



# Annual Report 2012 - 2013

The Scottish Legal Aid Board

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SG/2013/155. Laid before the Scottish Parliament by the Scottish Ministers in pursuance of section 5(7)(a) of the Legal Aid (Scotland) Act 1986 and section 22(5) of the Public Finance and Accountability (Scotland) Act 2000, September 2013. The Scottish Legal Aid Board's Statement of Accounts (SG/2013/156) is the Board's Annual Report and Accounts in accordance with the Government Financial Reporting Manual.

# Chairman's Foreword

We can be proud that in Scotland we have a legal aid system that is well managed, broad in scope and eligibility, and well respected the world over.

Legal aid has continued to deliver an important service up and down the country to people with legal issues and it can deliver life changing assistance to people in need. We worked hard again in 2012-13 to assist the Scottish Government in protecting this public service during the most severe challenges for public expenditure in a generation.

We have continued to work on the delivery of savings in legal aid expenditure in line with the Scottish Government's 'A Sustainable Future for Legal Aid' strategy. At the end of 2012-13, our work with the Scottish Government delivered more than £18 million of savings, up from £12 million the previous year.

However, although we expect to see another £21 million of savings delivered in 2013-14 from the first three savings packages, the Scottish Government still faces a significant gap between its allocation for legal aid and our forecast of expenditure.

2012-13 was defined by our delivery of major reform and development of legal aid. We worked with the Scottish Government and others to develop a system of contributions in criminal legal aid. Legislation that gave effect to these changes was passed by the Scottish Parliament in January 2013. We are now putting in place the relevant processes and procedures in time for implementation.

In addition to contributions in criminal legal aid, we carried out a significant amount of work to prepare for the changes to the children's hearings system that were implemented in June 2013. This is a major change to the way that legal aid and the justice system in Scotland operate and required development of regulations, a code of practice for solicitors, a quality assurance scheme, a solicitor registration scheme and development of our applications and accounts systems.

The amount of development to be delivered within the year would have placed significant pressures on our resources in its own right. However, we also had to deal with the continuing high demand for civil legal aid. We have now seen four consecutive years where initial applications for civil legal aid have been in excess of 20,000.

Our successful grant funding programme was given a further boost when we were asked by the Scottish Government and the Money Advice Service to run a new grant funding programme in addition to our current programme. Scottish Ministers announced that we would be managing £7.45 million of grant

funding through the Making Advice Work programme up to March 2015. This funding will be directed at projects that will tackle barriers in accessing advice, provide advice for tenants of social landlords and help people successfully make the transition to the new benefits system.

This is not only evidence of our proven track record in delivering work of this nature but our very important wider role in enabling access to justice and improving the justice system through the use of preventative spending measures.

The pressure on legal aid expenditure continues. The size of the gap between the Scottish Government's allocation for legal aid expenditure and our forecast expenditure is such that significant levels of further savings measures are required. This will require continued close working between us, the Scottish Government and the legal profession.

I was glad to welcome Ros Micklem, Rani Dhir, Vincent McGovern and Derek Ogg QC as board members in October 2012. I am sure they will make a valuable contribution and I would like to thank all our board members who played a valuable role in the organisation's work in 2012-13.

I would like to thank all our staff so ably led by our Chief Executive, Lindsay Montgomery CBE, for maintaining such a high quality service through a period of significant change to legal aid. The amount, and complexity, of work that has been delivered, often above the call of duty, is to be commended. My thanks also go to our sponsoring department at the Scottish Government.



Iain A Robertson CBE

Chairman of the Scottish Legal Aid Board

# Chief Executive's Overview of the Year

I reported last year that legal aid in Scotland is facing one of its most challenging periods ever. That challenge shows no signs of dissipating and the situation with public expenditure generally means that the challenge will increase further.

Criminal and civil legal aid are facing different challenges. On criminal legal aid, the level of criminal cases being pursued through the courts has been falling for some time. This has resulted in less legal aid work for firms and reduced income for some. However, the numbers of firms and solicitors registered to carry out criminal legal assistance are still at high levels and are 3% and 4% greater respectively than in 2009.

The situation regarding demand for civil legal assistance is very different. The high levels of demand for civil legal aid seem unrelenting and continue to increase. In the early 2000s we were receiving levels of applications for civil legal aid around the 15,000 mark. In 2012-13 we received nearly 21,000 applications. This was the fourth consecutive year of receipts in excess of 20,000.

We are fortunate in Scotland to have a Legal Aid Fund that is demand led and not cash limited. The key challenge for us and the Scottish Government is how to make legal aid expenditure sustainable while maintaining access to justice for those that need it. The Scottish Government is committed to maintaining legal aid's non cash limited status but significant savings need to be made in order to try to bridge the gap between predicted levels of expenditure and the Scottish Government's provision for legal aid. That gap is currently estimated to be £11 million and £12 million in 2013-14 and 2014-15 respectively.

## Cost of legal aid in 2012-13

On a cash basis, expenditure on the Legal Aid Fund in 2012-13 was £150.2 million. This was £7.4 million (4.7%) less than the previous year. Key points on expenditure are:

- Net expenditure on civil legal assistance fell by 9.1% to £49.0 million.
- Expenditure on grant funded projects was £2.2 million.
- Expenditure on criminal legal assistance fell 3.7% to £94.8 million.
- Children's legal assistance cost £5.4 million, up 10%.
- In criminal legal aid the cost of counsel increased by 8% to £15.9 million.
- Solemn criminal legal aid saw an increase in monitored high cost cases from £4.0 million to £6.4 million.

A key reason for the fall in net expenditure on civil legal aid was a 39% reduction to £6.2 million in the cost of counsel. The cost of counsel in 2011-12 was artificially high at £10.2 million due to an increase in counsels' accounts paid in the first half of that year as a result of changes to feeing arrangements. Other contributing factors were a £3.5 million reduction in expenditure for reparation cases and also savings measures focussed on civil legal assistance.

Despite the above factors, net expenditure on civil legal assistance has risen by over £6 million since 2008-09 and the average cost of a civil legal aid case is now around £2,800 which is 13% higher than 2008-09. We are forecasting net expenditure on civil legal assistance to increase by around £3 million between now and 2016-17.

Expenditure on criminal legal assistance has fallen by around £8 million (8%) since 2008-09.

Overall, the total cost of legal assistance is around the same as it was in 2008-09.

## Legal aid savings

In the early part of 2011 the Scottish Government and the Board worked together to develop a series of legal aid savings measures designed to reduce legal aid expenditure whilst maintaining access to justice. This was a response to the substantial squeeze on public expenditure following the 2010 Scottish Budget.

This package of savings is estimated to have saved in excess of £18 million during 2012-13, up from around £12 million in 2011-12. We have continued to work with the Scottish Government and the Law Society of Scotland on further savings packages in the context of the Scottish Government's 'A Sustainable Future for Legal Aid'. A number of these measures, including client contributions in criminal legal aid are planned to be implemented during 2013-14 and 2014-15.

## Providing value for money - Administration of legal aid

The effective administration of legal aid at a time when the Scottish Government's capped funding for our running costs is falling continues to present a major challenge. Our administrative cash funding reduced by a further £0.4 million in 2012-13 to £12 million following a £1.1 million reduction the previous year. This has been a particular challenge due to a range of factors.

We have seen a continuing high demand for civil legal aid. Initial applications for civil legal aid were over 20,000 for the fourth consecutive year.

Initial applications for legal aid are only part of the challenge. Only 35% of all types of civil legal aid application we receive are initial applications. The rest include post grant applications such as a request from a solicitor to use an advocate in a case, or applications for special urgency work. Receipts of all types of civil legal aid application increased by 12% in 2012-13. The total number of often complex decisions the organisation has to make in civil legal aid are the highest it has ever been and is now 56% higher than in 2007-08.

For our staff to successfully meet our performance targets on timeliness and accuracy of our decision making has been a significant achievement.

Our workload was also particularly challenging in 2012-13 for a number of other reasons, including:

- The large amount of work associated with the legislation introducing contributions in criminal legal aid.
- With the Scottish Government, and in consultation with a number of stakeholders, we prepared for the commencement of the Children's Hearings (Scotland) Act 2011 in June 2013, which introduces major changes to the legal aid and children's hearings systems. Again, this dominated our senior resources.
- Our work to better control expenditure in civil legal aid cases as they progress led to a doubling to nearly 11,000 of the number of stage reports that we had to consider.
- We spent over £2 million of grant funding, an increase on 2011-12, as a result of funds from both the Scottish Government and Money Advice Service. We also prepared to manage an increase in the total grant funding that we are responsible for managing from April 2013.
- Further substantial development on legal aid savings packages.

The Scottish Government's provision for our running costs is planned to fall by a further £0.5 million in each of 2013-14 and 2014-15. Our grant in aid for 2013-14 is 26% lower, in real terms, when compared to 2007-08. This comes during a period when we will see substantial further increases in our workloads, including the collection of contributions in the most serious criminal cases and large numbers of applications under the new children's hearings provisions.

In order to deal with our reduced running costs we will continue to find efficiency measures delivered predominantly through our digital strategy and consequent reductions in staff numbers. We will also

continue our programme of best value reviews looking closely at all areas of legal aid and its administration.

At the end of 2012-13 our staff numbers were 12% lower than in 2009-10, despite our range of responsibilities being greater.

## Legal aid reform

Changes to children's hearings as a result of the Children's Hearings (Scotland) Act 2011 and the introduction of criminal contributions through the Scottish Civil Justice Council and Criminal Legal Assistance (Scotland) Act 2013 meant that we had to deal with two major pieces of legal aid development in one year.

As a means to deliver savings, the Scottish Government introduced draft legislation that will result in some applicants contributing to the cost of their criminal legal aid. This involved significant amounts of policy and regulatory work, detailed financial modelling and impact assessment, devising a scheme of eligibility and difficult communication and stakeholder negotiations. The Law Society of Scotland accepted the Scottish Government's proposals.

Some private solicitors objected to the proposal that they collect the contributions in the less serious cases (likely to be on average around 10% of cases they deal with). As a result, some solicitors took disruptive action in the courts by refusing to represent their own custody clients on a number of days in November and December. This took place in a number of locations, including Edinburgh, Glasgow, Dundee, Fife, Paisley, Hamilton and Aberdeen. This caused some limited disruption, with some instances of clients remaining in custody for another day so that they could receive representation from their own named solicitor.

The Children's Hearings (Scotland) Act 2011 provides for children's legal aid and ABWOR to be made available for the first time in connection with children's hearings in prescribed circumstances. It also transferred the responsibility for granting legal aid in respect of court proceedings in connection with children's hearings from the courts to us. It provides for the registration and quality assurance of solicitors providing children's legal assistance. This is a considerable additional responsibility. We could be dealing with an additional number of applications in excess of 20,000 a year and we expect this to increase the cost of legal aid by around £3 million from 2014-15.

We carried out a significant amount of work during the year in preparation for changes to children's hearings being commenced in June 2013.

Key achievements included: working with the Scottish Government to develop regulations, a code of practice for solicitors and quality assurance scheme, a solicitor registration scheme and development of our internal systems and processes to deal with the anticipated number of applications.

## Enabling access to justice

### *Applications and grants for legal aid*

We dealt with around 400,000 applications across civil, criminal and children's legal assistance, including legal aid applications, requests for increases in expenditure and requests for the use of counsel or experts. This enabled those that were eligible to get help or funding for their case.

We cannot make decisions on whether to grant legal aid based on the response of the public, or the media, to the circumstances of a case.

The legal aid legislation, passed by the Scottish Parliament, sets out the tests that we must apply in order to assess if somebody is eligible for legal aid. For civil legal aid we assess whether there is a legal basis to the case and whether it is reasonable to grant legal aid, in addition to financial eligibility. For criminal legal aid we determine the 'interests of justice' test as well as financial eligibility. In the most serious criminal cases there is a financial eligibility test only. These decisions can be subject to Judicial Review.

Legal aid helped large numbers of people, often vulnerable, get access to justice in 2012-13. For example, we made 200 grants for people to adopt a child and over 500 grants for people to pursue interdict and non-harassment actions.

Initial applications for civil legal aid increased by 3.5% to 20,720. The trend is still upwards.

Civil legal aid involving contact and parentage issues increased 12% in 2012-13 and now accounts for over a quarter of all grants of civil legal aid. We are working with the Scottish Government to consider ways of controlling legal aid expenditure on family cases while maintaining access to justice.

Grants for adults with incapacity cases increased by 6%, the fifth consecutive annual increase and now account for one fifth of all civil legal aid grants.

The economic downturn continues to have an effect on demand for legal assistance, with applications for civil legal aid in housing and recovery of heritable property cases increasing by 31%. Reforms of the UK benefits system have resulted in demand for civil advice and assistance for benefits reviews and appeals increasing by 30%.

Total grants of criminal legal assistance decreased by 12.5%. Total grants of children's legal assistance increased by 3.2%.

### *Numbers of firms and solicitors providing legal aid*

The number of firms and solicitors registered to provide legal aid work continues to be high.

At the end of 2012-13 there were 674 firms registered to carry out civil legal assistance, which is the highest number since 2007.

There were 584 firms and 1,419 solicitors registered to provide criminal legal assistance. This is around 16 more firms and 60 more solicitors than at the same point three years ago. This increase is at a time of reducing volumes of cases going through the criminal courts.

### *Targeted advice services*

After detailed discussions between SLAB, Money Advice Service and others, the Scottish Government announced in March 2013 that £7.45 million of grant funding was to be made available through a new *Making Advice Work* programme and managed by SLAB over an 18 month period. This was in addition to the £7m that was made available by the Scottish Government and MAS which we are administering between 2012 and 2015.

The Making Advice Work programme will bring together £5.1 million of Scottish Government funding with a further £2.35 million being allocated by the Money Advice Service as part of its debt advice funding partnership. This has enabled us to establish a new grants programme to support people across Scotland who are affected by welfare reform and debt-related problems. We expect offers of grant funding to be made to a wider range of organisations in September 2013.

This means that we will be administering over £14 million of grant funding between 2012 and 2015.

## Our wider role in the justice system

Our role goes wider than just legal aid. We are concerned with improving access to justice and encouraging preventative spending. We have a statutory duty to monitor the availability and accessibility of legal services across Scotland. This covers all types of legal services, not just those we fund. In addition, through our lead role in the Scottish Government's Making Justice Work project we are exploring how there can be better early diagnosis, avoidance, prevention of escalation and resolution of civil problems and disputes.

We also carried out detailed work into the landscape of publicly funded legal services in Scotland and the availability and use of alternative dispute mechanisms such as mediation.

We chair the Access to Justice Reference Group, which is made up of stakeholders from across the justice and advice sectors. The group has a dual function. It assists us in discharging our duty to monitor the availability and accessibility of legal services but also provides valuable stakeholder input into the Making Justice Work project on enabling access to justice for which the Board is jointly responsible.

We published our first report to Ministers on the availability and accessibility of legal services in November 2012. Our analysis showed that there is no clear evidence suggesting systemic access problems for those areas where data was available. For the initial report, we looked in depth at employment tribunal cases, contentious welfare benefits issues and aspects of contentious family law.

## Police Station Advice

We have just seen the second anniversary of the introduction of the Police Station Duty Scheme and our Solicitor Contact Line. The Solicitor Contact Line has gained a positive reputation with the Police and private solicitors. Many solicitors value the service the Solicitor Contact Line provides and are happy that our employed solicitors provide advice to their clients when they are not able to do so themselves.

In this second year, we saw increases in the number of calls from police stations about suspects who were seeking legal advice. There was also an increase in the number of cases where telephone advice was given by solicitors from the Solicitor Contact Line and an increase in the number of suspects who required a personal attendance.

In December 2012, three local faculties decided to change their approach to the dispute on criminal contributions by targeting the Police Station Duty Scheme. Edinburgh, Elgin and Dunfermline faculties advised us that their members were resigning from the Police Station Duty plans. They have since come back on to the plans.

## Simplifying and digitising legal aid

Following the success of our full transition from paper to online applications, we have continued to progress the transition to paperless legal aid accounts processes. Nine account types are now fully online and at the end of 2012-13 around 85% of firms were using the online system to submit some or all of their accounts. From April 2012 we also stopped sending out paper remittance advices which provide a breakdown of firms' payments. These are now done electronically.

We have also carried out a significant amount of development work to allow third party access to the system, e.g. law accountants. The aim is to pilot this from late 2013.

Our intention is to make all accounts products available online by March 2014 and to remove the option to submit new paper accounts from October 2014.

## Our performance

Our key performance targets are agreed each year by Scottish Ministers. With the move to wholly online applications in 2011-12 we adopted single timeliness processing targets rather than separate targets for online and paper transactions.

The single targets represented a significant improvement on the previous paper targets.

Continuing the trend of recent years, in 2012-13 we made a number of our existing targets tougher, either by shortening the timescales within which we aim to process applications (our service standards), or by increasing the percentage of cases in which we aim to meet our service standard, or both.

We met or exceeded all our headline indicators in 2012-13.

We will carry out a major review of our KPI targets in 2013-14.

We processed applications for summary criminal cases in an average of 1.1 working days and for solemn criminal cases in an average of one working day. It took an average of one working day to process requests for solicitors to employ counsel or an expert in criminal cases.

On civil legal assistance we processed applications for civil legal aid in an average of 22 working days. These are more complex to assess than criminal legal aid applications, and this timescale includes the period that an opponent can make representations about an application for legal aid (14 or 28 days).

Processing times for civil legal aid have remained challenging due to sustained high volumes of applications - high volumes of initial applications result in higher volumes of associated work which we need to consider and make decisions about.

We took an average of three days to process requests for solicitors to employ counsel or experts in civil cases.

We are committed to paying accounts within the targets agreed by Scottish Ministers and we achieved this in 2012-13.

## Working together in the interests of legal aid and the justice system

Joint working and planning within the justice system in Scotland has come on leaps and bounds in the last few years.

A more holistic approach to reforming and managing the justice system in Scotland is now well established. We have continued to work closely with justice partners to reform the justice system - increased efficiency in the justice system means reduced costs for legal aid.

A Justice Strategy for Scotland<sup>1</sup> was agreed by Scottish Ministers and published in September 2012. This sets out key aims for the justice system to contribute to a fairer and safer society.

There are four major change management programmes for justice, one of which is the Making Justice Work Programme. This is a range of projects aimed at improving the efficiency of the justice system and we are involved in all projects and lead on some. The Justice Board oversees progress against the four change programmes and consists of senior members of the key justice agencies<sup>2</sup>.

The Scottish Civil Justice Council came into being in 2013 and will play a key role in modernising the civil justice system. I am a member of the Council.

We much welcomed the input into a number of issues from both the Law Society's criminal and civil legal aid teams in 2012-13. Although sometimes challenging, this joint work led to positive changes being made, such as the introduction of a £3,000 cap on reporters' fees from 18 February 2013.

## Equalities

This organisation takes equalities issues very seriously. As part of our equality duty, we published in April 2013 a report on Equalities Mainstreaming and Equality Outcomes<sup>3</sup>.

The report outlines the wide range of work we have done to ensure that we comply with the general and specific equality duties. This is in relation to both our staff and our service users. The report also describes our Human Resource data, and how we have analysed this in relation to equal pay.

Our new equality outcomes are based on the evidence we have collected and on feedback from our staff and various representative bodies. We believe they will challenge us positively in the right areas, and with continued planning we believe they are achievable and will make a real difference.

## The challenge ahead

Substantial further reform of the justice system in Scotland is planned and this will impact on legal aid. In addition, further changes in legal aid will be required to make it as cost effective as possible.

The key challenge for everyone with an interest in legal aid is to deliver this reform in a way that maintains access to justice and avoids the sort of drastic measures to limit scope that we have seen in other jurisdictions. Legal aid is the same as any other public service - it must deliver value for money while being able to adapt to the changing needs of those it serves and the surrounding landscape.

Our thanks go, as always, to the solicitors, counsel and others who deliver publicly funded legal assistance. This includes those in private practice, those employed by us or those that work for not-for-profit organisations. Scotland is regarded internationally as having one of the best legal aid systems in the world which allows large numbers of people to access justice.



Lindsay Montgomery CBE

Chief Executive

<sup>1</sup> <http://www.scotland.gov.uk/Publications/2012/09/5924>

<sup>2</sup> SG, COPFS, SLAB, SCS, SPS, STS and Police Scotland

<sup>3</sup> <http://www.slab.org.uk/about-us/equalities/>

# Facts and figures on legal aid in 2012-2013

Detailed statistics will be published on [www.slabb.org.uk](http://www.slabb.org.uk).

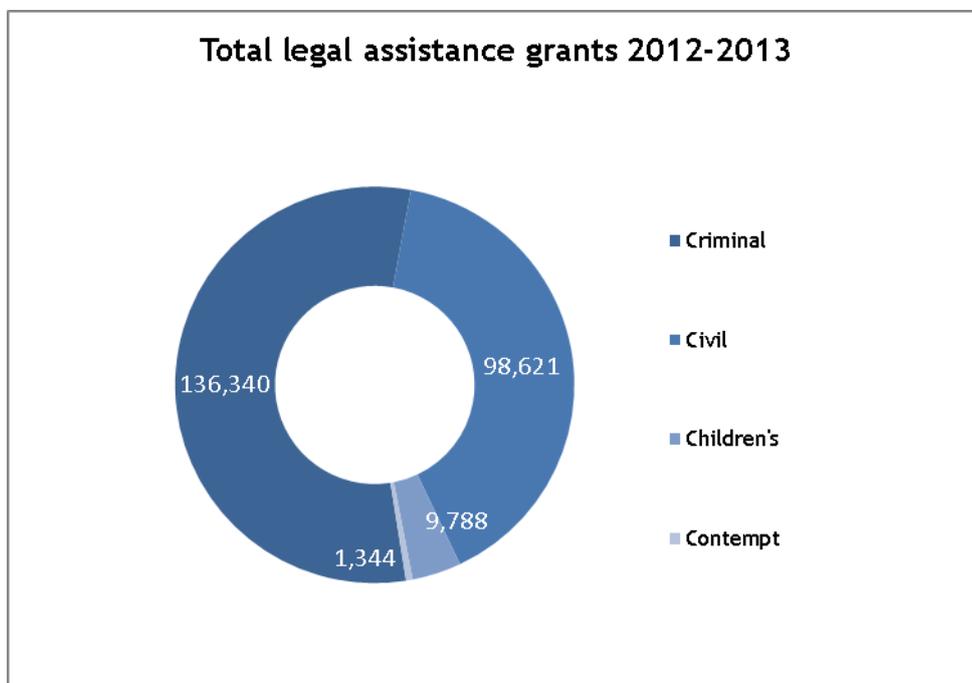
We publish figures on legal aid expenditure in our Annual Report and our Statement of Accounts. The figures may differ for a number of reasons.

The expenditure figures in this Annual Report show the actual picture of legal aid expenditure in 2012-13. The figures show the actual cash paid from the Legal Aid Fund in the financial year. The amount of income actually received in contributions and expenses from assisted persons in civil cases is then deducted.

The expenditure figures in our Statement of Accounts include the cash payments made in 2012-13 but they also include an adjustment for a 'work in progress' provision. This estimates the amount of work carried out but not yet invoiced at the financial year end.

The accounts also include a number of other non cash adjustments to comply with financial reporting requirements. The income figures in the Statement of Accounts are based on the amount of income that the Board is entitled to receive, not the actual amount of cash that has been received.

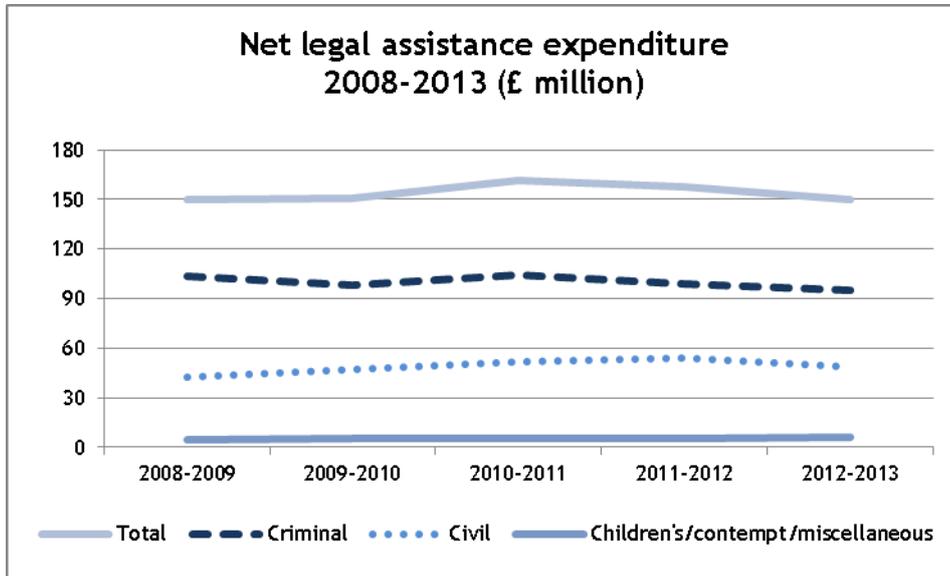
## Total legal assistance<sup>4</sup> grants in 2012-2013



<sup>4</sup>Legal Assistance covers advice and assistance and legal aid.

The total number of grants of legal assistance in 2012-13 reduced by 6% to 246,093.

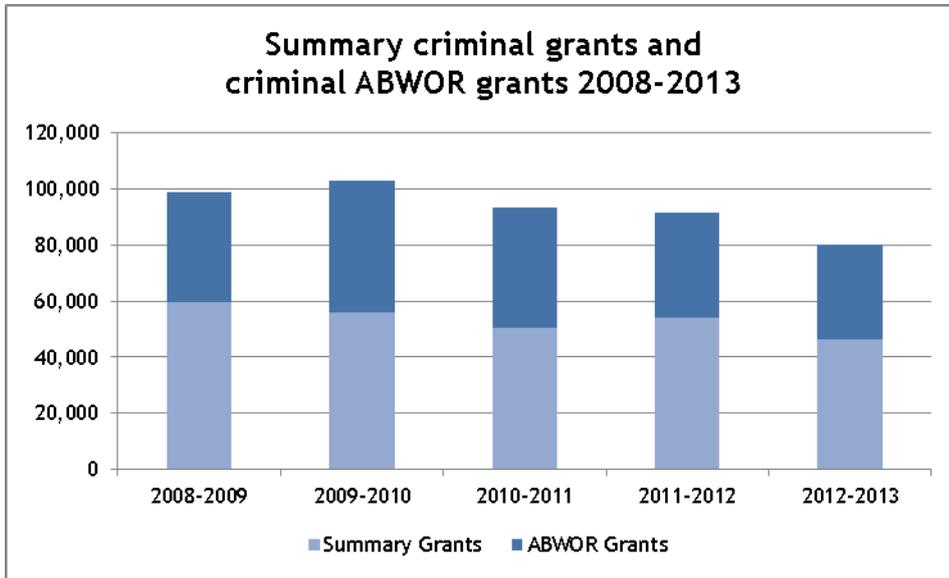
## Net total legal assistance expenditure in 2012-2013



The total net expenditure from the Legal Aid Fund in 2012-13 was £150.2 million, a decrease of £7.4 million (4.7%) on the previous year. This has been caused primarily by the legal aid savings measures introduced by the Scottish Government and the Board, falling levels of business through the criminal courts and a reduction in the cost of payments to counsel in civil legal aid cases (which were exceptionally high in the previous year).

# Criminal Legal Assistance

## Grants of criminal legal assistance



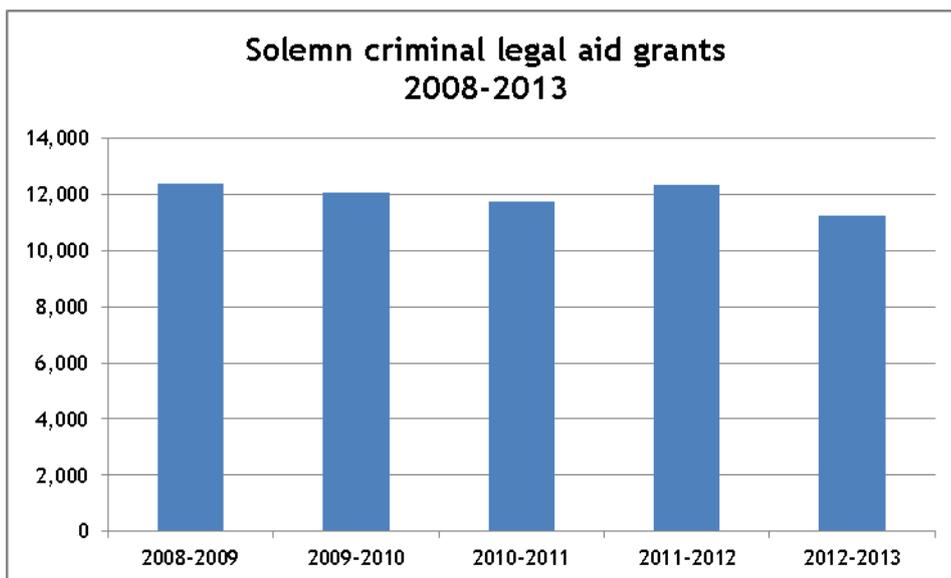
<sup>5</sup>ABWOR is a form of advice and assistance and is used for the purposes of taking on an applicant's behalf any step in instituting, conducting or defending certain proceedings. For criminal cases it is most commonly used where an early plea of guilty is made.

Total grants relating to summary cases (including ABWOR<sup>5</sup> and legal aid grants by the Board and the courts) fell by 13% to 80,028.

Total ABWOR grants fell by 10% to 33,598.

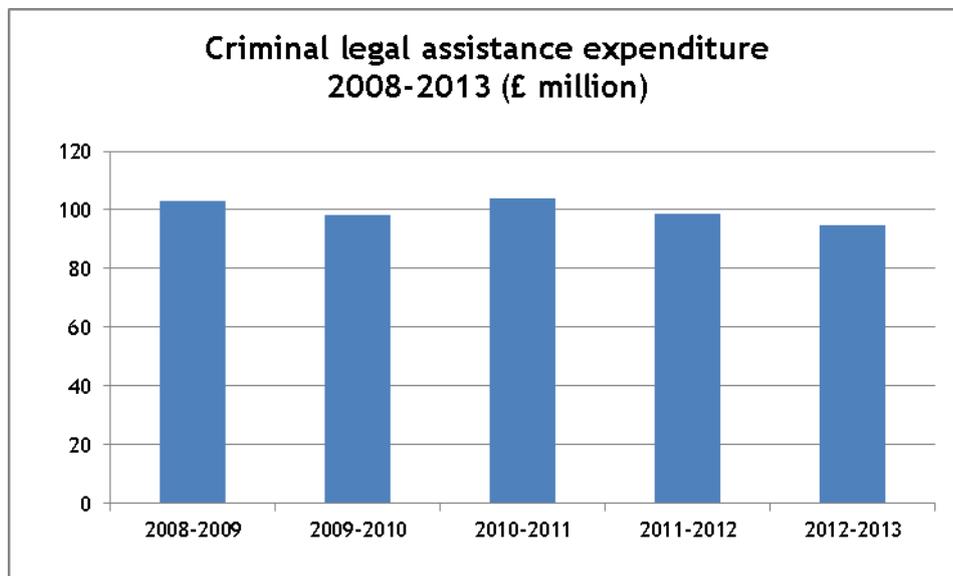
Within the ABWOR figure matters relating to breach proceedings (other than breach of bail) increased 9% to 8,702 grants.

Grants of criminal advice and assistance decreased by 5% to 29,906.



Grants of solemn legal aid decreased by 9% to 11,229.

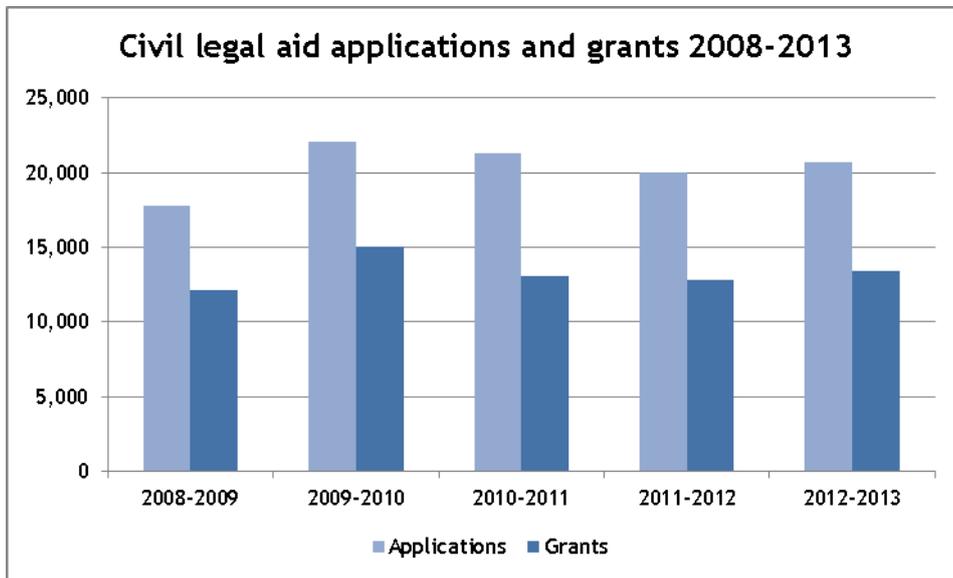
## Criminal legal assistance expenditure



- The total cost of criminal legal assistance, including the PDSO and Solicitor Contact Line decreased by £3.7 million (3.7%) to £94.8 million.
- Expenditure on criminal advice and assistance increased by £77,000 (7%) to £1.1 million. There has been a 12% increase in the average case cost as more cases are being paid for police station interview work. These cases are more expensive than other advice and assistance work.
- The cost of ABWOR decreased by £1.8 million (10%) to £15.8 million.
- Summary criminal legal aid decreased by £3.6 million (11%) to £29.5 million.
- Solemn criminal legal aid costs increased by £2.5 million (6%) to £41.7 million, largely as a result of costs in a small number of very high cost cases.
- Expenditure for court duty solicitor appearances decreased by £223,000 (20%) to £897,000
- Expenditure on the PDSO, including case related costs was £1.9 million
- Expenditure on the operation of the Solicitor Contact Line was £607,000

# Civil legal assistance

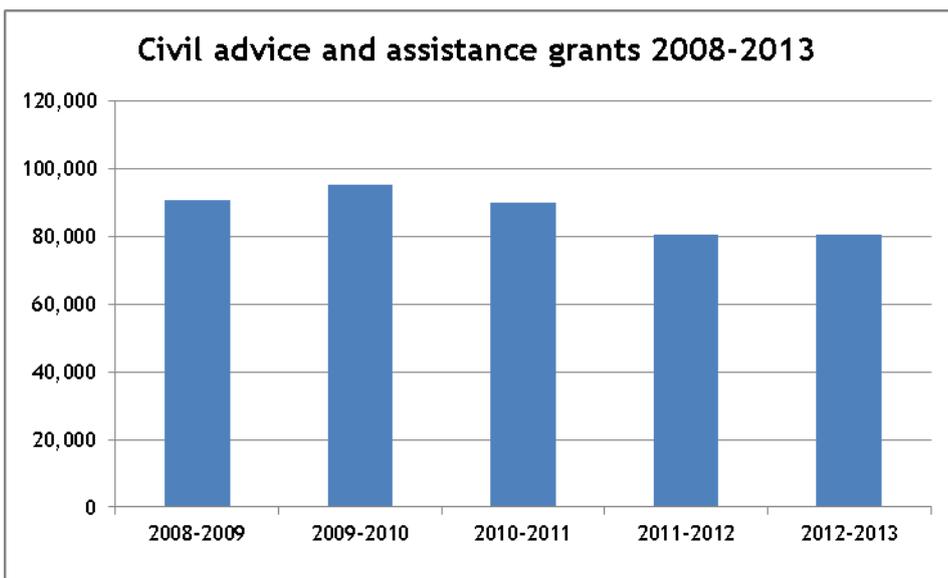
## Applications and grants of civil legal assistance

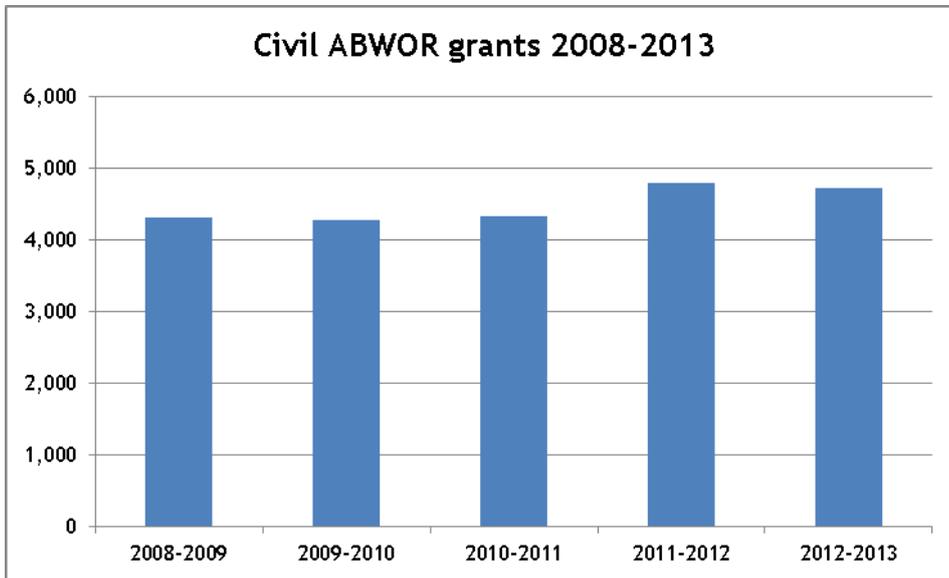


The number of applications for civil legal aid increased by 3.5% to 20,720, the fourth consecutive year of more than 20,000 applications.

There were increases in applications involving child contact, adults with incapacity and housing/recovery of heritable property.

Grants of civil legal aid increased by 4.9% to 13,427.

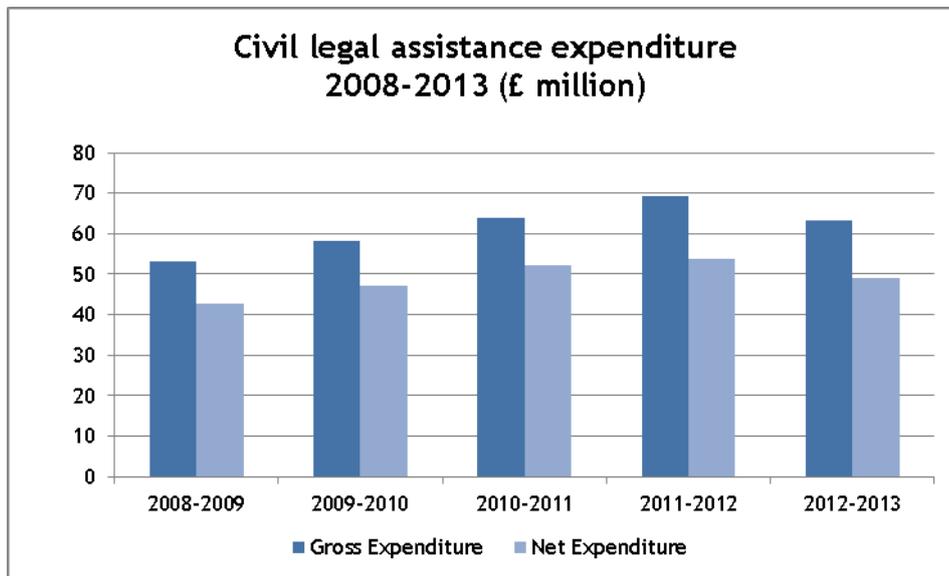




<sup>6</sup>ABWOR is a form of advice and assistance and is used for the purposes of taking on an applicant's behalf any step in instituting, conducting or defending certain proceedings. For civil cases this will include proceedings before certain tribunals or civil proceedings arising from a failure to pay a fine or to obey an order of the court.

Grants of civil advice and assistance and ABWOR<sup>6</sup> fell by 0.3% to 85,194.

## Civil legal assistance expenditure



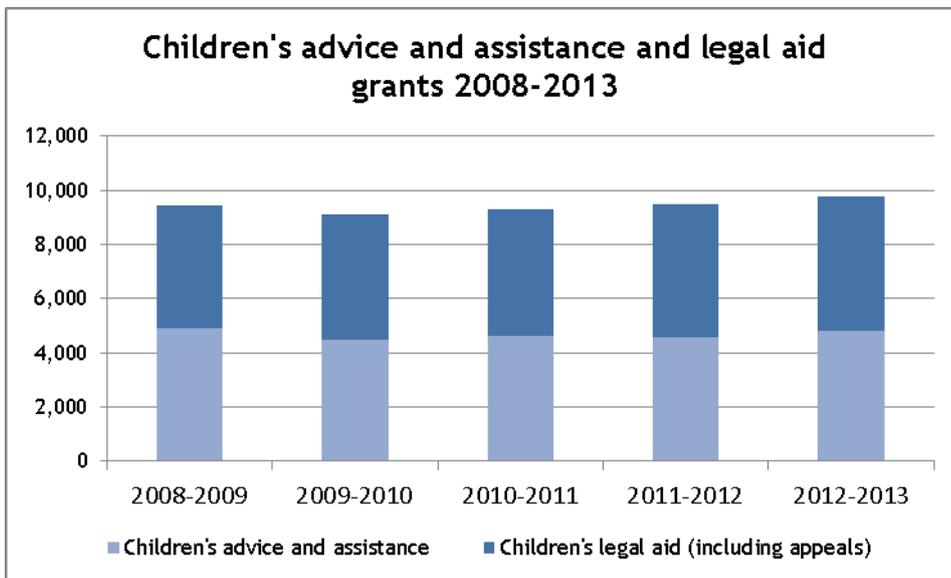
The total gross cost of civil legal assistance (including CLAO and grant funding) decreased £6.0 million (9%) to £63.2 million. As predicted in 2011-12, reductions in costs have been driven by a fall of £4 million in payments made to counsel which were unusually high in that year.

Income in civil legal aid cases (contributions, expenses, and property recovered or preserved) decreased by 21% to £12.0 million. This reduction is linked directly to a large reduction in the number of reparation cases which comprise a very significant share of the funds that the Board receives from expenses income. We also received £2.2 million of funding from the Money Advice Service for grant funded services.

The total net cost of civil legal assistance decreased by £4.9 million (9%) to £49.0 million.

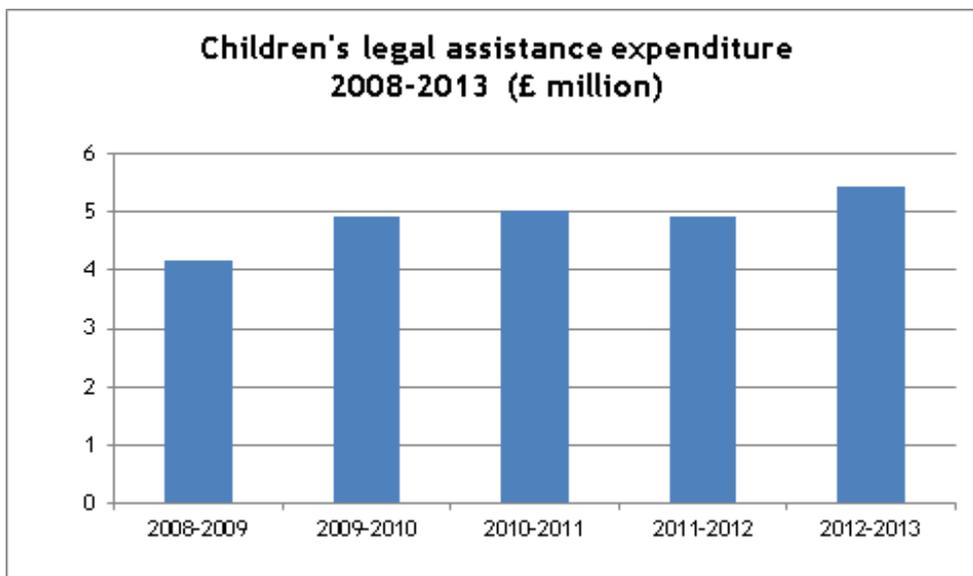
# Children's legal assistance

## Grants of children's legal assistance



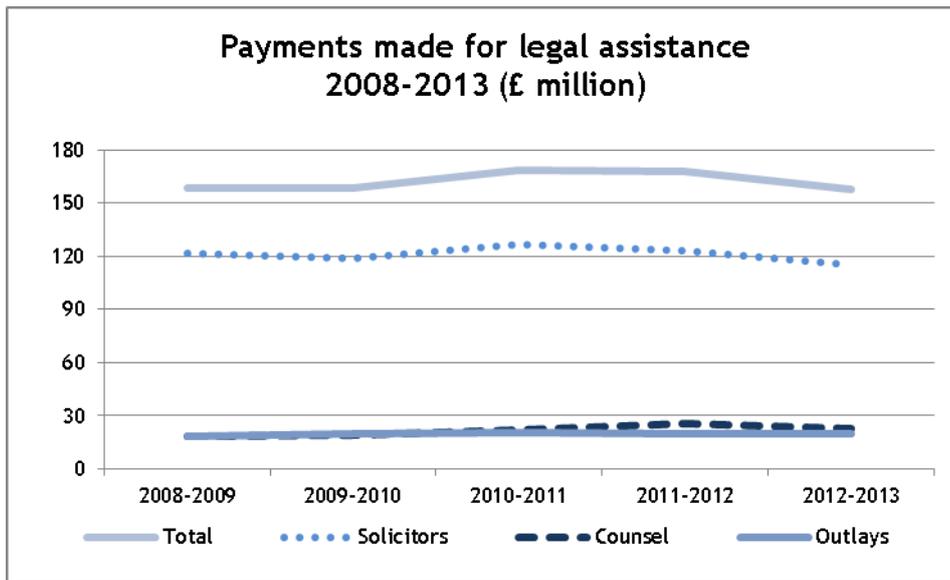
Grants of children's advice and assistance increased by 5% to 4,782 and grants of children's legal aid, which were made by the courts prior to 24 June 2013, increased by 1.4% to 4,994. We granted 12 applications for appeals to the Sheriff Principal or Court of Session.

## Children's legal assistance expenditure



The total cost of children's legal assistance increased by £507,000 (10%) to £5.4 million.

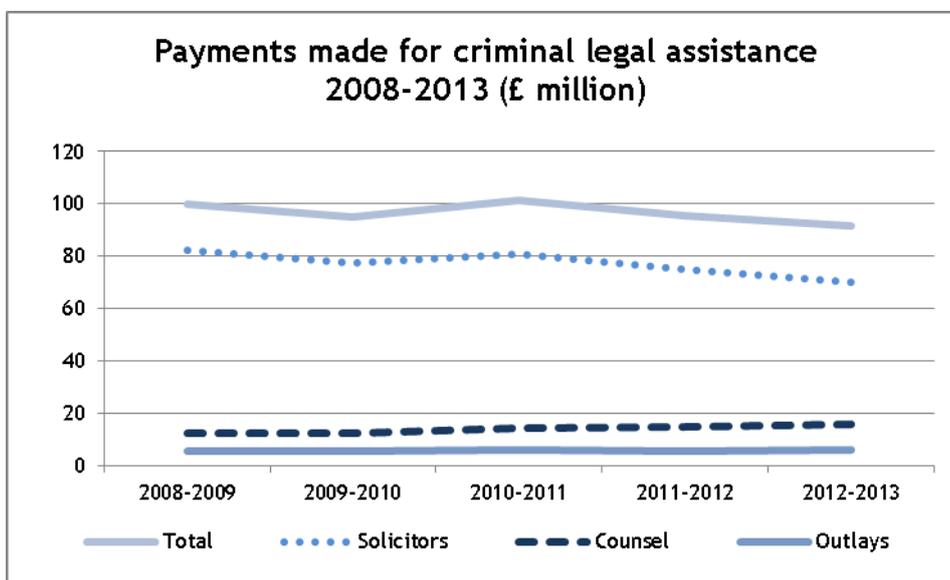
# Payments made to solicitors, counsel and outlays



<sup>9</sup>Excluding Civil Legal Assistance Office, Public Defence Solicitors' Office and Solicitor Contact Line.

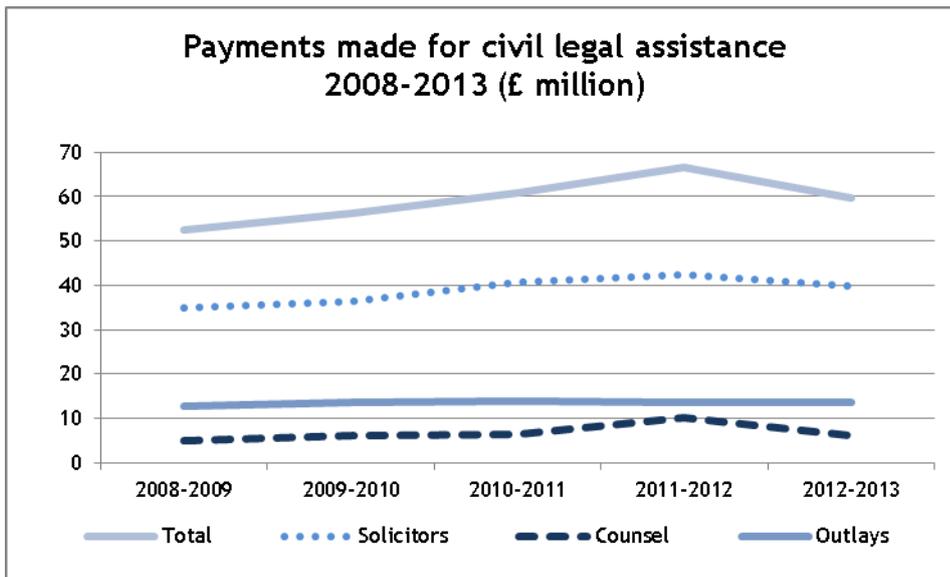
The amounts paid for legal assistance from the Legal Aid Fund were:

- £115.1 million to solicitors<sup>9</sup>, a decrease of £7.8 million (6%)
- £22.8 million to counsel (advocates and solicitor advocates), a decrease of £2.7 million (11%)
- £19.9 million on outlays, an increase of £0.3 million (1.7%).



The amounts paid for criminal legal assistance from the legal aid fund were:

- £69.9 million to solicitors, a decrease of £5.3 million (7%)
- £15.9 million to counsel (advocates and solicitor advocates), an increase of £1.2 million (8%)
- £5.8 million on outlays, an increase of £0.4 million (7%).



The amounts paid for civil legal assistance from the Legal Aid Fund were:

- £39.8 million to solicitors, a decrease of £2.7 million (6%)
- £6.2 million to counsel (advocates and solicitor advocates), a decrease of £4.0 million (39%)
- £13.7 million on outlays, a decrease of 0.3% from 2011-12.

# Making a positive difference

The Scottish Government's overall purpose is to deliver a more successful Scotland with opportunities for everyone. The Government sets out how it will deliver its Purpose and Strategic Objectives in its fifteen National Outcomes.

The purpose of legal aid in Scotland is to provide access to justice for those people who are unable to pay for it on their own. By helping people at difficult times in their lives we contribute to the Scottish Government's Purpose and its Strategic Objective to create a safer and stronger Scotland.

This report sets out how our work during 2012-13 contributed to the delivery of five of the Scottish Government's National Outcomes. These are:

## National Outcome 7

We have tackled the significant inequalities in Scottish society.

## National Outcome 9

We live our lives safe from crime, disorder and danger.

## National Outcome 11

We have strong, resilient and supportive communities where people take responsibility for their own actions.

## National Outcome 14

We reduce the local and global environmental impact of our consumption and production.

## National Outcome 16

Our public services are high quality, continually improving, and responsive to people's needs.

The table below sets out the connections between our aims and the Scottish Government's National Outcomes and Purpose. This shows that the work we do materially contributes to five of the National Outcomes:

Scottish Government's Purpose	To focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth				
Scottish Government's Strategic Objectives	Helping communities become safer and stronger places to live		Enabling the increasing of wealth through efficient public services		Improving the environment and its sustainability
Scottish Government's National Outcomes	9 We live our lives safe from crime and danger	11 We have strong and resilient communities	7 We have tackled inequalities in Scottish Society	16 Our public services are high quality, responsive, and continually improving	14 We reduce the impact of our consumption and production
Justice Strategy for Scotland Priorities	Widening access to justice and law reform	Transforming civil and administrative justice	Enhancing efficiency		
Our Strategic Aims	<p>To facilitate access to a range of quality assured legal help in Scotland, when and where it is needed.</p> <p>To provide access to service providers that deliver services in ways that benefit the justice system.</p> <p>To obtain best value for the taxpayer from legal aid expenditure.</p> <p>To contribute to an efficient justice system in Scotland by providing an efficient legal aid system.</p> <p>To reduce the environmental impact of the services that we fund as well as reducing our own carbon footprint</p>				

These case studies are real examples of how civil legal aid helped people in 2012-13.

### Child Contact

The applicant had been in a relationship that ended in 2006. He and his partner had one child and after the relationship ended he had regular contact, including overnight contact. After five years of this arrangement his former partner prevented him from having contact with the child. He tried to reach an amicable agreement but could not. He was granted legal aid to let the court decide what was in the child's best interests.

### Reparation

The applicant for legal aid sustained a bad injury when he slipped on a roof during the course of his employment. Although he was using a harness which was fixed to the anchor point on the roof, he had received no training in its use. As a result of the lack of training, he was using the harness incorrectly and this incorrect use of the harness led to him slip on the roof and hurt himself. The applicant was granted legal aid which enabled him to bring an action against his employers due to their negligence in failing to provide the necessary training.

### Recovery of Heritable Property

The applicant had fallen into arrears in payment of rent and faced eviction. He was willing to repay the arrears and wanted to keep hold of his house as he lived there with his young family. He was granted legal aid which enabled him to negotiate a settlement of the action. This enabled him to remain in his house and repay the sums he was due in a way he could afford.

### Non-harassment Order

The applicant had been in a long term relationship but was seriously assaulted by her partner who had punched and kicked her. He was convicted of assault and jailed for 8 months. In advance of his release from prison she was granted legal aid and this enabled her to get a court order put in place to help prevent her being attacked again.

### Wider public interest

This case concerned a claim for capital payment in terms of section 28 of the Family Law (Scotland) Act 2006 which allows a co-habitant to apply to the court for a financial provision where the co-habitation ends.

In proceedings before the sheriff court, the sheriff awarded a capital sum and this decision was appealed

to the Inner House which overturned the sheriff's award.

Legal aid to appeal the decision of the Inner House to the Supreme Court was granted on a wider public interest basis, as clarification of what was a new area of law was desirable and a decision from the Supreme Court was beneficial.

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**Strategic Aim: To facilitate access to a range of quality assured legal help in Scotland, when and where it is needed**

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**Outcome: People can access justice by being able to seek the appropriate kind of legal advice and representation at the right time**

### Administration of legal aid

In 2012-13 we assessed large numbers of legal aid applications and applied the relevant statutory tests to each one so that legal aid funding was directed to those that were eligible. The tests we applied differed depending on whether legal aid was for a civil or criminal matter.

We assessed a large number of applications for post grant work such as requests from solicitors to incur additional expenditure on a case through the use of an expert witness or to use counsel. Our assessments protected the taxpayers' interests while ensuring that cases could continue appropriately and timeously.

We also assessed a large number of legal aid accounts to satisfy ourselves that work carried out was necessary and done cost effectively. These accounts were often very long and complex. The assessments carried out resulted in abatements in the region of £6 million.

We aimed to do all our assessment work quickly and accurately and we met all our challenging key performance indicators in 2012-13.

Initial applications for civil legal aid were over 20,000 for the fourth consecutive year and receipts of all types of civil legal aid application increased by 12% in 2012-13.

## Targeted funding & direct provision

We continued to operate and fund targeted services through two programmes to help people facing civil legal problems:

- We employ around 15 salaried solicitors in our Civil Legal Assistance Offices who provide civil legal assistance.
- We have a range of projects funded by grants to provide a range of advice services focusing on issues related to the economic downturn.

## Grant fund projects

Since 2009 we have provided grants to a range of organisations to support legal advice and representation services.

In 2012-13 grant funding projects helped 4,681 new clients and represented people in court in 1,472 cases. This resulted in positive outcomes for many people, including:

- Preventing repossession
- Preventing eviction
- Resolution of a debt problem
- Help to resolve an employment related problem

In 2012-13 this help was provided by projects under two programmes, funded from a £7 million allocation of money across 2012-15. This included £2.2 million of funding from the Money Advice Service. The grant funding programme in 2012-13 involved a six month extension of our economic downturn programme to September 2012 which has supported 23 projects since 2009. This was followed from October 2012 by a new programme of 19 projects which will run until the end of March 2015.

Later in 2012-13 we were asked by the Scottish Government and the Money Advice Service to run further grant funding programmes. In March 2013 it was announced that funds totalling a further £7.45 million were to be made available through the Making Advice Work programme and managed by us. This programme will bring together £5.1 million of Scottish Government funding, with a further £2.35 million being allocated by the Money Advice Service as part of its debt advice funding partnership. These programmes will support people across Scotland who are affected by welfare reform and debt-related problems.

This represented a significant increase in both funding from 2011-12 and resource necessary to administer the programme.

## Civil Legal Assistance Offices (CLAO)

We have a small network of four offices that deliver targeted civil legal assistance in areas where there is unmet need. The offices handle a variety of casework with the predominant subject matter being housing/homelessness and family issues. Where other solicitors in the area are unable or unwilling to accept a client and where the person would otherwise not have accessed appropriate assistance, the CLAO may take the case on. They also facilitate the referral of clients to other appropriate sources of help, including to solicitors, and provide advice and training to advisers in other agencies.

Levels of demand for help continued at a high level in 2012-13. There was evidence of success in referring and signposting people to help via the CLAO, as well as delivery of direct assistance to CLAO clients. Business volumes in terms of both caseloads and contact handling were high, with all offices at near, or on occasion, beyond full capacity.

The network again saw an increase in the number of contacts, (up 14% to 2,556) compared to 2011-12. There was an increase in new cases accepted to over 460 and around 750 successful referrals were made to other sources of assistance.

Expenditure on the CLAO (after taking account of income from contributions and expenses) was £1.2 million.

## Public Defence Solicitors' Office (PDSO)

The Public Defence Solicitor's Office operates a network of seven offices across Scotland providing criminal legal assistance.

Business volumes were down slightly in the PDSO in 2012-13. This was largely due to the falling level of summary criminal business through Scotland's courts and downward trend in custody cases. In 2011 the PDSO was the only firm on the Police Station Duty Scheme in several areas across Scotland when private solicitors temporarily boycotted the scheme in a dispute with the Scottish Government.

The volume of work arising from the PDSO's share of the court duty plan fell by 10% compared to 2011-12. The number of non-duty cases it dealt with remained unchanged. The volume of new cases opened reduced by 7%.

The number of new solemn cases opened was up 1% on last year (to 383). The number of court appearances also increased - up 6% on 2011-12 and in excess of 10,000 appearances.

The cost of the PDSO in 2012-13 was £1.9 million. This was an increase of 5% on the previous year. The large increase in solemn criminal cases taken on in 2011-12 contributed to this increase through case related costs such as employment of experts.

**Outcome: The justice sector is better able to make informed decisions about planning and co-ordination of legal services to meet the needs of the people of Scotland**

## Monitoring the supply & accessibility of legal services

The Legal Services (Scotland) Act 2010 gave us the new function of monitoring the availability and accessibility of legal services in Scotland, with reference to factors relating to urban and rural areas. The monitoring function is not restricted to those legal services funded by the Board or other public funders.

The Access to Justice Reference Group is a group of bodies with a shared interest in, and experience of, the provision or use of legal services. With its help we completed the first report for Scottish Ministers.

For the initial report, we looked in-depth at employment tribunal cases, contentious welfare benefits issues and aspects of contentious family law.

Our advice to Ministers was that there was no clear evidence suggesting systemic access problems for those areas where data was available. While individuals or businesses may experience problems finding or retaining a solicitor, these may be isolated incidents which, although important to the individual involved, are not representative of how the legal services market as a whole is operating.

Our report for 2013-14 will look into cases involving domestic abuse, debt and housing.

## Solicitors and firms registered to provide legal assistance

The number of firms registered to provide civil legal assistance continued to rise and at 31 March 2013 was 13 higher than the previous year. The number of firms and solicitors registered to provide criminal legal assistance fell slightly from the previous year, but is around 16 more than three years ago.

We still have significantly more solicitors and firms registered to supply criminal legal assistance, and firms registered to supply civil legal assistance, than we did in 2009. At the end of March 2013 there were around 60 more solicitors and 16 more firms registered for criminal work and around 40 more firms registered for civil work than three years ago.

## Making Justice Work - Enabling Access to Justice project

As part of the Scottish Government's Making Justice Work programme, we sponsor and project manage the Enabling Access to Justice project. This aims to develop mechanisms to help citizens avoid legal problems wherever possible, ensure they have access to appropriate and proportionate advice where disputes do arise, and to a full range of methods of dispute resolution, including courts and tribunals, where necessary and appropriate.

This is a wide ranging and complex project. 2012-13 included its initiation phase and a key objective was for the organisations involved to agree the project's scope, objectives and deliverables. This was achieved.

We also carried out a significant amount of work to map the current landscape of alternative dispute resolution and publicly funded legal assistance, which is designed to inform action in future years.

A key component of the project was the Board's grant funding scheme.

## Strategic Aim: To provide access to service providers that deliver services in ways that benefit the justice system

**Outcome: Legal assistance services provided by solicitors are good quality**

## Quality assurance of legal assistance

The Quality Assurance Scheme for criminal legal assistance commenced in February 2012 and was developed in partnership with the Law Society of Scotland. All criminal solicitors who have registered with us to provide criminal legal assistance are now subject to peer review.

The reviews are being carried out over an initial six year cycle. The process is overseen by our Criminal Quality Assurance Committee, which comprises three members appointed by the Board, three members appointed by the Law Society of Scotland, and three independent or lay members appointed in consultation with the Law Society.

Since the scheme's inception, 183 routine reviews have been completed. Ten reviews were failed by the Committee. We shared the findings so far with the legal profession in May 2013. While this highlighted areas for improvement, it also noted the many areas of good practice that were evident.

We met the cost of the quality assurance scheme for civil and children's legal assistance which is administered by the Law Society of Scotland. The quality assurance scheme is overseen by a committee made up of three representatives of the Board, three members of the Law Society of Scotland and four lay members. In 2013-14 the quality assurance scheme for children's legal assistance will be administered by the Board.

**Outcome: Evidence is used to make further improvements to legal aid and access to justice**

## Legal Aid Research

We carried out a range of research work in 2012-13, including applicants' experience of completing key legal aid forms as part of the application for civil legal aid, and surveys of applicants and solicitors who used the civil legal aid system.

We also published the results of our survey of criminal legal aid applicants in March 2013. The aim of the research was to gain an insight into how satisfied clients of private criminal legal aid practitioners were with the service and guidance they received. 366 responses were received which was an 8% response rate. This is high for this type of survey. The survey showed that the vast majority of respondents did not have any difficulty in finding a lawyer and once they did find one they were satisfied with the service that they received. Respondents had to provide their solicitor with proof of their income or savings and 92% of them said they had no trouble in supplying the documents to their solicitor.

## Supplier support

We launched our Supplier Support initiative in August 2012. This involves the sharing of detailed

information with firms on the civil legal aid applications that they submit, at no cost to the firms. This aims to reduce costs for solicitors and the Board by reducing the level of unnecessary interactions between us on applications.

Reports were provided to the top 20 firms by level of civil legal aid business. The feedback we received was very positive, with the information about the number of applications and decisions by practitioner and category of case being of particular interest. Firms were also keen to find out how they compared with the national firm averages. Most firms disseminated the information to colleagues and identified areas for improvement.

**Strategic Aim: To reduce the environmental impact of the services that we fund as well as reducing our own carbon footprint**

**Outcome: We reduce the organisation's carbon footprint**

## Scottish Legal Aid Board

We have a Carbon Management Plan which targets our asset use. This Plan was produced in conjunction with the Carbon Trust who recognised our achievements in June 2012.

Focussing on four themes of energy consumption within our buildings, waste and recycling, travel and alternative methods of communication and water conservation, the plan sets out a target to reduce the CO2 emissions by 15% over the period from the 2008 baseline year to 2015.

We have measured our organisation's carbon footprint since 2008. Since then we have reduced our CO2 emissions by around 23%.

**Outcome: The environmental impact of the services that we fund is reduced**

## The Legal Aid Fund

### *Solicitors' Travel*

Vehicle emissions are the most significant source of

emissions relating to the provision of publicly funded legal services.

In order to ensure that only necessary travel is undertaken, the Scottish Government introduced regulations in January 2011 which reduced the amount paid to solicitors for time spent travelling to half the relevant hourly rate. This was in line with payments made in other UK jurisdictions.

Our monitoring shows that savings arising from these changes totalled £3.9 million in 2012-13 - £2.9 million of savings arising purely from the reduction in the rate payable, and an additional £1.0 million arising from changes in behaviour that led to a reduction of around 700,000 miles travelled in 2012-13.

#### **Video-conferencing**

We have continued to address the carbon impacts of travel through our leadership of a justice-wide project to promote the use of video links for the conduct of court and tribunal proceedings, for legal agents' prison visits and for the provision of advice prior to, and attendance at, police interviews. All of this will reduce the travel and carbon impact of the process.

This project relies on a commitment from a number of justice organisations. A number of pilot projects are now underway and initial feedback is very positive.

### **Strategic Aim: To obtain best value for the taxpayer from legal aid expenditure**

#### **Outcome: The legal aid system is more efficient**

Legal Aid Online enables solicitors to submit applications and accounts over a secure online system and has resulted in a major change in the way that we and solicitors' firms work together.

Following the success of our full transition from paper to online for legal aid applications from April 2011, we continued to progress the full transition to paperless legal aid accounts processes.

At the end of 2012-13 around 90% of summary criminal legal aid accounts were being submitted online and around 60% of civil legal aid accounts. As it is not yet compulsory to use any of these accounts products online, we were pleased by the continued

increase in the level of voluntary take up of all account types, which met or exceeded our targets.

Some types of legal aid accounts can be complex. Our discussions with solicitors during the year highlighted a number of design improvements that could be made to help deal with large or complex accounts. To ensure that we have a long term sustainable system we decided to undertake a programme of redesign (an 'accounts refresh'). The aim is to make accounts simpler for solicitors to complete online and also to make the internal processing of accounts more efficient.

We aim to deliver the accounts refresh and majority of new accounts products by December 2013, with further developments to fully complete the accounts products by March 2014. Based on this we aim to remove the paper option for new accounts from October 2014.

#### **Outcome: The legal aid system delivers value for money**

### **Sanction for counsel and expert witnesses in criminal legal aid**

In March 2013 we published revised guidance for solicitors for the use of counsel or expert witnesses in legally aided cases. The aim was to make clear the extent of the cover where sanction is granted.

The notifications sent to solicitors following the Board granting a sanction request now clearly advise the solicitor about the standard conditions which will apply. This will help clarify what work can be carried out. For High Court cases and cases where expert witnesses have been granted, the notifications have also been amended to include more standard information to assist with the preparation of the case.

### **Contributions in criminal legal aid**

The Scottish Civil Justice Council and Criminal Legal Assistance (Scotland) Bill, which introduced criminal contributions, was approved by the Scottish Parliament on 29 January 2013. This followed SLAB assisting the Scottish Government with a significant amount of policy and development work, detailed financial modelling and impact assessment.

As a reaction against the Bill, and in particular the proposals for solicitors to collect the contributions towards their fees in summary criminal cases, a number of private solicitors took disruptive action by refusing to represent their own custody clients on a number of days in November and December 2012. The Law Society accepted the Scottish Government's final proposals in relation to the contributions element of the Bill.

Criminal contributions took up a very considerable amount of staff time over a number of weeks during the year.

## Administration of Legal Aid

We perform a number of functions to ensure that the taxpayer achieves value for money in legal aid. We save the taxpayer over £40 million in direct savings and without these functions the burden on the taxpayer would be much greater and unsustainable. For example:

- We only grant legal aid applications which meet the statutory tests.
- We check that applicants qualify financially for legal aid.
- We control the use of counsel, experts and unusual work to where it is appropriate, necessary and justified.
- We scrutinise, and where appropriate, reduce, accounts submitted by solicitors and counsel, including making checks with third parties, such as prisons and the courts.

Our main roles include taking decisions on legal aid applications and assessing and paying the accounts of solicitors and counsel and advising Ministers on the operation of legal aid in Scotland. We set performance indicators and targets to provide a measure of our performance. Our targets are agreed by Scottish Ministers annually.

The key measures of our performance are our headline indicators, which combine individual timeliness and accuracy targets for each legal aid type.

In 2012-13, we met all our headline indicators.

Headline indicators	Target	Performance for year
Civil legal aid	97%	98%
Criminal legal aid	99%	100%
Children's legal aid	97%	97%
Advice and Assistance	97%	100%
Criminal accounts	97%	99%
Civil accounts	97%	99%
Children's accounts	97%	99%
A&A accounts	97%	99%

The table below sets out the average amount of time taken by us to process different types of civil and criminal legal aid applications in 2012-13. The average processing days column is the time that the applications are in our hands. The total time it will take to process an application will also include any additional time needed to receive further or missing information on the applications from the solicitor or applicant.

Application Type	Target days	Average processing days*
<b>Criminal Legal Aid</b>		
Summary criminal legal aid	5	1.2
Requests for counsel, experts etc.	5	1.0
Review of refusal of initial application	5	1.1
Special Urgency	2	1.0
Solemn criminal legal aid	5	1.0
Appeals	5	1.0
Transfers	5	1.2
Exceptionals	5	1.0
<b>Civil Legal Aid</b>		
Civil legal aid	32	21.8
Requests for counsel, experts etc.	6	2.9
Review of refusal of initial application	29	23.2
Special Urgency	2	1.2

\*Target days and average process days are working days and the calculation excludes weekends and public holidays

The following table sets out the average payment periods for the legal profession as a whole for different account types in 2012-13.

Account Type	Target days	Average processing days
A&A civil	30	25.4
A&A Criminal	30	24.9
Civil legal aid	30	23.9
Criminal fixed fees	15	13.3
Criminal detailed	30	24.6
Judicial expenses	15	11.1

## Preventing fraud and abuse and ensuring compliance

Unfortunately, there will be a small number of people who will attempt to defraud or abuse the legal aid system.

We investigate representations made to us about applicants' financial circumstances by other parties in civil cases and we can check with banks and employers to verify information the applicant gives to us. We may withdraw and refuse legal aid as a result.

Our compliance and solicitor investigation work checks solicitors' firms' compliance with our Code of Practice for Criminal Legal Assistance. We estimate that this work resulted in savings and recoveries of around £1.2 million in 2012-13.

We reported five applicants to the procurator fiscal where applicants did not tell us about properties they owned or money they had in bank accounts.

We identified three solicitors that were unable to comply with the Code of Practice for Criminal Legal Assistance. These solicitors were removed from the legal aid register, precluding them from doing this work.

## Savings in legal aid

We assisted the Scottish Government in substantial work to develop and implement changes and regulations designed to reduce legal aid expenditure. In doing this, we and the Scottish Government worked closely with the Law Society of Scotland. A key objective of this work was to enable savings to be made without damaging access to justice. A first package of savings initiatives implemented around the start of 2011 delivered more than £18 million of savings in 2012-13.

We are developing a number of further measures with the Scottish Government and in consultation with the Law Society of Scotland. We expect this work to deliver around £1.6 million of further savings in 2013-14, £11 million in 2014-15 rising to £17m in 2016-17.

## Best Value Reviews

We have continued with our programme of Best Value Reviews which examine different elements of legal aid to ensure that they are delivering the required outcomes and value for money.

### *The cost of cases in civil legal aid*

We have continued to give careful consideration to a range of proposals to make savings in civil court actions where some or all of the representation before the court is being funded by legal aid and the public purse. This is looking in particular at the outcomes delivered from civil legal aid grants as well as expenditure in a number of different areas, including where both parties to an action are in receipt of legal aid.

### *Cost limitations on grants of civil legal aid*

Following discussions with the Law Society of Scotland, changes to our systems to allow for the introduction of cost limits on all grants of civil legal aid were introduced in March 2013. The limit can be exceeded where reasons are given for increased costs and we are satisfied that the costs to be incurred are proportionate and reasonable having regard to the issues involved.

The introduction of cost limits has the clear benefit of allowing us to monitor costs being incurred in civil cases and taking such steps as may be needed to avoid unnecessary and excessively high costs in any one case. We estimate this has the potential to deliver full year savings of around £750,000.

To complement this work, our staff visited courts around the country in order to observe the proceedings in a number of high cost cases. This enables us to better understand the reason for large legal aid costs and has been largely welcomed by the courts.

### *Cap on fees paid to reporters*

Of the current expenditure on civil legal assistance, over £4 million is spent on fees for reporters in cases where orders in respect of parental responsibilities are being sought and the court has determined that a report from a reporter or a curator is necessary to allow matters to be taken forward.

Following discussions with the Law Society of Scotland, we introduced a cap of £3,000 on the cost of individual reports. The policy took effect from 18 February and we are keeping it under regular review.

## Our running costs

Our administration budget is funded through grant-in-aid from the Scottish Government. Unlike the Legal Aid Fund, this allocation is cash limited. Our administrative cash budget reduced by a further £0.4 million in 2012-13 to £12 million. This followed a £1.1 million reduction in 2011-12.

Our pension scheme is unfunded, and no assets are held. Pensions, other benefits, and transfers are met as they fall due. Due to the variability of transfers out and lump sums, our administration budget does not cover all pension payments. Payments in excess of £327,000 are funded separately by the Scottish Government. Staff who are members of the pension scheme pay a contribution of 6% of their salary. These sums totalled £397,000 in 2012-13. The Board is able to retain up to £250,000 of contributions and transfers in any financial year. The balance is remitted to the Scottish Government.

The action we took to deal with our reduced running costs:

- **Reducing staff numbers** - Our staff numbers in 2012-13 were eight lower than the previous year. We now have around 37 fewer staff than in 2009-10.
- **Reducing our accommodation costs** - We are continuing our drive to reduce our accommodation costs by improved space utilisation and through sub-letting space within our head office accommodation.
- **Improved procurement** - We are making optimal use of collaborative and central government contracts to reduce costs.

## Handling complaints

We have often difficult and complex decisions to make. We understand that our role in assessing eligibility for legal aid will often mean that we make decisions that people do not like or agree with. Our decisions can often be unwelcome for people and may come at a time of personal difficulty. But what we aim to do is to make those decisions quickly and accurately while keeping people informed.

We dealt with 110 formal complaints which was one more than the previous year. We responded to 82% of those complaints within 20 working days.

Of the complaints received we considered a quarter of them to be justified complaints. No complaints were made to the Scottish Public Service Ombudsman that required the Ombudsman to carry out an investigation.

**Strategic Aim:** To contribute to an efficient justice system by providing an efficient legal aid system

**Outcome:** Legal aid supports the efficient operation of the justice system, including by minimising churn of cases due to legal aid

## Scottish Government justice outcomes programme

We were again heavily involved in this work during 2012-13. In September 2012, the Scottish Government published 'The Strategy for Justice in Scotland' which we contributed to. It is the first time the justice system in Scotland has had such a strategy. It sets out a shared vision and outcomes for justice in Scotland. Our Chief Executive is a member of the Justice Board which oversaw its development.

We also continued to play a key role in the Making Justice Work Programme. This included:

- Project management of the Enabling Access to Justice Project which now has agreed governance arrangements in place as well as delivery plans
- Assistance in assessing the legal aid costs of the Court Service's estates rationalisation
- Assisting with development of the Courts Reform Bill
- Project sponsorship and project management of the cross justice video-conferencing project
- Assisting with the review of the funding and cost of civil litigation being carried out by Sheriff Principal James Taylor through membership of the reference group
- Involvement in the various programme and project boards.

## Police Station Duty Scheme and Solicitor Contact Line

In early July 2013 our Solicitor Contact Line, which provides 24 hour a day, 7 days a week cover for suspects questioned at police stations who require legal advice had been in operation for two years.

Between July 2012 and July 2013 we received 22,632 calls from police stations about suspects who were seeking legal advice, up 2%. This was around 54% of all suspects detained for questioning in police stations. In 8,021 (35%) of these cases, telephone advice was given by solicitors from the Solicitor Contact Line, a 7% increase on the first year. In the remaining 14,611 cases (65%) the suspect requested advice from a named solicitor.

There was an increase in the number of suspects who required a personal attendance. This increased by nearly 70% to 4,433. 1,929 suspects (44%) were visited by a private duty solicitor, 453 suspects (10%) were visited by a solicitor from the PDSO and 554 suspects (12%) were visited by a solicitor from the Solicitor Contact Line. We are aware of 1,497 suspects (34%) who were visited by a private named solicitor.

Samples of our cases indicate that 23% of suspects receive telephone advice immediately from the Solicitor Contact Line. 41% of suspects receive advice within 10 minutes of contacting the Solicitor Contact Line.

## **The Children's Hearings (Scotland) Act 2011**

The Act provides for children's legal aid and ABWOR to be made available in connection with children's hearings in prescribed circumstances, and in respect of court proceedings in connection with children's hearings, and provides for the registration and quality assurance of solicitors providing children's legal assistance.

Applications for children's legal aid previously considered by the courts will now be considered by our staff and we will also be administering the registration and duty schemes. Over 800 solicitors have registered with us to provide children's legal assistance and around 240 firms are taking part in the duty scheme.

We carried out a significant amount of work during 2012-13 in preparation for the changes to children's hearings that were commenced on 24 June 2013. Key achievements included: development of regulations, a code of practice for solicitors and complementary quality assurance scheme, a solicitor registration scheme and development of our internal systems and processes.

The legal aid aspects of the Act were commenced on 24 June 2013 and all the necessary legal aid processes and procedures were in place. This has been a very large undertaking at a time of high workloads and

other significant development work on issues such as criminal contributions and delivery of savings measures.

We expect this to increase the costs of legal aid by over £3 million in 2014-15 onwards.

# About Legal Aid and Us

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## About legal aid

Legal aid helps towards the costs of legal advice and representation, for those who qualify, paid for out of public funds. It is designed to help individuals who would be unable to pay for it on their own to gain access to the legal system.

Legal aid may be free, or someone may have to pay towards the costs of their case, for example, through paying a contribution or from the money or property that they win or keep as a result of their civil action. Legal aid is accessed through a solicitor who may work in a private solicitors' firm, a law centre or one of our Civil Legal Assistance Offices or Public Defence Solicitors.

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

*Advice and assistance* - covers a wide range of matters, so long as they concern Scots law. In civil cases, it pays for advice from a solicitor, but apart from some exceptions under assistance by way of representation (ABWOR), it will not cover "representation" - that is, putting the case in court. In criminal cases, ABWOR is used where a guilty plea is being made.

*Legal aid* - provides funding for a 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.

Civil legal assistance covers a wide range of cases such as divorce and other matters affecting family and children, or actions for compensation after an accident or medical negligence.

Children's legal assistance covers cases in connection with children's hearings and for court proceedings in connection with children's hearings.

Criminal legal assistance covers legal help, advice and representation for someone charged with a criminal offence or needing advice about a criminal matter.

## 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 Government.

The work we do is overseen by non-executive board members, who are appointed by the Scottish Government. The number of members can vary from 11 to 15. To give a balanced range of knowledge and experience, they include people with backgrounds in business, the advice sector and the wider community as well as solicitors and advocates and a person with knowledge of court procedure and practice. The management of the organisation is headed by our Chief Executive, supported by three directors and our Principal Legal Advisor. Full details of the board members and senior management team are available on our website.

Ministers in the Scottish Government decide legal aid policy. Ministers propose the legislation to set the rules for legal aid, and the fees to be paid to the legal profession. The Scottish Parliament makes and changes legislation - including the different tests for granting each category of legal assistance. These tests are then applied to every single case. In some advice and assistance and special urgency cases, solicitors apply the tests. For civil and almost all criminal legal aid we apply the tests, and in some criminal and children's cases, the courts decide, although this will change in 2013-14.

The budget for legal aid is different from many other public services, it is not cash limited. The Scottish Government provides the Board with the necessary funds to meet the cost of cases.

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## About our approach

We believe the best way of contributing to the delivery of the Scottish Government's National Outcomes is for the Board to approach its work in the following ways:

*Working in partnership* with the Scottish Government, the legal profession, the advice sector, local authorities, others in the justice system and representative bodies.

*Consulting* with applicants, assisted persons, opponents, solicitors, advocates and others with an interest in legal aid and access to justice.

*Communicating* directly with applicants, assisted persons and opponents through letters, meetings and consultations, as well as through their solicitors.

*Sharing* with others our policies and practices to achieve greater openness, understanding and effectiveness.

*Engaging* in others' consultations and development processes to play our full part in improving the justice system and the operation of legal aid within it.

*Continuously improving* through evaluation and learning, investment in our people, processes and systems, and implementing changes to achieve efficiency and effectiveness of our operations.

