

Exploring current legal aid funding tools



Scottish
Legal
Aid
Board

Background Legal Aid Reform



- We all recognise that change is needed — this isn't about defending the status quo or promoting a single model
- Scottish Government has committed to change and has asked us to provide advice
- This work is not theoretical. There is a real opportunity to identify and recommend areas for action
- Scottish Government ultimately owns decisions on Legal Aid Reform; our role is to shape options and build the evidence base

Where this sits within Legal Aid Reform



- Reform is not a single project or intervention
- Primary legislation is a major lever, but not the only one
- We are exploring every feasible path to improvement:
 - Legislative change
 - Operational change
 - Practical testing
- The aim is to understand what can be improved now while preparing for longer-term change

Purpose of exploring current funding methods



- Build a shared understanding of how different legal aid funding methods are used in practice
- Explore the possibilities and advantages of mixing or combining funding tools to support different types of work and organisational goals
- How funding methods operate and where they offer flexibility
- How flexible current legal aid funding tools are and how existing flexibility could be used to improve them

Aims of exploring current funding tools



- Deepen our understanding of how different funding tools – under legal aid – work in practice
- Explore new possibilities and advantages around using some of these tools individually or in combination
- Explore the strategic value of using a mix of tools
- Identifying opportunities to improve how funding tools can be used so they better meet our needs

Aims of exploring current funding tools



Why this matters

- Helps identify where more flexible use of current funding models could support improvements
- Highlights opportunities to test or trial potential changes to better meet business and client needs

What are the current funding tools under legal aid?



- Judicare
- Grant funding
- Direct Employment (CLAO, PDSO)
- Contracts (unused)
- Advice & Assistance for advice organisations (unused)

What are the current funding tools under legal aid?



Characteristics	Judicare	Grant funding
Availability of funding	Funding expenditure is uncapped	Funding expenditure is capped. Purpose, period of funding, and upper limit of expenditure from the Legal Aid Fund must be approved by Ministers
Provider ability to access this funding method	Narrow – solicitors and counsel only (other than outlays)	Broad - can encompass many potential providers – including but not limited to lay advice sector, law centres, private firms of solicitors, local authorities, housing associations
Scope of funding	Scope of funding provisions is: Wide in terms of subject matter scope – though varies by aid type Narrow regarding range of work – covers casework only	Scope of funding provisions is wide: subject matter scope – can be for subjects outwith judicare scope range of work – encompasses casework plus development/testing of new methods of working, outreach, infrastructure, facilitative purposes (for example training), partnership and referral, piloting of new methods of delivery

Characteristics	Judicare	Grant funding
Access requirements	Providers must be registered to deliver legal aid, with only limited conditions attached. Once registered, solicitors choose which judicare-funded cases to take, with no obligations regarding type, volume, range, or geographic scope of work, and no limits on how much work they can do. Funding is granted per individual case under a statutory scheme.	Providers apply for funding by demonstrating the skills and capability needed to deliver the outcomes of a specific programme. If approved, they receive funding under a formal project agreement with terms and conditions tailored to that funding.
Balance of responsibilities	Each case requires its own eligibility tests by both the solicitor and SLAB. All providers face identical conditions and reporting, with no risk-based variation. Reporting is done per work item, with approvals needed at multiple stages of each case.	Conditions and reporting can be tailored to each funding programme, including risk-based variation. Project managers oversee delivery within scope and ensure compliance with all terms and conditions.
Payment model	Payment is made on individual case basis. Vouching required on individual case basis	Payments are made periodically—often quarterly—on submission of performance and financial reports. Programme budgets are set at the outset and cover overheads, staff costs, and any relevant case costs

What are the capabilities of each funding method?



Judicare:

→ flexible, demand-responsive, central, but dependent on demand and capacity

Grants:

→ adaptable, structured, can shape activity, support strategic/preventative work

Strategic themes



Targeted and committed delivery	Testing and adapting to change	Innovation and bespoke delivery
Funding for employment of a solicitor based in a law centre to provide help for unrepresented parties at Sheriff Court	Funding to test how debt advice can be delivered to families of people in prison. Grants for partnership work between support services working in prisons and advice agencies. Provision of preventative debt and financial inclusion advice to prisoner families	Partnership services testing how to overcome barriers for people with a disability to access debt advice by identifying barriers to advice due to their specific needs
Funding for legal help in a support organisation to provide initial legal support and information.	Testing of advice given by a solicitor employed by a private firm for working in a Women's Aid centre	Investment in service provision – grant funded a restructure and redesign of service provision to establish an online support system
		Investment in technology and infrastructure to support service delivery

Mixed Model Funding



Judicare Alone Cannot Deliver Strategic Objectives

- Judicare is a central and essential funding tool, but it is not designed to meet both strategic and operational needs on its own.
- No single legal aid funding mechanism can achieve the full range of outcomes required.

Legal Aid as a Toolbox

- Workshops highlighted the need to view legal aid not as one model, but as a toolbox of funding mechanisms.
- Different tools and provider–funder relationships can be intentionally combined to meet diverse needs.

Strengths and Limitations



Judicare

- Flexible; supports provider autonomy in choosing work
- Involves provider–funder interaction, which participants accept due to benefits such as quality monitoring
- Essential for filling service gaps that grant funding cannot cover

Grant Funding

- Strategic and proactive, unlike judicare’s reactive nature
- Notional legal aid viewed positively: checks sit with providers under the grant agreement, offering more flexibility

Mixed Model



- Blending tools already helps deliver strategic aims
- Enables targeted reach and committed service delivery
- Allows providers to play to their strengths and unbundle services
- Supports agility in responding to changing operating contexts
- Encourages innovation and modernisation of service delivery
- Maximises impact and efficiency through complementary use of tools

Mixed funding isn't a workaround — it's a strategic tool in itself

Next steps



Designing Intentional Combinations of Funding Tools

- We need to purposefully combine funding tools to:
 - Increase impact and modernise service delivery
 - Build flexibility to respond to changing needs
 - Maximise the strengths each tool offers

Key Areas for Exploration

- Explore what a balanced, strategic mix looks like in practice
- Identify additional tools or adjustments needed to meet strategic objectives that neither judicare nor grant funding can deliver alone

Keeping the Momentum Going

- Building on progress we've been making together to drive meaningful and lasting change
- Continue the conversation and explore new possibilities together

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