

# Review



Scottish Legal Aid Board Annual Review 2005-2006



Legal aid is important. Without it, many people would not be able to get the legal help and advice they need.

This summary tells you about our work in 2005-2006, and the changes and improvements we are making.

**To increase access to justice, we have considered new ideas and services.**

Working with partners in the advice sector, we developed five new innovative legal advice projects.

We also launched a new Legal Aid Helpline on 0845 122 8686 that gives the public information on legal aid, seven days a week.





# Vision:

To promote the development and delivery of appropriate access to quality legal assistance for those eligible, in a cost-effective manner.

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Our Annual Report 2005-2006 gives a more detailed commentary, tables of legal aid statistics and our audited accounts. You can find it online at [www.slab.org.uk](http://www.slab.org.uk)

# Chairman's introduction:

**I am pleased to introduce this Annual Review, a record of the Board's impressive performance in 2005-2006.**

As the new Chairman, I would like to thank my predecessor, Jean Couper CBE, for her hard work and dedication during her tenure. Her focus on the need to improve standards for our customers, work closely with the profession and ensure access to justice are key themes that the new Board will continue to take forward in the coming years.

I begin my tenure as Chairman during a period of great change in legal aid and indeed in bringing the right advice and help for individuals on a value for money basis. The Legal Profession and Legal Aid (Scotland) Bill proposes some important changes to the delivery of legal aid. Scottish Ministers want the Board to: employ solicitors to deliver civil legal assistance; make decisions on applications for solemn criminal legal aid; and expand the supplier base to include the advice sector. In addition, steady progress is being made with the development of Legal Aid Online. Over the next few years, this will become the primary method of transacting legal aid services.

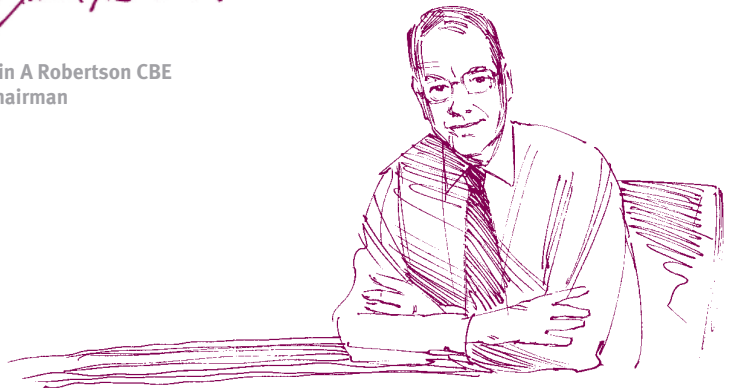
Publicly funded legal advice, information and representation are essential services which help to ensure that those who need the law will not be excluded from using it because they cannot meet the cost. This is about fairness, access and equality but as problems seldom come alone, it is also about helping to avoid social marginalisation and exclusion.

We at the Board are pleased to play our part in ensuring enhanced co-ordination with our partner organisations and professional colleagues, increasing efficiency and effectiveness in the provision of modern, easily accessed advice always on a high quality basis and working towards simpler, more transparent and cost-effective services.

It is a privilege to be involved at such an exciting and challenging time and we look forward to driving forward the Board's future progress.



**Iain A Robertson CBE**  
Chairman



## What we do:

We run the Scottish legal aid system, a system which is paid for by taxpayers.

We monitor it, ensure good value for money and offer advice to Scottish Ministers on how to make it better.

## About us

The Scottish Legal Aid Board was set up in 1987 to manage legal aid in Scotland. We are a non-departmental public body responsible to the Scottish Executive.

Ministers in the Scottish Executive decide legal aid policy. Ministers propose the laws to set the rules and criteria for legal aid, together with the fees to be paid to the legal profession. The Scottish Parliament makes and changes legislation – including the tests for granting legal aid. These tests are then applied to every single case. In advice and assistance, solicitors apply the tests, for civil and criminal legal aid we apply them, except in some criminal and children’s cases, where the courts decide.

The budget for legal aid is different from other public services: it is not a set amount. If someone is granted legal aid, the Scottish Executive will provide the funds to meet the cost of their case. This means we never have to refuse someone legal aid simply because there is no money left to pay for their case.

## Our work

A large part of our job is to decide who should get legal aid.

If it is granted, legal aid is used to pay solicitors, advocates and other costs of the case. The solicitor could be in private practice, a public defender or in a law centre. We also:

- advise Scottish Ministers on how legal aid is working, and ways to develop it
- register firms and solicitors who do legal aid work

- make sure these firms and solicitors maintain high standards, including funding quality assurance which is run by the Law Society of Scotland
- decide whether to grant applications for legal aid
- decide if people have to pay towards the cost of legal assistance, then collect these costs
- examine solicitors’ and advocates’ accounts for legal aid work, and pay them for the work they have done
- investigate and tackle abuse of legal aid
- developing networks of Board employed solicitors who offer legal advice on civil and criminal matters
- explore new ways of delivering legal aid services.

## How legal aid can help

Legal aid is help towards the costs of legal advice and representation, for those who qualify, paid for out of public funds. It is designed to help individuals on low and modest incomes gain access to the legal system.

Legal aid may be free, or someone may have to pay towards the cost of their case, for example from the money or property that they win or keep as a result of their legal action. Legal aid is accessed through a solicitor.

There are two main types of legal aid help: advice and assistance and legal aid.

- **Advice and assistance** covers a wide range of matters, so long as they are matters of Scots law. It pays for advice from a solicitor, but apart from a few exceptions under assistance by way of representation (ABWOR), it will not cover “representation” – that is, putting the case in court.
- **Legal aid** provides funding for the solicitor to put the case in court and some tribunals. It covers the preparation work, as well as the hearing itself, and can provide funding for advocates, experts and other costs. (Cases often begin with advice and assistance, and legal aid may be the next step if necessary).

The main types of case that advice and assistance and legal aid can help with are:

- **Civil cases** – such as divorce and other matters affecting family and children and actions for compensation after an accident or medical negligence.
- **Criminal cases** – help and advice for someone charged with a criminal offence or needing advice about a criminal matter.
- **Children’s cases** – under the Children (Scotland) Act 1995, which helps to make sure children are protected and supervised. Legal aid also funds appeals against decisions of children’s hearings.

**We manage the Scottish legal aid system. Offering advice to Scottish Ministers on how to make it better is an important part of our work.**



**Chief Executive's report:**  
2005-2006 was another very challenging year in which we performed well. Here are some key facts and information on the important projects on which we made substantial progress.

The year was characterised by very large amounts of development work in legal aid. We work in partnership with the Scottish Executive, the legal profession and our justice system partners. Many developments owe much to their co-operation.

## DELIVERING EFFICIENT AND EFFECTIVE SERVICES

### Performance against increased targets

We met or exceeded five of our six headline performance indicators, the key measures of the Board's operational performance. Our targets balance quality of decision making with speed of processing. Three of our six headline targets had been increased for 2005-2006.

### Efficient Government savings

Efficient Government savings for legal aid are part of modernising legal aid to ensure the system works efficiently and effectively.

We helped the Scottish Executive exceed its Efficient Government legal aid savings target for 2005-2006 with savings of £5.7 million. The savings came as a result of the implementation of legislative and regulatory changes, as well as other wider changes to the justice system.

## CIVIL LEGAL ASSISTANCE

### Reform of civil legal assistance

We continued to develop changes to civil advice and assistance, in consultation with our stakeholders. The first phase of the reform, an increase in solicitors' fees, was introduced in April 2005. The second phase to restructure the process will be implemented in 2007.

In civil legal aid, we have been monitoring the major reforms made in 2003 to see if they are effective. We identified changes to be made to the block fee structure and Scottish Ministers have agreed to these in principle. We carried out a survey of civil legal assistance solicitors and with solicitors' feedback, we revised civil legal aid forms.

We also launched a project to simplify the whole civil legal assistance process.

### Civil legal aid computer system

Thanks to our new civil legal aid computer system that maximises use of document management technology, we now have a modern, efficient and largely paperless system. This will help us to further improve the delivery of our service and has already helped us deal with civil legal aid applications more speedily.



Thanks to our new civil legal aid computer system we now have a modern, efficient and paperless system that's helping us deal with applications more quickly than ever before.

## CRIMINAL LEGAL ASSISTANCE

### Reform of the criminal justice system

The Scottish Executive is modernising the criminal justice system, and we have been working with them and other justice system partners on developing the reforms and associated changes to criminal legal assistance.

We have also worked with the Scottish Executive, Law Society of Scotland and Faculty of Advocates on reforming fees. To help support the reform of the High Court, and to bring greater certainty and value for money in legal aid cases, new fee tables were introduced in April 2005 for advocates and solicitor advocates in criminal cases. With the Scottish Executive and the Law Society of Scotland, we have been developing new feeing arrangements for solicitors in solemn cases. These are expected to be introduced in 2007.

Linked to fees reform is the introduction of quality assurance schemes for solicitors, solicitor advocates and advocates providing criminal legal assistance.

## MODERNISING AND IMPROVING LEGAL AID

### Advice for All consultation and Parliamentary Bill

Scottish Ministers consulted in *Advice for All* on the modernisation of legal aid, advice and information services in summer 2005. The Board responded to the consultation and worked with the Scottish Executive to take forward Ministers' priorities. This led to the introduction of the *Legal Profession and Legal Aid (Scotland) Bill* in March 2006 which proposes changes to the delivery of legal aid.

### Legal Aid Online

Legal Aid Online allows solicitors to send applications and accounts through the internet. The service has many benefits. We launched Advice and Assistance Online and had over 100 solicitor firms committing to use the service. Over 7,000 advice and assistance applications were made online in 2005-2006. We started piloting our Civil Legal Aid Online system and began developing Criminal Legal Aid Online.

### Different ways of providing advice

Our innovative legal advice Part V projects have been trying out different ways to deliver legal advice in local communities. Following an independent evaluation of the first phase of projects, we worked with partner agencies to develop five new projects for a second phase.



Our new Legal Aid Helpline on 0845 122 8686 is open seven days a week, 7am to 11pm.

Among those who will benefit from the new projects are people with mental health problems in Fife, people living in rural and island communities in the Highlands and Argyll and Bute, rough sleepers and young people in Edinburgh, and disabled people living in Lanarkshire.

### Telephone helpline

We developed and launched a new telephone information service for the public. The service provides information on legal aid, how to find a solicitor and how to work out if someone is eligible for legal aid. Our Legal Aid Helpline is 0845 122 8686 and runs seven days a week, 7am to 11pm.

### Lloyds TSB Scottish Employer of the Year Award

We won the Lloyds TSB Scottish Employer of the Year Award. This recognises our innovative approach to flexible working, which enables us to provide better working arrangements for staff while improving the service we provide.

## DRIVING CHANGE

Reforms and reviews are modernising legal aid. We have made progress, but there's more to do.

Our strategy and ambitious plans for the next few years are set out in our Corporate Plan 2006-2009.

We are committed to working with the Scottish Executive and others to continue developing legal aid and to help provide greater opportunities for people to get access to more efficient, effective and quality assured legal aid services.

Further changes to the wider justice system lie ahead, and we have a substantial contribution to make. We also want to further develop our performance and service delivery.



**Lindsay Montgomery**  
Chief Executive



**Our Corporate Plan is available online at [www.slabb.org.uk](http://www.slabb.org.uk)**



# Helping people deal with their problems

“The legal aid which I received enabled me to win my case. Most importantly, it helped secure the safety of my family. Thank you for the support you gave us at a very urgent time.”

## **Legal aid isn't about procedures and policies – it's about people.**

That's why we are committed to continuing to develop legal aid to help people receive the high quality legal help they need to deal with a wide range of problems.

Legal aid enables access to justice: last year people in Scotland benefited from more than 410,000 grants of assistance.

How quickly and how accurately we deal with legal aid applications is of real importance to people applying, their advisors and others. Our targets help us focus on achieving our best performance, every year.

The legal profession are our valued partners in delivering legal aid services. We are working with them to improve how legal aid works. That means cutting bureaucracy, making changes to make the legal aid system easier to run, and trying new ideas to improve our service.





Legal aid facts, figures and developments in 2005-2006:  
In this section we show the help people got, how much it cost, how we performed against our targets and improvements made to services.

## THE FIGURES

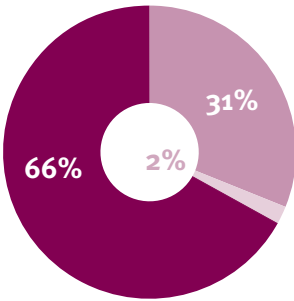
### How many grants?

411,290 grants of legal assistance were made in 2005-2006, 4% less than the figure for 2004-2005. Most of the fall is due to less civil and criminal advice and assistance work. We have also seen summary criminal legal aid grants fall for the first time in six years.

Over the last five years, the total number of legal assistance grants has fallen by 9%. Most of the fall has been in civil cases, but criminal grants are almost at the same level as five years ago.

### What were the grants for?

- Criminal grants fell by 2% to 272,740. Within this total, the number of summary criminal grants fell by 1%, halting the rise of the last six years.
- Civil cases fell 8% to 128,583 grants – although within this total the number of civil legal aid grants was almost the same, halting the falls seen in the last few years.
- Children’s and contempt of court grants were up 4% to 9,967.



### Grants 2005-2006

- Criminal: 272,740 grants
- Civil: 128,583 grants
- Children's and contempt: 9,967 grants

### How much did it cost the taxpayer?

The total cost of providing legal assistance was £147.9 million. This is a fall of 3%, or £4.6 million, compared with 2004-2005.

There are several reasons for the fall. Almost half of the fall is because of fewer very expensive cases compared with 2004-2005. Another reason is lower advice and assistance costs that are linked to a fall in the number of these grants by solicitors. Changes in regulations governing legal aid introduced to meet Efficient Government legal aid targets also helped reduce expenditure.

### Expenditure trends

Over the last five years expenditure has increased by 16%.

The breakdown of spending in 2005-2006 was:

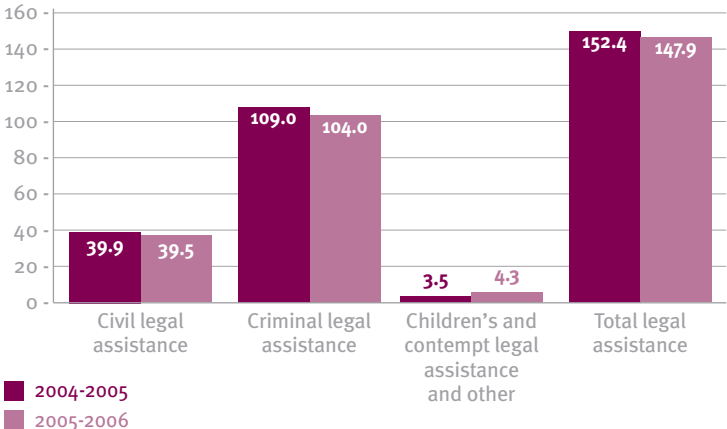
- £104.0 million for criminal cases, a 5% fall from 2004-2005. This was the first time for six years that criminal expenditure fell

- £39.5 million was spent on civil cases, 1% less. We received contributions and expenses in civil legal aid cases of £10.8 million
- £4.3 million was spent on children and contempt of court cases, an increase of 25%.

### Administration

The costs of running the Board was £12.3 million. These costs are met from a fixed budget from the Scottish Executive, which is separate from the Fund used to pay for legal aid cases.

### Legal aid cost to the taxpayer (£ million)



# 625

solicitors firms registered to offer criminal legal assistance.

# 736

solicitors firms registered to offer civil legal assistance.

## LEGAL PROFESSION

### Legal aid solicitors

Firms of solicitors must be registered with us to undertake legal assistance work. Individual solicitors who undertake criminal work must also be registered. As at 31 March 2006, there were:

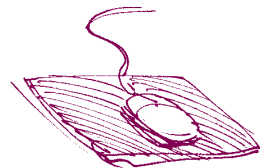
- 625 firms registered to offer criminal legal assistance, 2% lower than the previous year
- 1,519 solicitors registered to provide criminal legal assistance, almost unchanged from the previous year
- 736 firms registered to provide civil legal assistance, 2% fewer than the previous year. (Solicitors are not registered to undertake civil work, only their firm).

### Payments to the legal profession

Legal aid pays for fees charged by solicitors, advocates and solicitor advocates. It also pays for outlays – for example, travel expenses and the cost of getting reports from experts such as doctors and surveyors. Outlays may also include payments made to the legal profession.

The 3% fall in total legal aid expenditure in 2005-2006 is reflected in reductions in the payments we made. Payments to solicitors fell by 4% to £122.7 million; payments to advocates and solicitor advocates fell by 2% to £18.3 million; and outlays were 5% lower at £16.8 million.

Over the last five years there has been a 16% increase in the amounts paid for legal aid cases – a rise of £22.3 million. Payments to advocates and solicitor advocates have increased by 50%, outlays have risen by 21% and payments to solicitors have increased by 12%.



### Find out more

We publish on our website [www.slab.org.uk](http://www.slab.org.uk) details of payments made in 2005-2006 to all firms of solicitors, solicitor advocates and advocates.

## MEASURING THE BOARD'S PERFORMANCE

The main part of our job includes deciding on legal aid applications and assessment and paying the accounts of solicitors, solicitor advocates and advocates. We have performance targets, agreed with Scottish Ministers, for making correct decisions which take account of all the relevant factors within a set timescale. Headline targets are the key measures of our performance. These combine individual time and accuracy targets for each type of legal assistance.

### How we performed

In 2005-2006, we achieved five of our six headline performance targets and 40 of our 48 individual targets. Three of these headline targets and seven individual targets had been set higher than the year before – pushing us to deliver an even better service.

We did not meet our headline target for civil legal applications and associated individual timescales targets.

This was because of the planned introduction of a new civil legal aid applications computer system in summer 2005. During the transition period to the new system we could not achieve our targets.

However, after its introduction, our performance for the rest of the year was better than all our civil applications targets.

We are now dealing with civil legal aid applications more quickly than ever before.

For 2006-2007 we have substantially increased our targets for civil applications, reflecting the improvements our new computer system brings.

In the coming year we are going to have a major review of our targets, to ensure they reflect our stakeholders' needs.

# five

out of our six headline performance targets were achieved. Three had been set higher than the year before.



Thanks to our new civil computer system, we now have a modern, efficient and paperless system that's helping us deal with applications more quickly than ever before.

# 7,000

applications for advice and assistance were made using Legal Aid Online in 2005-2006.

## LEGAL AID ONLINE

Legal Aid Online allows solicitors to submit applications and accounts through the internet. It's fast, easy and convenient. The service is a key part of our plans to improve the legal aid system and provide best value to the taxpayer.

We began development of our Legal Aid Online service with advice and assistance. Working with a number of solicitor firms, we used their feedback to further improve the service. To help promote the benefits of the service, we held online workshops around Scotland, which led to over 100 firms committing to Legal Aid Online. Over 7,000 advice and assistance applications were made online in 2005-2006. In the coming year we hope to see increases in the volume of online transactions.

We have also developed a Civil Legal Aid Online service, which we began piloting with solicitor firms. We are also working on developing Criminal Legal Aid Online.

## DEVELOPING SERVICES

### New legal aid helpline

We have started developing new telephone services and improving how we deal with the wide range of people who contact us by telephone.

The first stage of our work was setting up a new national telephone helpline service for the public to find out more about legal aid. The service is only for members of the public and does not offer legal advice. It enables people to find out:

- what legal aid is and if it may apply in their situation
- work out if they may be eligible for legal aid
- where to find a local solicitor firm that undertakes legal aid work
- ask us to send them information on legal aid, such as our current leaflets.

The Legal Aid Helpline number is 0845 122 8686.

It is open seven days a week from 7am to 11pm. The information available through the helpline is also online at [www.slab.org.uk](http://www.slab.org.uk)



People in Scotland have good awareness levels of legal aid. Over 3 in 5 people were aware of the legal aid logo and that it represented legal advice, according to research.

### Being aware of legal aid

Over three in five of people were aware of the legal aid logo, most knew it represented legal advice and would go to a solicitor to get more information on legal aid, according to research the Board commissioned.

As part of our research work into knowledge about legal aid and how to improve our communications, we commissioned researchers to find out the views of the public.

The key findings were:

- 61% recalled having seen the legal aid logo before
- of those who remembered seeing the logo, over four in five knew it was about legal advice. 64% said it represented legal aid, 11% said it was related to some sort of legal help or advice and another 7% said it was related to an advice service
- 35% thought they would be eligible for legal aid, 33% thought they would not be and 31% did not know
- if they wanted more information on legal aid, 62% said they would go to a solicitor. The other main sources of information were Citizens Advice Bureau or other general advice agency at 42% and family and friends at 17%.

### Scottish legal assistance handbooks

We introduced new criminal legislation, civil and children's legal assistance handbooks for the legal profession. We aim to make the handbooks the key reference material for the legal aid professional and to provide the right information, when needed. They are available online at no charge and include our policies, guidance and legal aid legislation.

### Equalities strategy

We are committed to developing and promoting equality of opportunity for all.

By law, we must promote race equality. We reviewed our race equality scheme and then developed a draft scheme for 2005-2008.

We also began to develop an overall equality strategy that sets out the approach we will adopt to comply with all the equalities legislation.

### Employer of choice

Over the last few years, flexible working has underpinned our approach to helping improve our results. We have reversed a high staff turnover, reduced days lost through sickness, halved overtime costs – but increased productivity and improved our service.

This approach was recognised when the Board won the Lloyds TSB Scotland, Scottish Employer of the Year, at the Working Families Employer of the Year Awards 2005.

Investment in staff training and development has also helped us become more effective and efficient. Our in-house learning centre was successfully recognised by Learndirect Scotland for achieving their quality standard. All our staff have the opportunity to take paralegal courses. Over 125 staff now hold over 200 paralegal certificates, and have a better understanding of how the justice system works.



**We won the Lloyds TSB Scottish Employer of the Year Award in recognition of our innovative approach to flexible working. This enables us to offer staff better working arrangements while improving our services.**



# Delivering access to justice

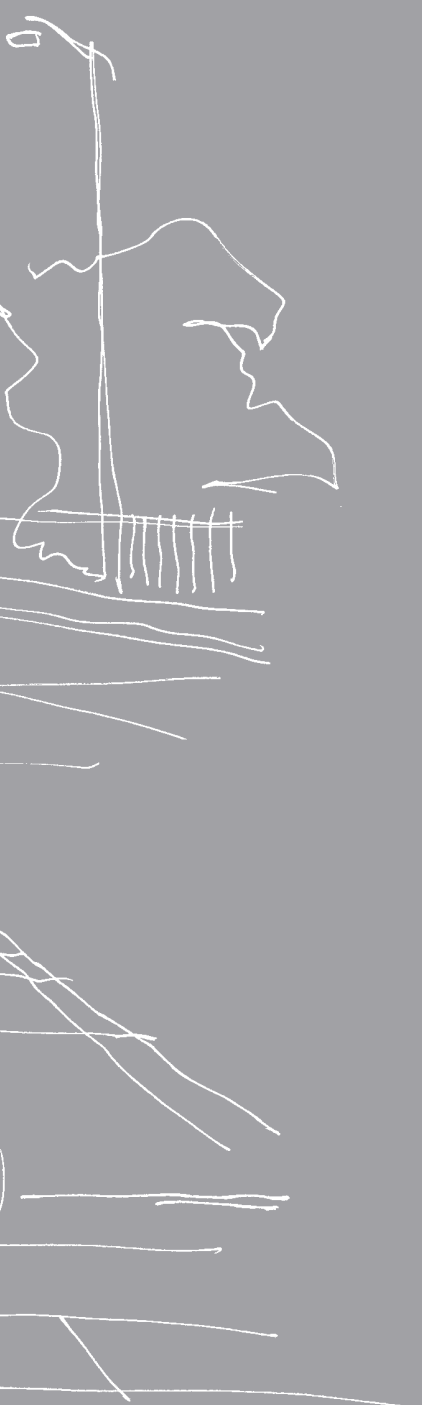
We work to help people in need access high quality legal advice, information and representation. We are developing innovative services to meet legal needs.

## **Street Legal is helping homeless and young people in Edinburgh.**

It is one of our unique projects that's been trying out different ways to deliver legal advice in local communities.

Based at homelessness charity Streetwork UK, Norman our solicitor provides a friendly service that's as accessible as it needs to be. His clients are amongst the most in need of legal advice, so he'll meet them when and where suits them – which can be on the streets or a drop-in centre.

With the Scottish Executive and our partners, we are improving how legal aid in civil cases works. We are looking at ways to make it simpler and easier – for people applying, the legal profession and us. Our investments in new technology are helping us deal with cases more quickly. And with the Scottish Executive, we are taking steps to tackle problems people may have in accessing civil legal aid help.



**Civil legal assistance:**  
People in Scotland were helped last year through more than 128,500 grants of civil legal assistance.

## CIVIL FIGURES

### 2005-2006

#### What are the key civil case figures?

In total for 2005-2006, there were 128,583 grants of civil legal assistance (which includes both civil legal aid and civil advice and assistance and ABWOR). This was 8% less than 2004-2005, mainly because civil advice and assistance grants continued to fall. However the number of civil legal aid grants was almost unchanged, halting the fall in the number of grants seen over many years.

At £39.5 million, civil cases cost 1% less than was spent in 2004-2005.

#### Civil advice and assistance and assistance by way of representation (ABWOR)

Solicitors made 9% fewer grants of advice and assistance and ABWOR for civil cases than 2004-2005: 117,601 compared with 128,944. This is the seventh consecutive year that grants have fallen.

The cost of civil advice and assistance fell by 3% to £20.7 million, mainly because of fewer cases.

#### Civil legal aid

Although the number of applications for civil legal aid fell very slightly, from 16,997 to 16,859, we made almost the same number of grants as in 2004-2005: 10,982 compared with 10,989.

The cost of civil legal aid cases to the taxpayer increased slightly from £18.6 million to £18.8 million.

Family/matrimonial cases account for 70% of all civil legal aid grants. Reparation cases – for example compensation claims after accidents – are the next largest type of case in civil legal aid, at 15% of civil grants. Last year the number of reparation grants increased by 17% to 1,689 grants mainly because of a higher number of prisoner “stopping out” cases and actions against former children’s homes and religious orders.

#### Trends in civil legal aid

Over the past decade applications and grants of civil legal aid have fallen by over 40%. However, in the last five years the rate of reduction has become less: applications have fallen by 16% and grants by 2%.

We share the concerns of others about why there have been these falls, and we have researched possible reasons. One key reason for the falls has been wider society changes that have seen the number of fault based divorces in the courts fall by 60% over the 10 years to 2004.

This clearly has an effect on demand for civil legal aid, especially as a large proportion of legally aided family work is for divorce cases. There also appears to have been an increase in solicitors undertaking civil cases on a no-win, no-fee basis.

Nevertheless, we are concerned to ensure the applications fall does not reflect a reduction in access to justice. Much of our work now and in the future will focus on ensuring access to legal advice, assistance and representation for those who need it.

#### Money paid to us

Legal aid may be free, or someone may have to pay towards the cost of the case. They may have to pay a contribution towards the cost of their case, and part or all of any money or property they win or manage to keep as a result of the case. The opponent may also have to pay the expenses of the case if they lose.

In 2005-2006 people paid £10.8 million towards the cost of civil legal aid. This is 36% of the total spent on civil legal aid cases.

# £39.5m

was spent on providing legal assistance in civil cases.

Most people granted civil legal aid do not pay a contribution towards the costs. In 2005-2006 27% of people who received civil legal aid had to pay a contribution, with the average amount being £1,231.

In recent years, we have introduced measures to make legal aid more affordable to a greater number of applicants, for whom contributions would previously have been difficult to pay. This has included extending contribution payment periods and restricting contributions to the solicitor's estimate of case costs, where these are lower.

#### **Amounts paid for civil legal aid**

Last year the amount paid to solicitors for civil legal aid fell by 4%, to £17.0 million. Amounts paid to advocates and solicitor advocates rose by 5% to £4.6 million. Expenditure on outlays fell by 7% to £8.0 million.

Over the last five years, payments for civil legal aid work overall have increased by 5%. For solicitors, payments have increased by 3%, outlays have risen 5% and advocates' and solicitor advocates' fees have increased by 48%.

## **DEVELOPING CIVIL LEGAL ASSISTANCE**

### **Reform of civil advice and assistance**

In 2004-2005, together with the Law Society of Scotland and the Scottish Executive we undertook a review of civil advice and assistance. Following this, the Executive consulted on reforms as part of their commitment to modernise legal aid.

In 2005-2006, we began the phased implementation of the reforms. Solicitors' fees were increased by 16%. The next phase depends on legislation changes and are expected in 2007. Among the changes will be the introduction of a 'diagnostic interview' stage.

### **Monitoring civil legal aid reform**

In October 2003, the most wide-ranging reforms of civil legal aid for fifty years were made. The reforms brought in quality assurance and registration of solicitor firms, new case reporting requirements, an increase in fee rates together with a new block fee payment structure for solicitors.

During 2005-2006, in conjunction with the Law Society of Scotland and the Scottish Executive, we monitored the impact of the reforms. We:

- reviewed the block fee structure and advised Scottish Ministers on suggested changes
- continued a costing exercise to confirm the actual increase in fees
- commissioned a survey of solicitors into their views of the reforms
- assessed the peer review process
- reviewed the new civil legal aid forms and issued revised forms and guidance.



**As part of monitoring the impact of civil legal aid reforms, we issued revised forms and guidance. The forms also support our paperless civil computer system, which has brought benefits including dealing with applications more quickly.**

# **£10.8m**

was paid by people towards the cost of civil legal aid cases.

### Are there enough civil legal assistance solicitors?

There is evidence that some solicitor firms are no longer doing civil legal assistance work. We are concerned about this. In some locations, particularly rural areas, there can be problems in accessing a civil legal assistance solicitor.

With advice from the Board, the Scottish Executive is taking steps to tackle this problem including making changes to the block fee structure and introducing civil employed solicitors, where solicitors directly employed by the Board will offer a civil legal assistance service where there are gaps in supply by private sector solicitors. The Board's project to simplify civil legal assistance and Legal Aid Online will also make it easier for solicitor firms to provide legal aid services.

### Being assured of a quality service

Since 2003 a peer review quality assurance system has been run by the Law Society of Scotland and the Board. We fund the system from our running costs. Experienced civil practitioners carry out peer reviews by looking at a sample of files against agreed and tested criteria.

Civil solicitor firms requiring review are quality assured over a three-year cycle. Now nearly all firms – 99.5% – have been quality assured, with 664 reviews conducted by the peer reviewers. Most firms have met the peer review set criteria.

Only a small number have given cause for concern, and have had further reviews, which aim to see improvements made. The final stage before it is considered removing the firm from civil legal assistance is a final review. Over the three years 16 firms, or 2.5%, have reached the final review stage. Of this total, six firms have decided not to go to final review but to instead stop civil legal assistance work.

The system has allowed solicitors to develop better working practices and has highlighted a number of areas to address through better solicitor training and understanding of some elements of the system.

Overall it shows the majority of civil solicitors are delivering a good quality legal aid service to clients throughout Scotland.

# 99.5%

of solicitor firms who conduct civil legal assistance requiring review have been quality assured.

### Better service thanks to new computer system

Summer 2005 saw a new civil legal aid applications computer system put into service. The new system allows us to deal with casework electronically, removing the need for paper files. It provides many benefits including dealing with applications more quickly, easier tracking of the progress of an application and better case management.

### Simplification of civil legal assistance

We have started a substantial project to look at the simplification of civil legal assistance. Solicitors, applicants and opponents find the process complex. The project will:

- make changes to increase the Board's flexibility to allow payment of contribution instalments over an extended period
- look at ways of simplifying civil financial eligibility
- examine special urgency arrangements
- review the applications process, including developing ways of reducing the number of rejected applications, such as guidance that solicitors will better use to reduce common application mistakes and introducing model applications
- develop a training support strategy for solicitors providing civil legal assistance.

We will be working with key external interested parties to obtain feedback and suggestions for change.

### Advice projects

Our innovative legal advice Part V projects have been trying out different ways to improve access and deliver legal advice in local communities. Following an independent evaluation of the first phase of projects, and with funding from the Scottish Executive, we worked with partner agencies to develop five new projects for a second phase.

Five solicitors employed directly by the Board work in partnership with local advice giving organisations.

The projects are:

- **Fife Rights Forum Project** – the solicitor provides specialised legal advice and representation to mental health clients in Fife, including young people and children. Fife Rights Forum is an established network of advice organisations.
- **Argyll and Bute Advice Network Project** – a trial of various innovative methods of legal advice training and delivery, including video and telephone conferencing. The solicitor provides support and training for advisors across the advice agency network and handles remote casework for clients.



**Our substantial project to simplify civil legal assistance will improve the system for applicants, opponents, solicitors and the Board.**

## Children's and contempt legal assistance

- **Street Legal Project** – working with some of the most socially excluded people in the community, this project, based at Streetwork UK, provides legal advice to young people and rough sleepers at risk on the streets of Edinburgh. The solicitor is also responsible for creating a Virtual Law Centre focusing on social welfare law.
- **Citizens Advice Scotland Project** – working out of the CAS office in Inverness, the solicitor serves 10 Citizen Advice Bureaux across the Highlands and Islands. He delivers a second-tier advisory service through highly-tailored training and support for CAB advisors, enabling greater access to legal services for people living in an extensive rural area. The solicitor also undertakes direct casework for clients, focusing on employment law.
- **Disability Legal Advice Project** – this pilot project involves Citizens Advice Scotland, Capability Scotland, Update and the Disability Rights Commission joining forces with the Board to improve access to legal advice for disabled people across North and South Lanarkshire. The solicitor provides second-tier support to advisors, delivers specialist training on disability related legal issues to advisors and local solicitors and provides direct advice and representation for disabled people.

Children's legal assistance is specifically for proceedings under the Children (Scotland) Act 1995. This involves measures to ensure children are protected and supervised, and appeals against decisions of children's hearings.

### Children's advice and assistance

Last year the number of grants of advice and assistance by solicitors on matters under the Children (Scotland) Act was almost unchanged at 5,681 grants. Spending was also almost unchanged at £0.5 million.

### Children's legal aid

The number of grants of legal aid by the courts under the Children (Scotland) Act 1995 increased by 9% compared to 2004-2005 to 3,986 grants, including two appeals (which are decided by the Board).

The total paid for legal aid for children rose by 29%, to £3.8 million. The main reason for the increase was more very expensive cases.

### Contempt of court

Grants by the courts for contempt of court proceedings increased by 32% to 300 grants and costs increased by 15% to £0.1 million.

# £4.2m

was the cost of children's legal assistance in 2005-2006.

# Protecting people's rights

Criminal legal assistance helps ensure someone accused of a crime can defend themselves and receive a fair trial.

## **Criminal legal assistance also serves the interests of justice.**

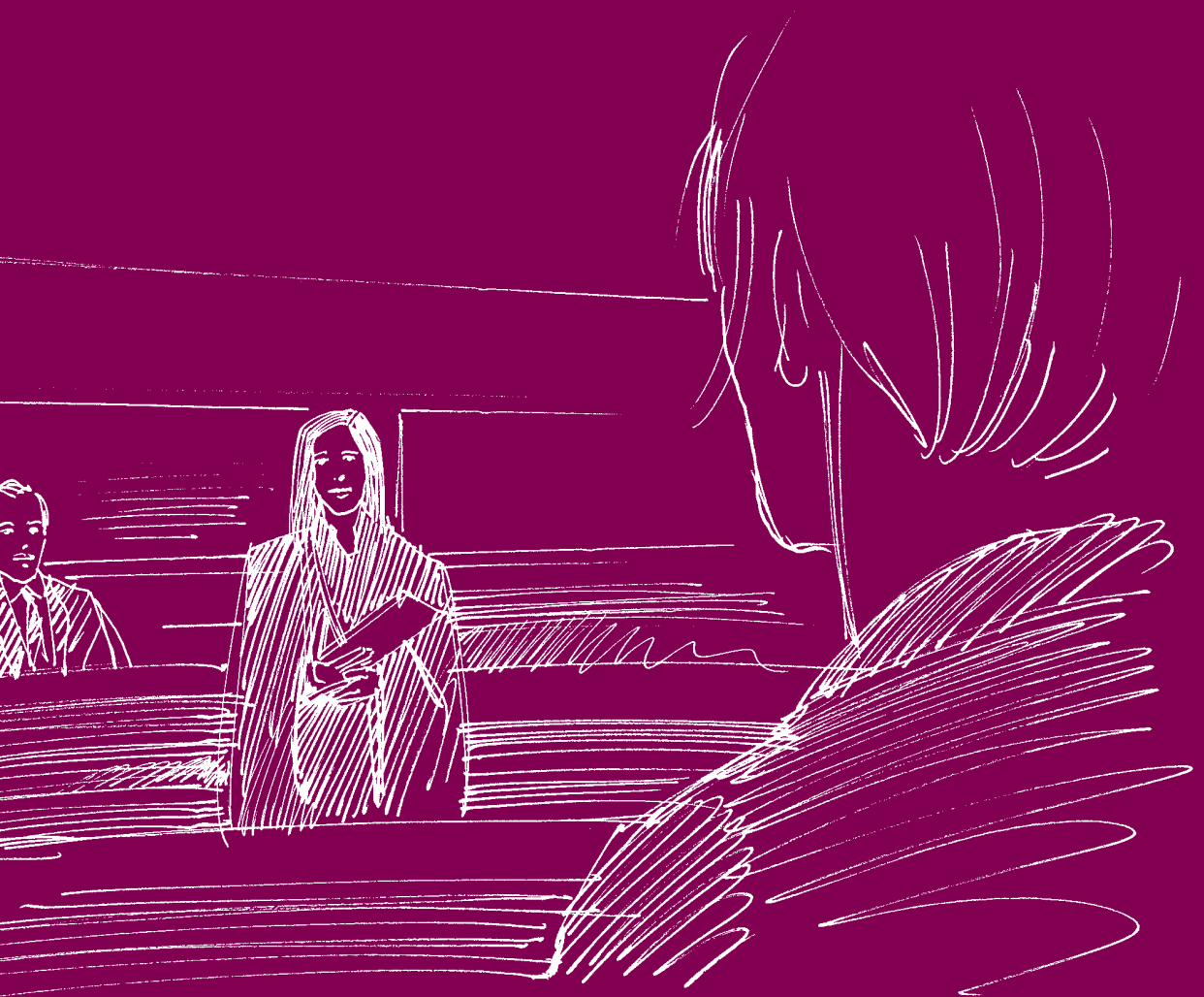
It ensures that the interests of the accused are protected as well as the interests of the criminal justice system, by reducing the potential for miscarriages of justice. People must also have confidence in the law and the legal system: legal assistance contributes by helping ensure “justice is both done and seen to be done.”

Criminal legal assistance also plays an important role in the efficiency of the whole criminal justice system.

We are working with the Scottish Executive and others on the modernisation of the criminal justice system, and the associated changes to legal aid.

We are also extending choice and a not-for-profit approach to criminal services through PDSO, the Public Defence Solicitors' Office.





**Criminal legal assistance:**  
Most legal assistance is  
for criminal cases: over  
270,000 grants this year.  
Most of our spending is on  
criminal cases: £104 million.

## CRIMINAL FIGURES

### 2005-2006

#### What are the key criminal figures?

There were 272,740 grants of criminal legal assistance in 2005-2006 – this includes advice and assistance and legal aid cases. This was 2% less than 2004-2005.

The cost of criminal cases fell by 5% to £104.0 million, ending the trend of increases over the previous five years. Among the reasons for the fall were fewer advice and assistance and summary criminal cases, Efficient Government savings and fewer very expensive cases.

#### Criminal advice and assistance and assistance by way of representation (ABWOR)

Solicitors made 5% fewer grants of advice and assistance and ABWOR in criminal cases than 2004-2005 with 145,208 grants. This continues the downwards trend for the last five years, bringing the reduction to 12%.

The cost of criminal advice and assistance and ABWOR fell by 9% to £11.8 million. Reasons for the fall include the lower numbers of grants and legislative changes made to improve efficiency and cost-effectiveness.

#### Criminal legal aid in summary cases

The number of applications to the Board for summary criminal legal aid fell by 0.4% to 85,916. This is the first reduction in application volumes for seven years and follows increases of 4% in each of the last three years.

The total number of summary criminal grants made by the Board and the courts was 80,051, a 1% reduction on 2004-2005.

Offensive weapons/vandalism/breach of the peace is the largest category of summary case, accounting for 28% of all summary criminal grants. Assault cases at 24% of all grants and theft, housebreaking and robbery at 17% are the next most frequent types of summary criminal legal aid grant.

#### Automatic legal aid

Automatic criminal legal aid is available for pilot specialist courts and other particular circumstances. In 2005-2006 there were 1,007 grants, almost double the total for 2004-2005. Most of the increase was because the number of grants for the Glasgow Domestic Abuse Court increased from 201 to 561 grants. There were also increases in grants at the Glasgow, Kirkcaldy and Dunfermline drug courts and the Hamilton and Airdrie Youth Courts.

#### How much summary criminal legal aid cost

The cost of summary criminal legal aid, including automatic legal aid, fell by 1% to £50.3 million in 2005-2006. This is the first reduction in costs since 2001-2002. The main reason for the fall is the lower number of cases.

Expenditure on summary criminal legal aid has increased by 20% over the past five years.

#### Criminal legal aid in solemn cases

The courts grant criminal legal aid in solemn cases, which are for the most serious crimes such as murder and rape. In 2005-2006 there was an 8% increase in the number of grants of solemn legal aid by the courts to 11,811 grants.

Assault is the largest category of solemn cases, accounting for more than one in three cases. Solemn assault cases increased by 15% compared to 2004-2005. The next largest category, drugs, which represents one in six solemn cases, increased by 13%.

# 8%

the increase in criminal solemn legal aid grants by the courts, and the fall in solemn expenditure.

### Costs of solemn criminal

The cost of solemn criminal legal aid was £36.1 million, a fall of 8% on 2004-2005. There are a number of reasons for the fall. First, under wider High Court reforms, some cases that were previously heard in the High Court, are now dealt with in the sheriff court, where the average cost of a case is lower. There were also fewer very expensive cases than in 2004-2005. Also, legislative and regulatory changes made under the Efficient Government initiative have reduced some areas of expenditure.

### Trends in solemn criminal legal aid

Over the last five years the number of grants by the courts for solemn criminal legal aid has increased by 19%, and expenditure is 26% more than five years ago.

### Appeals

There were 2,453 grants of criminal legal aid for appeals, 4% lower than 2004-2005, continuing the downward trend of recent years. The number of appeals has fallen 18% over the past five years. The cost of appeals was £3.9 million, a fall of 6% on 2004-2005.

### Duty solicitor

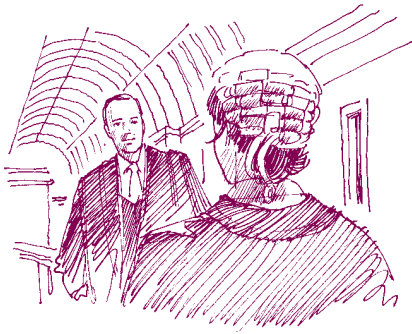
Anyone taken into custody (regardless of their financial circumstances) has the right to use the duty solicitor. A duty solicitor is available at every sheriff and district court in Scotland. He or she can represent accused people at their first appearances in court and, if they plead guilty, deal with any follow-up hearings until the end of the case.

Duty solicitors made 32,210 appearances for people on criminal matters, a fall of 2% compared to 2004-2005. Over the last five years the number of duty appearances has risen by 45%. The cost of the duty solicitor scheme increased by 6% to £1.0 million compared to 2004-2005.

### Amounts paid for criminal legal aid

Last year the amount paid for criminal legal aid work fell by 4% to £90.4 million. The amount paid to solicitors for criminal legal aid fell by 3%, to £72.5 million. Amounts paid to advocates and solicitor advocates fell by 10% to £12.6 million. Expenditure on outlays fell by 3% to £5.2 million.

Over the last five years payments made for criminal legal aid work has increased by 23%, a rise of £17.1 million. Payments made to solicitors rose by 19%, outlays increased by 34%, and payments to advocates and solicitor advocates payments have increased by 50%.



**The criminal justice system is being modernised and we are working with our partners on the associated changes to legal assistance.**

## DEVELOPING CRIMINAL LEGAL ASSISTANCE

### Reform of summary criminal legal assistance

The Scottish Executive is modernising the summary criminal justice system, and we are working with them and other justice system partners on developing these reforms and associated changes to summary criminal legal assistance. These build on our earlier consultation on the reform of summary criminal legal aid. Over the next year, we will continue this work and will develop detailed proposals for the reform of summary criminal legal assistance. There will be a full consultation on these proposals during 2007.

### Advocate and solicitor advocate fees reform

New fee tables were introduced in April 2005 for advocates and solicitor advocates in criminal cases. We worked closely with the Faculty of Advocates and the Scottish Executive on these to help support the reform of the High Court and to bring greater certainty and value for money in legal aid cases. We monitored the introduction of the new fee arrangements and, with the Scottish Executive and the Faculty of Advocates, developed changes to the tables for criminal cases and criminal appeal cases.

We also worked with the Faculty of Advocates to develop an outline quality assurance scheme, based on peer review, for advocates and solicitor advocates acting in criminal cases.

### Solicitors' solemn criminal fees reform

With the Scottish Executive and the Law Society of Scotland, we developed a new block fee payment structure for solicitors in solemn criminal legal aid cases. We have been conducting a costing exercise to inform Ministers' decisions on the rates that solicitors should be paid in the new structure. This takes account of the new court procedures introduced in solemn cases in 2005-2006. The new feeing arrangements are expected to be introduced in 2007.

With the Law Society of Scotland, we have been developing a peer review quality assurance scheme for criminal legal aid solicitors. It is expected to be introduced in 2007.

## GREATER CHOICE IN CRIMINAL DEFENCE

PDSO, the Public Defence Solicitors' Office, offers people greater choice of criminal defence services as they work alongside over 1,500 private sector criminal legal assistance solicitors. PDSO brings a holistic approach to dealing with clients who face criminal charges. PDSO also allows us to learn more about how the criminal justice system works and how legal aid interacts with it.

Each office comprises a team of experienced solicitors who are paid annual salaries rather than being paid on a case-by-case basis that private solicitors are, PDSO solicitors are governed by the same rules as private solicitors.

There are PDSOs based in Edinburgh, Glasgow and Inverness, with a growing caseload. Following the *Advice for All* consultation, Scottish Ministers announced their intention to expand the PDSO network. New offices will open in 2007.

### Facts and figures

In 2005-2006 the PDSO offices handled 1,743 cases, an increase of 11% on 2004-2005. This included 89 solemn cases, which was 65% more than 2004-2005. Over the last five years the number of more serious cases dealt with by PDSO has increased by 162%, and the overall number of cases has gone up by 46%.

Although handling more cases, the cost of running PDSO was £818,000, a fall of 2% on 2004-2005.

# 46%

the PDSO network dealt with more cases, 46% higher than three years ago.

**Achieving value for money:**  
Taxpayers want to know that every pound of public money invested in legal aid is spent properly and gives value for money.

### Best value and Efficient Government

Last year we worked closely with the Scottish Executive under their Modernising Government initiative to develop a programme of changes that aims to make savings in legal aid spending each year. The programme includes various legislative and regulatory changes to legal aid and changes to the way the justice system works, such as changes to the process for criminal cases in the High Court and sheriff court.

The Scottish Executive's planned legal aid efficiency savings are: £5.5 million in 2005-2006 rising to £12 million in 2007-2008. The target for 2005-2006 was exceeded, with savings of £5.7 million achieved.

We have introduced electronic systems for handling civil legal aid applications and improved document and case management. These systems as well as Legal Aid Online help us meet our service commitments to accuracy and timeliness and allow us to reduce staffing in administrative and processing roles.

We will continue to identify the scope for further savings and efficiency gains in administration including:

- simplification of financial eligibility calculations and integration of systems for collecting money from people who have to pay us in civil cases
- investigation of opportunities for joint working with other organisations

- introduction of scanning and intelligent forms processing
- integration of our applications registration areas, which is linked to our investment in the wider use of our document management technology
- improved environmental management.

### Minimising fraud and abuse of legal aid

Our assessment of legal aid cases relies on information from solicitors and applicants. It may be about the applicant's financial eligibility or in support of a solicitor's legal aid account. Where appropriate, we ask the solicitor or applicant for evidence to back up this information. We also seek third-party confirmation by contacting the courts, Department for Work and Pensions, Inland Revenue, banks and others. We analyse trends in our business, comparing solicitors' legal aid costs. In these ways, we aim to minimise the risk of fraud and abuse in legal aid. Where we have concerns, cases are passed to our investigation teams who deal with solicitor and applicant investigations.

During 2005-2006, we saved or recovered £1 million as a result of our solicitor and applicant investigations work. We also refused 90 applications, stopped legal aid in 100 cases, and reported 14 applicants to the procurator fiscal for suspected legal aid fraud.

Another part of our work is checking solicitors are registered and complying with the rules set out in law for undertaking legal aid work. If we have concerns about solicitors or advocates, we may make formal complaints to their regulatory bodies. We also have powers to stop solicitors or firms from doing criminal legal assistance work. In 2005-2006 we made complaints about two solicitors to the Law Society of Scotland. We stopped one firm and one solicitor from doing criminal legal assistance work.

We continue to seek further ways of minimising fraud and abuse of legal aid, including increasing our review and investigations resources.

# £1 million

was saved or recovered thanks to our solicitor and applicant investigations work.

# Towards a modern legal aid system:

Fundamental changes to how access to justice is provided lie ahead if the Scottish Parliament decides to approve new legislation on legal aid.

Development and improvement in legal aid services are also central to our work.

## LEGAL PROFESSION AND LEGAL AID BILL

Scottish Ministers have been looking at major changes to legal aid, advice and information services.

Their consultation *Advice for All* published in June 2005, set out how they intended to take forward the recommendations of the *Strategic Review on the Delivery of Legal Aid, Advice and Information*.

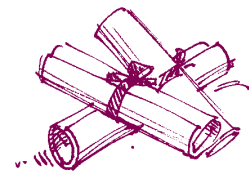
Having considered the consultation responses, Scottish Ministers decided that new legislation was needed to take forward their vision for legal aid and advice. The *Legal Profession and Legal Aid (Scotland) Bill* was introduced in the Scottish Parliament in March 2006. The key provisions in the Bill affecting legal aid are:

- granting of solemn legal aid to be transferred from the courts to the Board
- advisers other than lawyers will be able to provide advice and assistance, in addition to the current system where only solicitors can provide it
- agencies with advisers other than lawyers will be registered with the Board
- the Board will develop a Code of Practice that registered advisers and organisations must comply with
- the Board will be given powers to grant fund advice organisations.

If the Bill is passed, the Board will undertake substantial development work to implement the parts affecting legal assistance.

In addition, Scottish Ministers have identified proposals they also wish to take forward:

- expanding the PDSO network to provide criminal legal assistance services
- developing a network of Board employed solicitors to provide civil legal assistance where there are gaps in private sector provision
- developing tools and guidance to help the Board, local authorities and other funders of advice services to jointly plan provision and ensure that supply is matched more closely with need for advice
- establishing common ways of ensuring the quality of advice services provided by lawyers and other advisers in the private, public or voluntary sectors.



**Scottish Ministers introduced a Bill to the Scottish Parliament which will bring reform to legal aid.**

## PLANS TO FURTHER IMPROVE THE LEGAL AID SYSTEM

We are committed to modernising and continuing to improve the delivery of legal aid. The next three years will see a very substantial development programme for legal aid in Scotland, building on progress already made. Many developments underway by the Board will only be achieved through working with our partners to deliver improved services.

Our ambitious plans for the next three years are set out in our Corporate Plan 2006-2009. Among the key areas we expect to see in the coming year are:

- we intend to see a large proportion of legal aid transactions being made online
- the justice system and legal aid are undergoing significant reform and change, which are expected to result in the coming year to changes to civil advice and assistance, and civil and criminal legal aid

- continuing to reduce legal aid bureaucracy including a review to streamline all aspects of civil legal assistance
- opening further PDSO offices, and developing a network of civil solicitors employed by the Board
- continuing to develop new approaches to delivering legal advice – for example through our innovative advice projects with community-based organisations and by further developing our legal aid telephone helpline.

Central to our work is to ensure that the legal aid system continues to help give people greater opportunities to get access to more efficient, effective and quality assured legal aid services.



**Our ambitious plans for the future  
are set out in our Corporate Plan,  
available online at [www.slab.org.uk](http://www.slab.org.uk)**

## Want to know more?

Our website, [www.slabb.org.uk](http://www.slabb.org.uk), lets you download our Annual Report 2005-2006, which provides a more detailed commentary and gives tables of legal aid statistics and the audited accounts. You can also get details of payments made to the legal profession and our Corporate Plan 2006-2009.



# If you need legal help, you need our number

Legal aid could help you get the advice you need. Call us on **0845 122 8686** to find out more about legal aid, and if it could help you.

## Talk to us

Need more information about legal aid? Would you like a copy of our full Annual Report? Or simply want to tell us what you think about the legal aid system in Scotland? All you have to do is get in touch.

[www.slab.org.uk](http://www.slab.org.uk)

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