



## News release

Friday 17 December 2021

### Praise for legal profession as Covid-19 court closures cause sharp fall in payments

A year that began as the first Covid-19 court closures took hold ended by recording an unprecedented fall in legal aid payments.

The publication today of our annual report for 2020-21 shows that the total cost to the taxpayer of providing legal assistance was £99.1m, down from £130.9m in the previous year.

In some areas, the reduction in spend reflects a fall in the need for advice, but much of the reduction flows from the challenges in progressing cases through the courts.

This has had a clear knock on effect in the ability of solicitors to conclude cases and submit their accounts for payment. Despite some take up of enhanced interim payment arrangements, these shifts in timescales have clearly had a major impact on cash flow and placed pressure on the affected businesses.

The biggest impact of the downturn in court business was in Criminal Legal Assistance, with delays in progressing cases seeing in-year expenditure fall to £52m compared to £75.9m the previous year. All types of criminal payments were down but the drop was particularly significant in solemn work, which fell from £33.1m to £19.6m. This was despite a substantial underlying increase in the number of new solemn cases.

Civil Legal Assistance expenditure fell to £40.3m, down by £5.9m compared to the previous year, with a 7% fall in new family cases and a 31% fall in new non-family cases. The suspension of evictions has had a particular impact on demand for help with housing issues, while a six month deferral of guardianship renewal had a similar effect.

The cost of Children's Legal Assistance fell to £3.8m compared to £5.3m the previous year.

**Colin Lancaster, Chief Executive of the Scottish Legal Aid Board (SLAB), said:**

“The justice system has been hit hard by the impact of Covid-19 with aspects of court and tribunal business all but halted for several months and then gradually restarted on a restricted basis in line with public health restrictions.

“This has resulted in significant impacts not only on the people at the heart of the justice system, but also the organisations that keep the cogs of the system moving, and the legal professionals that deliver vital services through the legal aid schemes.

“But in a year that has been bleak in many ways there have been many positive examples of first-class service in the delivery of legal aid.

“Most importantly, the legal profession, including SLAB’s own solicitors, have continued to deliver frontline services throughout periods of heightened public health restrictions, ensuring that the justice system has continued to operate and those in need have had the chance of receiving the help the legal aid system is there to support.”

The pandemic-related fall in demand led to a reduction in both payments and the number of firms paid over the year due to a combination of an overall 20% reduction in new cases and delays in court cases progressing.

This meant that a substantial amount of the work expected to be paid for in 2020-21 was either not undertaken during that period (with much of it deferred into a later period), or undertaken but not billed or paid for.

Both effects have resulted in a timing issue that will see an increase in payments in the coming years as work is done, cases conclude, and accounts are paid.

Mr Lancaster said the closure of courts for all but essential business during the early months of the lockdown had contributed to a significant backlog of cases, particularly in criminal cases.

The Scottish Government allocated £9m in direct funding to legal aid solicitors in acknowledgement of the pressures faced by the legal profession. A further £1m was allocated to support firms in hiring new trainees for legal aid work.

“We have also been committed to working with the Scottish Government and the legal profession in developing measures to support the legal profession with their cash flow as new business levels fell and it became harder to progress cases to conclusion.

“This report gives more details on that work. We look forward to working with the Scottish Government and the legal profession on further legal aid reforms next year, including the next phase of work flowing from the Legal Aid Payment Advisory Panel’s report and the legal aid review.

“We fully support the advisory panel’s conclusions, including that fair and transparent remuneration for the services that solicitors provide is essential and that a clearer evidence base is needed to inform the development of the payment system and a process of regular ongoing review.”

The Scottish Government made a general uplift of 3% to all legal aid fees in 2019-20, a 5% increase for 2021-22 and commitment to a further 5% increase in 2022-23.

Mr Lancaster said SLAB’s job is to administer the current payment system - a detailed, resource intensive, and often frustrating process for both the organisation and the profession.

He said that while the Scottish Government develops its next steps on the legal aid review, SLAB would continue to identify changes in its own decision-making policies or processes that could improve the operation of the current legal aid system they are planning.

“In particular, wherever the regulations give us space to do so we aim to identify opportunities for policy or process changes that increase transparency in the operation of the legal aid schemes and simplify and, in some cases, potentially broaden access to them.”

The annual report and additional documents, including key statistics, are [available on our website](#).

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