible to all clients across England and Wales.

Additionally, as an entry requirement to obtaining a legal aid contract, legal service providers must hold a recognised quality standard (i.e. either the Specialist Quality Mark Standard, the Mediation Quality Mark Standard, or the Law Society's Lexcel Practice Management Standard). All of these quality standards require the legal service provider to have in place equality and diversity process in place with is available and followed by all staff.

The CLA advice service can benefit many people who may have difficulty accessing face-to-face advice services during normal working hours e.g. disabled people, people with caring responsibilities

The CLA service utilises a range of service adaptations to support people to access the service including:-

- An interpretation service for people who have limited or no spoken English, including British Sign Language users who can use a digital video relay interpretation service. Welsh language staff are also available
- The option to ask someone to communicate with the service on their behalf.
- There are clear protocols to protect the privacy of all users, although this can be of particular benefit to victims of abuse.
- All staff are required to complete specific training on how to support all our users e.g. supporting victims of abuse, disabled users and suicidal users.

- b)** When a civil case becomes complex and expensive it may need to be managed under a very high cost case contract. A civil high cost case is any civil case where the final costs either to settlement or final hearing are likely to exceed \$40,000.

10. Monitoring quality

The LAA monitors quality through the use of peer review (see question 5) and contract management mechanisms. There are also certain standards that must be met before an organisation can be awarded a contract for example the organisation must hold or obtain a recognised quality mark and have supervisors who have experience in the relevant category of law. Hugh Barrett will discuss quality mechanisms and how the LAA monitors quality in detail in his presentation.

11. Advertising legal aid

In criminal cases potential applicants are informed of their right to legal aid upon arrest. This is a statutory requirement. Posters also advertise the availability of legal aid in magistrates' courts and the police stations.

In civil legal aid the gov.uk website contains a tool to find a local legal adviser based on town or postcode. There is also a national telephone line that includes a diagnostic facility and can signpost eligible clients to their nearest legal aid provider.

In addition to this representatives of the professional bodies such as the Law Society have launched advertising campaigns highlighting the availability of legal aid.

12. Reducing the number of court disputes

Civil Justice policy rests with the Ministry of Justice (MoJ) although the LAA works closely with the MoJ in implementing such policy developments. The MoJ has strategies to increase awareness of mediation and the availability of legal aid in order to encourage individuals to resolve issues as early as possible and outside of court proceedings. These strategies have included publicity campaigns and requiring parties bringing court proceedings in private family law matters to first consider mediation. Later this year the LAA will also begin paying for the first Family Mediation session for both parties where one party is financially eligible for legal aid.

13. Developing a digital service

The CLA advice service launched in 2004, initially only a telephone based advice service, has been developed to enable people to communicate with CLA staff digitally via the government website gov.uk. An online calculator also enabled them to make an initial self-help assessment of whether they may be financially eligible for legal aid before contacting the service.

In 2012 this calculator was replaced with a self-help tool that would enable people to check whether their problem fell within the scope of legal aid as well as their financial eligibility. Depending on the result users are then directed to a legal aid provider or an alternative source of help.

In 2013 a digital transformation project was launched to redevelop the existing CLA digital service into a fully Digital by Default service in line with the UK Governments Digital Strategy. The new service is expected to be launched late in 2014,

The gov.uk service will enable people to complete a more accurate assessment of whether they will qualify for the CLA advice service, funded by legal aid. Where they do qualify they will be able to complete relevant details about their problem and their finances for review by CLA staff before contact is made to provide advice.

14. Please see question 11.

15. Promoting legal aid

The LAA has established mechanisms of co-operation with legal aid organisations in Northern Ireland, the Republic of Ireland, Scotland, the Channel Islands and the Isle of Man.

- 16.** Within England and Wales, all public bodies (including the LAA) have a duty to ensure that all services are compliant with the European Convention on Human Rights in particular with Article 6.1 (the right to a fair trial).

Annex A

Civil Legal Aid (Covering advice and representation)		Criminal Legal Aid	Description
Category	Description		
Actions against the Police	In relation to an abuse of position or power by the police or any other public authority with the power to prosecute, detain, or imprison or where the case is a claim for personal injury based on allegations of deliberate abuse of a person whilst in the care of a public authority or other institution.	Advice in the police station	This includes advice when a person voluntarily attends a police station and advice where a person is arrested and questioned outside of the police station.
Community Care	In relation to community care assessments, issues around the delivery of services, grants for the provision of services for disabled persons	Advice and representation at the magistrates court	
Clinical Negligence	Specifically in relation to claims for damages in respect of clinical negligence which caused a neurological injury to a infant which left them severely disabled.	Representation in the Crown Court	
Debt	Where the client owns their own home and is at risk of losing that home	Representation in the Crown Court (Very High Cost Cases)	These are cases that are classified as Very High Cost Cases; they must be likely to last for over 60 days and involve complex matters.
Discrimination	In relation to the	Prison law advice and	Prison law is

Civil Legal Aid (Covering advice and representation)		Criminal Legal Aid	Description
	Equality Act 2010 and predecessor legislation	assistance	available for disciplinary cases that engage article 6.1 of the ECHR, parole board cases in which the parole board has the power to direct the release of the prisoner and in disputes involving the calculations of a client's sentence.
Education	Special Educational Needs and discrimination only	Judicial review proceedings where they are related to a criminal case	
Family	All public law family cases and those private law family (children and finance disputes) where there is a risk of child abuse or domestic violence	Proceedings in relation to Proceeds of Crime Act	
Family Mediation	Family Mediation and supporting legal advice.		
Housing	Where the client rents their home and is at risk of losing that home.		
Immigration and Asylum	Cases under the refugee conventions and cases involving Articles 2/3 of the Human Rights Convention; advice on immigration detention; immigration advice to victims of trafficking or domestic violence.		

Civil Legal Aid (Covering advice and representation)		Criminal Legal Aid	Description
Mental Health	Civil legal services in relation to matters arising from the Mental Health Act 1983, the Mental Capacity Act 2005 and 5(2) of Repatriation of Prisoners Act schedule 1984. Advice and assistance on inherent jurisdiction of the High Court in relation to vulnerable adults.		
Public Law	Public law challenges to the acts, omissions or decision of public bodies.		
Welfare Benefits	<ul style="list-style-type: none"> • Appeals on a point of law in the Upper Tribunal, Court of Appeal and Supreme Court for all welfare benefits. • Appeals on a point of law relating to a council tax reduction scheme from the Valuation Tribunal to the High Court, Court of Appeal and Supreme Court. 		



Ministry of
JUSTICE

National Report England and Wales

Hugh Barrett
Director of Legal Aid Commissioning and Strategy



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England and Wales

Population:
57 million

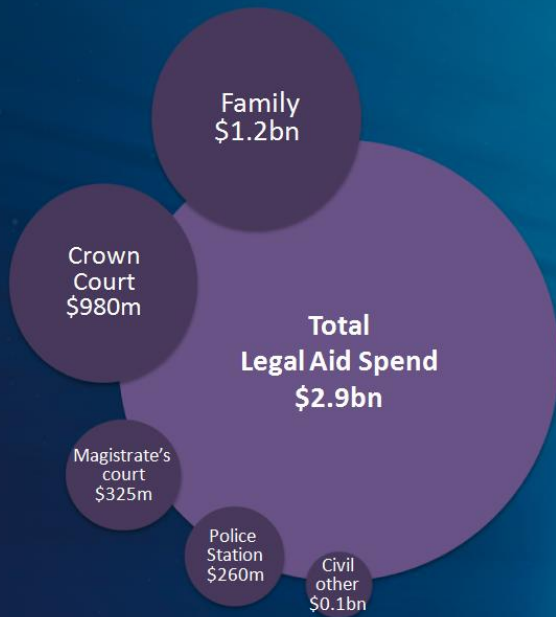
GDP:
\$2.5 trillion

Poverty line:
16.8% of the
population are in
relative poverty

Total number of
practising lawyers:
140,000

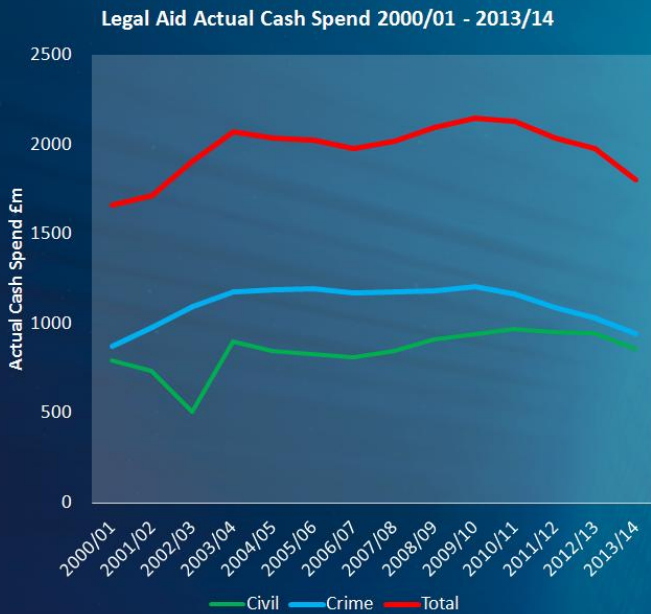


The Legal Aid Agency is an Executive Agency of the Ministry of Justice



	Means Tested	Merits Tested
Crime		
Police station	✗	✗
Magistrates Court	✓	✓
Crown Court	✓	✗
Civil		
Family	✗	✗
Mental Health	✗	✗
Asylum	✗	✗
Other Civil	✓	✓

Legal aid spend per capita is \$52.70

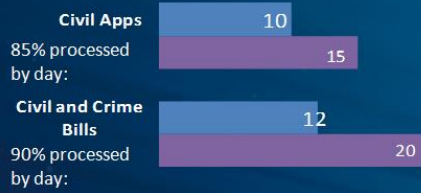


Admin spend is 6% of the overall legal aid spend

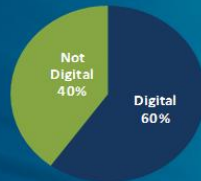


Key Performance Indicators

Service Delivery



Digital Transactions



Digital by default

- Online civil applications
- Crime online
- Criminal Justice System efficiency- introducing the use of technology across the justice system
- Telephone advice service linked with online digital service -50 % online take up by 2019.

Telephone call volumes

