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New legislation needed to ensure legal aid is a modern, responsive and targeted service

Reform is essential if the legal aid system is to continue providing vital and often life-changing support to thousands of people across Scotland each year.

Our annual report for 2022-23 published today shows the total cost of providing legal assistance increased by 14% on the previous year to £135 million.

The rise in expenditure was driven by the increase in cases paid combined with the impact of successive 5% increases in fee rates implemented in April 2021 and April 2022.

The number of civil legal aid cases paid increased by 9%, summary criminal legal aid by 15% and solemn criminal legal aid by 13%, a clear indicator of the work being done to reduce ‘covid backlogs’ across the justice system.

Colin Lancaster, Chief Executive of the Scottish Legal Aid Board (SLAB), said the legal aid system had continued to provide much-needed and often life-changing support to thousands of people across Scotland despite all that the last few years had thrown at it.

But he said reform was key to ensuring that legal aid fulfilled its potential to make a major contribution to the Scottish Government’s Vision for Justice and the improved outcomes it seeks.

Mr Lancaster said what was required was a collaborative approach to developing legislation to ensure the system is both sustainable and responsive to today’s needs.

“Legal aid is just one part of a rich but complex, and at times inconsistent, pattern of provision,” he said.

“There is no mechanism for connecting need, demand and supply, or of targeting resources at priority issues, or securing a consistent level of services in any given place or for a particular type of problem.”

Mr Lancaster said SLAB was keen to play its part alongside the Scottish Government, the legal profession, and other stakeholders in shaping a legal aid system that is better able to respond to current and future patterns of demand and the public’s justified expectations of a modern, accessible service.

“It would be truly remarkable if a system designed over 70 years ago was able to respond effectively to the range of problems we see today or encompass what we

have learned about patterns of need, user focus, and trauma-informed joined up models of service delivery,” he said.

“That kind of change needs new primary legislation, and I am hopeful that will be forthcoming soon.”

The annual report sets out the wide range of activity delivered in 2022-23 in pursuit of our corporate objectives. These aim to improve our service, support and develop our staff, and ensure that the legal aid system operates as well as it can within its current statutory framework.

Mr Lancaster said that one of the challenges to be addressed in any redesign of the legal aid system was to ensure that legal aid delivery remains a sustainable commercial prospect for private sector providers.

Continued discontent with legal aid remuneration from sections of the legal profession resulted in more disruption during the year, both for those in need of help and the wider justice system.

The dispute ended because of a range of fee reforms and a further 10.2% uplift in fees that built on fee increases in 2019, 2021 and 2022, bringing the total increase since 2019 to over 25%.

Mr Lancaster highlighted the evidence sent by the Minister to the Scottish Parliament’s Criminal Justice Committee during the year. This included evidence about the history of fee negotiations, the clear links between trends in crime, court business, legal aid expenditure and the numbers of solicitors conducting legal aid work, and the challenges in recruitment and retention reported by the legal profession.

“This type of evidence does not get enough exposure, and without it the important debate about what is actually a very complex and nuanced series of interconnected issues - many of which also affect the wider legal profession and indeed other sectors altogether - can be over-simplified,” said Mr Lancaster.

“Important though it undoubtedly is, remuneration is not the only issue worthy of attention, and nor is it the root cause of or solution to every other issue.”

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

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