

Young Legal Aid Lawyers: Social Mobility in a Sector on the Brink

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Introduction

Young Legal Aid Lawyers ('YLAL') is a group of aspiring and junior lawyers committed to practising in those areas of law, both criminal and civil, that have traditionally been publicly funded. We have around 4000 members including students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers throughout England and Wales.

We believe that the provision of good quality, publicly funded legal assistance is essential to protecting the interests of the vulnerable in society and upholding the rule of law. As well as campaigning for a sustainable legal aid system, our core objectives are to increase social mobility and diversity within the legal aid sector, to promote the interests of new entrants and junior lawyers and provide a network for people beginning their careers in the legal aid sector.

We believe that the legal profession – like justice itself – should be genuinely accessible to all. As part of our commitment to this we have sought to produce reports that seek to give an overview of the situation with regards to social mobility within the profession. We have produced three reports previously in 2010, 2013 and 2018. Our first report on social mobility and diversity, 'Legal Aid Lawyers: the lost generation in the 'national crusade' on social mobility'¹, was published in February 2010. It found that:

'aspiring lawyers from diverse backgrounds are finding it harder than ever to forge a career in legal aid [...] those from low-income families cannot afford to become legal aid lawyers and the legal aid profession is therefore becoming less and less representative of the people it serves: those without means.'

¹ Legal Aid Lawyers: The lost generation in the "national crusade" on social mobility, Young Legal Aid Lawyers, February 2010: http://www.younglegalaidlawyers.org/sites/default/files/YLAL_SOCIAL_MOBILITY_REPORT_FEB_2010_0.pdf

Our second report on social mobility and diversity in the legal aid sector, 'One Step Forward, Two Steps Back'², was published in October 2013. In 'One Step Forward, Two Steps Back', we concluded that three key findings emerged from our research on access to the profession:

- High levels of debt combined with low salaries make legal aid work unsustainable for those from a lower socio-economic background;
- Unpaid work experience represented a barrier to social mobility; and
- Work experience was a prerequisite to entry to the legal aid profession.

Following on from these findings, we made a number of recommendations, which included calls:

- for the Solicitors Regulation Authority ('SRA') to reinstate the minimum salary for trainee solicitors;
- for the Law Society and the Bar Council to issue robust guidance on work experience;
- for professional course fees to be regulated; and
- for the professional bodies to consider replacing the current routes to qualification with a form of work-based learning.

In 2018, we published our third report on social mobility, 'Young Legal Aid Lawyers: social mobility in a time of austerity'³. In this report we made the following three key findings:

- Debt combined with low salaries continued to be a barrier to the profession;
- Unpaid work experience continued to be a barrier to the profession; and
- Stress, lack of support and juggling legal aid work with other responsibilities were affecting retention in the profession.

Based on these findings we made various recommendations, which included calls:

- for the SRA to release information about expected costs of the SQE in order to allow properly informed discussion on the potential effects of the SQE on social mobility in the sector;

² One Step Forward, Two Steps Back, report by Young Legal Aid Lawyers on social mobility and diversity in the legal aid sector, October 2013: <http://www.younglegalaidlawyers.org/onestepforwardtwostepsback>

³ Young Legal Aid Lawyers: Social Mobility in a Time of Austerity, March 2018: <http://www.younglegalaidlawyers.org/sites/default/files/Soc%20Mob%20Report%20-%20edited.pdf>

- for all legal aid firms to reconsider the wages they pay all staff, for the mandatory minimum salary for trainee solicitors to be reintroduced by the SRA and the minimum salary for pupil barristers to be increased by the BSB;
- for the fees charged by the professional course providers to be regulated by the relevant regulatory body;
- for companies, firms and organisations in the legal aid or traditionally legally aided sector to adopt our Best Practice Work Experience Charter;
- for content of the SQE to be amended to ensure that areas of social welfare law and civil legal aid are properly made available within the contexts at SQE1 and 2;
- for legal aid providers to recognise, understand and properly address the causes of the emotional and psychological impact faced by those practising in this area; and
- for greater flexibility to be afforded to those with caring responsibilities and disabilities.

Methodology

In this report, we based our findings and recommendations on data gathered by Legal Aid Practitioners Group (LAPG) in their Legal Aid Census of 2021 ('the Census'). YLAL is grateful to have been granted access to this data to inform this report. The Census comprised of five online surveys distributed to LAPG's member organisations and wider networks between March and July 2021.

The Census was designed to capture responses from each of the following stakeholder groups:

1. former legal aid practitioners;
2. current legal aid practitioners;
3. organisations engaged in the provision of legal aid services;
4. chambers engaged in the provision of legal aid services; and
5. prospective legal aid practitioners.

In total, 255 former legal aid practitioners, 1208 current practitioners, 369 organisations, 32 sets of chambers and 376 students responded to the Census. YLAL circulated the survey of prospective practitioners to its membership.

We have considered data relating to Census responses from senior practitioners in addition to junior and aspiring practitioners in order to make findings and recommendations relating specifically to our membership.

It should be noted that the Census data was collected between March and July 2021 during the restrictions imposed as part of the UK response to the COVID-19 pandemic. Whilst restrictions have now lifted, there is an emerging and deepening cost of living crisis. The data does need to be treated with caution as the financial situation has significantly worsened with the full impact unknown.

LAPG's report, 'We Are Legal Aid: findings from the 2021 Legal Aid Census, March 2022'⁴ explains the methodology used in gathering the Census data in more detail.

⁴ We are Legal Aid, Findings from the 2021 Legal Aid Census, March 2022:

<https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid-Findings-from-the-2021-Legal-Aid-Census-Final.pdf>

Context

YLAL is acutely aware that the UK is experiencing an unprecedented cost of living crisis as this report is being published. Ballooning energy costs have led to a squeeze on household budgets, pushing increasing numbers of people into poverty. In addition, YLAL is aware of the pressure that the cuts and reforms to legal aid continue to place on firms and lawyers alike. For these reasons we made the decision to renew our social mobility survey and update our findings on social mobility in the legal aid sector. On this occasion we are indebted to LAPG for allowing us to use the data from their Legal Aid Census 2021 to complete our 2022 report.

Since our 2018 report, the legal aid landscape has continued to deteriorate due to the trends identified in that report, the current cost of living crisis and the COVID-19 pandemic. While the demand for legal aid services has only increased, the ability of the sector to respond efficiently and effectively to that demand has diminished. Morale is lower than ever before.

Despite some positive developments, social mobility has moved down the political agenda.

In 2020, the Social Mobility Commission found that in 77% of areas covered by the report, the Government had made no or inadequate progress since 2013⁵. This followed earlier findings in 2018-19 that suggested that progress had stagnated⁶. The All-Party Parliamentary Group ('APPG') on Social Mobility, the Social Mobility Commission and the Sutton Trust all found that those who attended fee-paying schools and Oxford or Cambridge University continued to be substantially overrepresented at all levels within the legal profession.

⁵ Monitoring Social Mobility 2013-2020: Is the government delivering on our recommendations?, June 2020
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891155/Monitoring_report_2013-2020_-_Web_version.pdf, page 8

⁶ Ibid

In 2021, the Law Society recommended a minimum wage for trainee solicitors⁷; a recommendation of our 2013 and 2018 reports. Although we welcome this step towards sustainable pay scales, minimum wage is still not mandatory and uptake varies between firms. In addition, it no longer seems appropriate to benchmark salaries against the national minimum wage because of the cost of living crisis. In our view, the Minimum Income Standard⁸ should be used because it better reflects the reality of the cost of living. In 2021, 18 City law firms made the top 50 in the Social Mobility Employer Index.⁹ This is a very slight increase on the figures at the time of our 2018 report.

Since our last report, the Solicitors Qualifying Exam ('SQE') has been brought into force. It is too early to say what its impact will be, but YLAL is concerned that it is unlikely to have a positive impact on social mobility because of the cost of qualification.¹⁰ This year, YLAL launched the Social Welfare Solicitors Qualification Fund in collaboration with BARBRI and the City of London Law Society, which will allow 22 aspiring social welfare lawyers to qualify and practise in the legal aid sector.¹¹ This is undoubtedly positive, but it cannot be the only way to ensure that aspiring social welfare lawyers are able to qualify. In addition, areas of social welfare law or civil legal aid are not covered in the SQE, which is a significant gap for anyone hoping to practise in the legal aid sector.

Legal aid cuts

It is now 10 years since the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ('LASPO') was introduced by the Coalition Government as part of its drive to cut public spending following the financial crisis of 2008. The Ministry of Justice was required to reduce its total budget of £9.8 billion by £2 billion¹² and the legal aid budget was not protected from the cuts.

⁷ Recommended minimum salary for trainee solicitors and SQE candidates, 15 July 2021

<https://www.lawsociety.org.uk/topics/hr-and-people-management/recommended-minimum-salary-for-trainee-solicitors-and-sqe-candidates>

⁸ <https://www.jrf.org.uk/report/minimum-income-standard-uk-2021>

⁹ <https://www.socialmobility.org.uk/index/>

¹⁰ <http://younglegalaidlawyers.org/sqe>

¹¹ <https://www.legalcheek.com/2022/04/top-city-firms-fund-22-aspiring-social-welfare-lawyers-through-the-sqe/>

¹² Commons Select Committee, 'Justice - Eighth Report: Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012' 4 March 2015

The stated aims of LASPO were:

- to discourage unnecessary and adversarial litigation at public expense;
- to target legal aid to those who need it most;
- to make significant savings in the cost of the scheme; and
- to deliver better overall value for money for the taxpayer.

None of the aims related to providing a quality service to those in need. As a result of LASPO, there was a huge reduction in the number of social welfare law cases funded by legal aid: from 470,000 in 2009/10 to just 53,000 in 2013/14, the year LASPO came into force.¹³

At the time LASPO came into force in April 2013, the Government promised to review the impact of the legal aid cuts within three to five years. After a number of delays, the Post Implementation Review (PIR) was published in February 2019. There is a comprehensive timeline of Legal Aid cuts / reviews since LASPO in our 2018 report.¹⁴

The PIR indicated that of LASPO's four aims, there was only clear evidence of costs being saved from the legal aid budget¹⁵. YLAL welcomed the recognition that face-to-face advice needed to resume in a number of areas and the Government's commitment to a review of the means test and legal aid eligibility. However, it was and remains YLAL's position that significant investment in the legal aid and justice system is needed to repair the damage done in recent years.¹⁶

On 25 January 2021, YLAL submitted its response to the Ministry of Justice Criminal Legal Aid Review ('CLAR')'s consultation on remuneration for pre-charge engagement.¹⁷ On 6 June 2022, YLAL responded to the Legal Aid

¹³ Full Fact, 'Far fewer social welfare cases get legal aid', 2 October 2015

<https://fullfact.org/law/far-fewer-social-welfare-cases-get-legal-aid/>

¹⁴ Young Legal Aid Lawyers: Social Mobility in a Time of Austerity, March 2018:

<http://www.younglegalaidlawyers.org/sites/default/files/Soc%20Mob%20Report%20-%20edited.pdf>

¹⁵ Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), February 2019

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777038/post-implementation-review-of-part-1-of-laspo.pdf, p272

¹⁶ YLAL Statement on LASPO Review <http://younglegalaidlawyers.org/LASPO-Feb19>

¹⁷ <http://www.younglegalaidlawyers.org/sites/default/files/YLAL%20Consultation%20Response%20-%20CLAR%20PCE.pdf>

Means Test Review¹⁸. The issues highlighted in these reviews disproportionately affect the junior end of the profession. With regard to criminal legal aid, there is a recruitment and retention crisis with the average age of criminal solicitors currently at 49.¹⁹

¹⁸http://www.younglegalaidlawyers.org/sites/default/files/YLAL_Legal%20Aid%20Means%20Test%20Review%20Response_2022.pdf

¹⁹ Criminal duty solicitors: a looming crisis <https://www.lawsociety.org.uk/en/campaigns/criminal-justice/criminal-duty-solicitors>

Why we do what we do

The Survey responses reflected a strong desire to enhance access to justice and support those experiencing disadvantage. The data shows that practitioners are largely motivated to pursue a career in legal aid because of a commitment to social justice. When asked to select a range of relevant motivations, 75.7% of Census respondents said they were drawn to the opportunity to help those facing economic, cultural or social disadvantage. A similar proportion, 71.2%, also indicated they wanted to work to ensure access to justice would be more equitable for all in society. 70.6% were motivated by the desire to make a positive impact on society. Only 0.5% indicated that financial reasons motivated them to join the sector.

It is striking that comparatively few respondents gravitated towards the profession in search of an income, as only six practitioners (0.5%) indicated that financial reasons motivated them to join the sector. Of these, four practitioners indicated that they found employment in legal aid because they required an income, whilst two indicated that they were initially attracted to the area because it was possible to make a decent living. Both of these practitioners added the caveat that this was no longer possible, with one practitioner specifically attributing this to post-1995 legal aid policy changes.

The Survey asked legal aid leavers an open-ended question regarding what they liked most about working in legal aid. Of the legal aid leavers who provided a response, the vast majority, 65.5%, indicated they liked making a difference in people's lives or helping those facing disadvantage. A further 15.7% liked helping to provide access to justice.

The student survey responses of those working towards a qualifying degree in law at the academic or vocational stage, show a similar trend with 86.6% selecting the opportunity to help those facing cultural, economic or social disadvantage and 83.1% selecting the opportunity to make justice more equitable. It is striking to note that of the student respondents, a much higher proportion indicated that they wanted to hold the government accountable (59.9%) as compared to practitioners (36.9%) or legal aid leavers (9.1%).

Students who expressed a desire to work in legal aid were also asked whether their previous life experience had played a role in influencing their decision to pursue a career in legal aid. Of those who were working towards a qualifying degree in law at the academic or vocational stage who gave an answer, 88.4% confirmed that their background or life experiences had had an influence on their choice of career. An analysis of verbatim responses provided revealed that students who personally experienced injustice or poverty (44.9%) and

witnessed or heard about injustice (46.4%) were influenced by their experiences to become legal aid practitioners.

As one respondent elucidated:

“Being mixed-race, particularly in an overwhelmingly white area of the country [and] [s]eeing injustice that is done time and again to marginalised groups makes me want to pursue my vision of a fairer society and a more accountable government. This particularly applies as my grandparents are part of the Windrush Generation affected by the Windrush Scandal.”

Other respondents indicated their previous work/employment experience (14.5%), previous experience volunteering with a charity/NGO (7.2%) and own beliefs/values or privilege (21.7%) were influential.

One respondent commented:

“Many friends and those who I worked with as a youth worker have benefitted from legal aid representation and I want to help ensure it remains a viable option and is of a high standard.”

Another respondent spoke to how the combination of personal experience and work experience proved transformative, explaining:

“I was briefly homeless due to poor mental health. I also worked at a local council's homeless department and was appalled by how they treated clients, often making unlawful decisions as they didn't think a client would get legal advice. This motivated me to learn housing law and become a caseworker. I eventually wanted to do even more for my clients so [I] [w]ent back to uni to get my law qualifications.”

Finding One: the demographic of those entering the profession may be changing

When assessing any change in demographics, it should be noted that some of the demographic data collected by LAPG is not data that we have previously collected. That said, a useful comparison can still be made to our previous reports as there is much crossover within the data collected in LAPG's Census and YLAL's previous surveys.

Gender

Of the 200 respondents to our 2018 survey, 78% of respondents self-identified as female, 21% as male and 0.5% as non binary. This is similar to the respondents to the LAPG survey. Of student respondents, 73.6% self-identified as female, 24% as male, 1.3% non binary and 1.1% did not disclose. This demonstrates that women continue to be overrepresented within the legal aid sector. Further research is required to confirm the reasons for this.

It should be noted that the difference in percentages between female and male *practitioners* within the LAPG survey is not as high: of the 1202 responses from practitioners, 60.9% identified as female and 38.3% identified as male. This suggests that women who start out in the legal aid sector are not being retained long term.

Age

Amongst the student respondents, there was a broad range of ages from 18-59. This may be reflective of the later age of qualification within the legal aid sector. The average age of those qualifying as solicitors in England and Wales has increased slightly from 2018 with the average ages now 30 for men and 29.3 for women.²⁰ This data from the Law Society is not separated into different practice areas so it is difficult to draw firm conclusions about whether legal aid practitioners are pulling up this average.

Disability

²⁰ <https://www.lawsociety.org.uk/career-advice/becoming-a-solicitor/entry-trends/>

14.4% of student respondents considered themselves disabled, slightly under the national figure of 16% of working age adults.²¹ Whereas only 9% of practitioners considered themselves disabled, a noticeably lower figure than for student respondents and the national figure of working age adults. This could indicate that the legal aid sector is increasingly attracting disabled students. However, this could also indicate that fewer disabled students establish a career in legal aid when compared with the number of students indicating an interest in doing so. Of legal aid leavers 15.4% considered themselves disabled, which indicates that disabled people are overrepresented in the numbers of practitioners leaving the legal aid sector. This may demonstrate that the difficulties of remaining in the profession disproportionately affect those with disabilities.

Ethnicity

Of the practitioner respondents 7.1% identified as Asian or Asian British, 2.8% as Black, African, Caribbean or Black British, 4.7% as Mixed or multiple ethnic groups, 77.4% as White British and as 8% Other ethnic group. The last National Census data, which it should be noted is over 10 years old, shows that 86% of the population of England and Wales identified as White.²² There it may be that, proportionally, representation in the legal aid sector, by ethnicity, is more diverse than within the wider population. The LAPG Census data is consistent with previous YLAL findings and current SRA data that smaller firms have much greater ethnic and racial diversity than larger firms. Legal aid work is overwhelmingly done by smaller firms.²³

The ethnic diversity of student respondents is noticeably more diverse than that of practitioners as 14.6% of student respondents identified as Asian or Asian British, 4.8% as Black, African, Caribbean or Black British, 5.3% as Mixed or multiple ethnic groups, 57.4% as White British, 12.5% as White (not British), 2.7% as Other ethnic group and 2.9% preferred not to disclose their ethnicity. Greater ethnic diversity amongst student respondents compared to practitioner respondents may indicate that the difficulties to remaining in the profession disproportionately affect those from racially minoritised groups. It may also reflect that entry into the profession is more difficult for racially minoritised groups. This needs to be carefully considered against the

²¹ Official statistics, Disability Facts and Figures, 16 January 2014

<https://www.gov.uk/government/statistics/disability-facts-and-figures/disability-facts-and-figures#fnref:3>

²² Ethnicity and National Identity in England and Wales: 2011

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11#:~:text=6.-,Differences%20in%20ethnicity%20across%20local%20authorities,these%20proportions%20can%20differ%20dramatically.>

²³ How Diverse is the Solicitor's profession?, 29 April 2022

<https://www.sra.org.uk/sra/equality-diversity/diversity-profession/diverse-legal-profession/>

preliminary results of the first Solicitors Qualifying Exam ('SQE') and the apparent ethnic attainment gap discussed within finding two.

Socio-economic mobility

The proportion of students who indicated that their family was on benefits or eligible for free school meals at some point during their primary or secondary schooling (29.4%) was higher than that reported by current practitioners (18.5%)²⁴. The proportion of students who reported that their parents, stepparents, carers or guardians attended university (47.2%) was slightly higher than for current practitioners (45.1%)²⁵.

We do not have a direct comparison for these figures from our previous reports but this would be useful information to collect moving forwards.

Notwithstanding the limits of the sampling methods used by the Census and/or changes to eligibility rates for benefits/free school meals, these findings suggest two possibilities. The first is positive: that legal aid increasingly attracts students from lower socio-economic backgrounds. The second is more concerning: that fewer students from those backgrounds actually establish a career in the legal aid sector when compared with the number of students indicating an interest in doing so. The second finding is consistent with our previous reports.

As noted above over a third of those who leave the legal aid sector do so within five years. Concerns around debt, the cost of qualification and remuneration feature heavily in the LAPG survey data. This will be explored further below.

Over half of current legal aid practitioners are first-generation university graduates. More than three quarters have no other legal professionals within their immediate family. These numbers are similar to those found within the student responses where over half (52.8%) of respondents indicated that they did not have a parent or caregiver who went to university. This is significantly different to the legal profession at large. The most recent diversity data published by the SRA shows that 58% of lawyers come from 'professional'

²⁴ 18.7% when looking only at those practitioners who attended university.

²⁵ 46.7% when looking only at those practitioners who attended university.

socio-economic backgrounds based on parental occupation²⁶ whereas the most recent data from the Bar Standards Board suggests that less than half of all barristers were the first in their family to attend university.²⁷

Given the large number of students and legal aid practitioners surveyed who are the first to attend university there is also a large number who do not have access to legal work experience via family or friends. This was higher for students (77.5%) than practitioners (69.9%). This is concerning as YLAL reports dating back to 2010 have consistently highlighted that work experience is a significant issue in this sector as it is often essential and largely unpaid. Given the demographics of those entering the profession, they are likely to be less able to undertake unpaid work and to need to support themselves financially. Beyond finances, 67% of students who indicated they had faced barriers to their attempts to forge a career in legal aid stated that their social class had operated as a barrier.

Personal experience is a clear motivation for many student respondents to work in legal aid. Of those working towards a qualifying degree in law who answered the question, 88.4 per cent confirmed that their background or life experiences had an influence on their choice of career. An analysis of narrative responses revealed that students who personally experienced injustice or poverty (44.9%) and witnessed or heard about injustice (46.4%) were influenced by their experiences to become legal aid practitioners.

Caring responsibilities

In terms of barriers to qualifying and remaining in the profession, 19.1% of students who responded indicated that caring responsibilities acted as a barrier to them working as a legal aid lawyer. Some respondents elaborated on how caring responsibilities impact on their ability to work in this sector:

'I'm 37 and have a 2 year old son. I struggle to get to interview unless I take my date of birth off applications. I'm often asked if I can handle looking after a child with work at interview, and sometimes asked why my partner doesn't just do it all so I can work full time.'

'I'm from a state school and I had caring responsibilities at home as my parents suffered with alcohol and mental illnesses. At school we were not encouraged to attend University, I didn't have revision or study skills so I've winged my way through the LLB without having the study skills I needed so my

²⁶ How diverse is the solicitors' profession?, 29 April 2022

<https://www.sra.org.uk/sra/equality-diversity/diversity-profession/diverse-legal-profession/>

²⁷ Diversity at the Bar 2021, January 2022

<https://www.barstandardsboard.org.uk/uploads/assets/be522642-160b-433b-af03a910a5636233/BSB-Report-on-Diversity-at-the-Bar-2021.pdf>

grades are pretty bad. I've had to juggle studying with working and caring for my family too, they have both been a huge barrier.'

Over the course of the COVID-19 pandemic YLAL conducted three surveys of its members relating to various aspects of the pandemic and how it affected YLALs in particular. It was clear from these surveys that any difficulties were exacerbated for those with caring responsibilities. YLAL is concerned that there continues to be inadequate support in place for those with caring responsibilities. According to current SRA statistics, 4% of those working in corporate firms care for others suggesting that this is another area disproportionately affecting legal aid practitioners.

Recommendations

- ❖ YLAL seeks a commitment from contributing firms for the continuation and expansion of the Social Welfare Solicitors Qualifying Fund to ensure that this vital source of funding remains available to ensure that those who are not independently wealthy are able to qualify as legal aid practitioners into the future.

Finding Two: high levels of debt combined with low salaries and a lack of available opportunities to qualify remain a barrier to the profession

Funding of qualification

As in our 2018 report, the LAPG data shows that high course fees and a lack of affordable funding options, combined with the need to undertake unpaid work experience and low salaries on employment, cause many to reconsider their decision to work in legal aid.

The LAPG survey identified the following financial barriers to qualification for those currently in practice:

Table 2.3 Five most common financial barriers experienced in the process of qualifying as a legal aid practitioner (n=518)⁴³

	N	%
Cost of study, training and qualification	199	38.4
Reliant on family support	136	26.3
Reliant on additional work and extra jobs	129	24.9
Low level of remuneration	122	23.6
Reliant on loans and borrowing	70	13.5

It is unsurprising that the cost of qualification continues to impede entry to the sector.

Undergraduate fees currently stand at £9,250 per year. The GDL is a postgraduate course for those who have already completed a degree, and therefore it does not attract any kind of student loan. As with our previous reports, the majority of respondents to the LAPG survey rely on loans or financial support from family. Only a small proportion of our respondents were able to self-fund their studies solely through their earnings. LPC and BTC fees have not increased (discussed below) since our last report. However the fees remain high and when they are combined with the current level of inflation and cost of living crisis the difficulties caused by the high cost of qualification is especially acute.

The LAPG survey responses highlight that younger people disproportionately experience financial barriers to entry. 41.9% of those aged 18-35 reported financial barriers compared to 35.9% of those aged 36-50 and 22.3% of those aged 51 or over.

The issue of debt was highlighted in our 2018 report and has continued to worsen. At the time of our 2018 report, 72% of respondents have or expected to have debt over £15,000 and 26.5% had over £35,000. The figures collected as part of the LAPG survey are split between practitioners and students. Alarming, the most common answer for students is that they expect to have a training debt of over £50,000. The most common amount of debt for practitioners was £10,000-£19,999.

The majority of students indicated that the majority of their debt is student loan. It should be noted that tuition fees increased from £3000 to £9000 a year in 2010 meaning that the student debt of those entering university since then will be much higher. This is not unique to legal aid or, indeed, law. However these higher fees are only applicable to degree courses. Similar funding is not available for postgraduate courses and compounds other difficulties with qualifying into legal aid work that are set out in this report.

Family support

At the time of our 2018 report, the percentage of those reliant on family support appeared to have significantly reduced. It was not possible to draw any conclusion about why this might be. It is possible that a decrease in reliance on family support is indicative of increased social mobility as it is only those with family resources who are able to rely on such support. However the LAPG data suggests that the percentage of those currently relying on family support is increasing, with 30.3% of undergraduate students and 31.4% of GDL/vocational students relying on the same. This is compared to 28% of GDL students and 19% of LPC/BPC students in 2018.²⁸

Unpaid work experience

Unpaid work experience continues to represent a significant barrier to social mobility. 78% of respondents to the LAPG survey had, at some point, done some form of unpaid legal work experience. Most respondents indicated that their work was funded by family support or paid employment.

²⁸ Young Legal Aid Lawyers: Social Mobility in a Time of Austerity, March 2018:
<http://www.younglegalaidlawyers.org/sites/default/files/Soc%20Mob%20Report%20-%20edited.pdf> , p28

This experience varied from short term internships with non-governmental organisations (NGOs) to paralegal work. 40% of respondents had done paid work experience and 37% had engaged in work experience where only expenses were covered. In comparison to our last survey, there seems to be a slight downward trend, with a 14% decrease in those undertaking unpaid work experience, and a 6% decrease in those undertaking 'expenses only' work experience. However, there is no corresponding increase in paid work experience, which has remained constant on 40%. This suggests that it is unlikely that any decrease in the numbers of people undertaking unpaid work experience can be ascribed to a shift towards properly remunerated experience.

Those who indicated that they had funded such experience via 'other' means reported engaging in squatting, staying with friends and relying on a partner who was working. Of the 98 students who had undertaken work experience opportunities that were unpaid or expenses only, this was largely funded by working part time (47.7%, n=41), personal savings (41.9%, n=36) or via family support (39.5%, n=34).

Those who reported 'other' problems gave examples such as not having appropriate work clothes, the lack of job certainty, and the requirement to self-fund the qualification process. These all appear to come under the umbrella of financial barriers to qualification.

Within the narrative response to questions around financial barriers students reflected on the extent to which their socio-economic background could worsen these financial barriers. One respondent noted:

'Legal aid work simply isn't as lucrative as non-legal aid routes. People in higher classes can sacrifice a dip in a paycheck because their family can help, people in higher classes can sacrifice their summer to an unpaid internship at a legal aid firm because their family can sustain them financially over the summer. I simply can't do that. I must earn money in the summer and I have my enormous debts to pay off in the future.'

Low Salaries

In common with our previous reports, respondents on this occasion were clear that low salaries are a significant barrier to working in the legal aid sector.

One respondent put it this way:

'Becoming a skilled legal aid lawyer requires financial and time investment that simply isn't reflected in the pay provided. While I will always accept that public service isn't necessarily well-paid, the

discrepancy between the high standards of work needed to support those in vulnerable legal situations and the financial remuneration is significant.'

This comment closely reflects responses we have received to previous surveys regarding the level of skill and work required versus the low salary on offer.²⁹

Wages in the legal aid sector remain low in comparison to other areas of the law and other professions. Most City (of London) law firms offer starting salaries of between £40,000 and £50,000, although salaries outside London are significantly lower. For example, one leading Manchester firm pays its first year trainees £26,000 and one Bristol firm advertised salaries of £35,000 (the overview article from which these figures are sourced did not look at high street legal aid firms at all).³⁰ It should be noted that the figures for large London firms have increased while salaries at the lower end have remained static. In a positive development since our 2018 report, the Law Society now recommends a minimum trainee salary which is currently £22,294 in London and £20,217 outside London. This is not enforceable, however, as it is not recommended by the regulator (the SRA).

In the most junior hospital training posts, known as Foundation Year 1, a doctor's basic starting salary is £29,384, in Foundation Year 2 this rises to £34,012. Newly qualified teachers earn at least £25,714, with qualified teachers in inner London earning at least £32,157. The starting salary for police constables, who currently do not have to have any formal educational qualifications (meaning less debt risk), starts at £21,402. As discussed elsewhere, there is no minimum salary for solicitors (save for the national minimum wage). The minimum pupillage award has increased to £17,152 for those outside London but this is still below the national minimum wage.

40.1% of student respondents to LAPG's survey considering a career in legal aid stated that they lacked the financial resources to work in the sector and a majority (63.1%) cited insufficient pay. Of the practitioners who responded, 31.4% indicated that they believed, '*The level of remuneration is unacceptable/insulting.*' More than half of all practitioners earned less than £49,999. It should be noted that the LAPG survey included practitioners at all levels of practice and experience and therefore does not specifically capture the wage level of junior practitioners though there are comments that appear to come from a junior practitioners:

²⁹ Young Legal Aid Lawyers: Social Mobility in a Time of Austerity, March 2018:

<http://www.younglegalaidlawyers.org/sites/default/files/Soc%20Mob%20Report%20-%20edited.pdf>, p35

³⁰ How much will you earn as a trainee solicitor?

<https://targetjobs.co.uk/careers-advice/law/how-much-will-you-earn-trainee-solicitor>

'I work really hard and only just being able to scrape by in London on trainee minimum salary makes me feel immensely undervalued and demoralised' and "[i]f I calculate the hours I put in, to the salary I receive, I'm paid around the minimum wage.'

Lack of training opportunities available

One big difference between YLAL's previous social mobility reports and the current survey is that the current survey includes responses from organisations. A large minority of organisations who were contacted (41.1%) do not provide training to practitioners.

Those who do not provide training were asked to provide a reason for this. 128 of 150 organisations provided reasons. As shown in Table 3.9, those who did not offer training to practitioners most often suggested that limited funding, capacity, resources, infrastructure and time impeded their capacity to train practitioners. Almost half (43.8%) of organisations referenced the fact that it was not cost-effective for them or that they could not afford it. Similarly, 16.4% stated that they had insufficient resources and infrastructure for training. YLAL is extremely concerned that so many legal aid providers are not in a position to provide training given the number of barriers that already exist to qualification.

A related concern is that 73.2% of organisations who responded indicated that they are not currently recruiting or expanding. A lack of training combined with a lack of available vacancies for YLALs makes the prospect of embarking on expensive and lengthy training close to non-viable. More positively, 93.3% of chambers indicated that they were currently training pupil barristers.

Within the narrative response to questions around financial barriers, students reflected on the extent to which their socio-economic background could worsen these financial barriers.

Diversifying routes to qualification

The landscape of postgraduate qualifications for solicitors has changed significantly since our last report. The long awaited Solicitors Qualifying Exam ('SQE') has begun. This was introduced as a new route to qualification. The SQE is not a course and does not involve any education or training.³¹ In theory, this should mean that it becomes significantly cheaper to qualify as a solicitor, with SQE fees currently at £3980; significantly less than

³¹SQE Fact Sheet, <http://www.younglegalaidlawyers.org/SQEFactSheet>

the cheapest LPC fee.³² Preparatory courses for the SQE vary wildly in price from £3,400 to £20,000 depending on course format and provider. Some of these will attract postgraduate student loans as they are packaged as part of LLM courses.³³

The first cohort started SQE preparatory courses in January 2021 and the first exam took place in November 2021 with 1073 candidates taking the first SQE1 assessment.³⁴ Only 53% of the candidates passed the exam on this occasion. YLAL is extremely concerned about the pass rate as it suggests that 47% of those taking the assessments will have to repay the exam fees if they wish to qualify.

These concerns are heightened when considering the ethnic group attainment gap. The pass rate for those who identified as White was 65% whereas the pass rate for Black, Asian and minority ethnic group candidates was 44%.³⁵ This was also reflected in the results from the SQE pilot studies. As noted in our response to these results, YLAL is deeply concerned that the SRA has failed to take effective action to address the ethnic group attainment gap present during SQE pilot studies. We welcome the SRA commissioning in-depth research to better understand the ethnic group attainment gap but are concerned about the timing of this happening after the SQE has commenced.³⁶

Bar Training Course (BTC) and LPC fees have not continued to increase, as feared at the time of our 2018 report. Current fees are similar or, in some cases, lower compared to what they were in 2018. There has been some recognition that the price of the courses had an impact on the accessibility and affordability of qualification.³⁷ However, the fees remain very high and there are extremely limited options for those wishing to practise in social welfare to fund these courses compared to large corporate firms who continue to fund qualification for trainees.

³² LPC Course Comparison Table, <https://www.thelawyerportal.com/solicitor/lpc-legal-practice-course/lpc-course-comparison-table/>

³³ Guide To Choosing A SQE Preparation Course, <https://www.thelawyerportal.com/solicitor/sqe/sqe-preparation-course/>

³⁴ SQE1 November 2021 Statistical Report

https://sqe.sra.org.uk/docs/default-source/pdfs/reports/sqe1-november-2021-statistical-report.pdf?sfvrsn=8792d39d_2

³⁵ Ibid, p5

³⁶ Response to the first Solicitors Qualifying Examination 1 (SQE1) assessment results,

<http://www.younglegalaidlawyers.org/sites/default/files/Response%20to%20the%20first%20Solicitors%20Qualifying%20Examination%201.pdf>

³⁷ CLAR Independent Review Report

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041117/clar-independent-review-report-2021.pdf<https://www.lawgazette.co.uk/news/university-of-law-slashes-price-of-bar-training-course/5101895.article>, p156

Since our 2018 report, the cost of qualification through the Chartered Institute of Legal Executives (Cilex) has increased slightly from £9,529 to £10,214.

Recommendations

- ❖ YLAL implores the SRA to reinstate the a mandatory minimum salary for solicitors to ensure that YLALs receive salaries in line with the Minimum Income Standard.
- ❖ YLAL recommends that the BSB increase the minimum salary for pupil barristers in line with the Minimum Income Standard which is used to calculate the Real Living Wage.
- ❖ Reform of the legal aid billing pipeline to ensure prompt payment of junior barrister fees.
- ❖ Companies, firms and organisations in the legal aid or traditionally legally aided sector should adopt our Best Practice Work Experience Charter at Annex A.
- ❖ Government funds should be made available to small legal aid firms and not for profit organisations to assist them to properly remunerate or reimburse those undertaking work experience in line with our Charter when they are unable to pay to do so themselves.
- ❖ The SRA should prioritise completion of its announced research into the ethnic attainment gap within the SQE results.
- ❖ We urge the Government to accept and implement the findings of the Independent Review of Criminal Legal Aid with regards to the immediate injection of funding that is required to maintain the system.
- ❖ YLAL recommends the creation of an Arbitration system for disputes around what constitutes QWE in order to protect YLALs from potential exploitation.
- ❖ YLAL calls for a discount for SQE courses for those who are committed to working in social welfare areas.

Finding Three: Law schools are not doing enough to prepare students for careers in legal aid

Legal education is insufficiently preparing students for legal aid practice

Less than half of practitioners that responded to the LAPG Survey reported having had the opportunity to take courses relevant to legal aid at undergraduate degree level. Of those who had an LLB, just under half (49.6%) were given the opportunity to study topics relevant to civil or criminal legal aid. Opportunities to study topics relevant to legal aid were more prevalent in the conversion or vocational stages (61.1%) than during undergraduate study, but opportunities remained limited in areas of social welfare law.

The LAPG Census data shows that the most common relevant modules offered to respondents at both the undergraduate and vocational stages were family law and criminal litigation. There is a particular lack of educational provision in the areas of immigration, housing, welfare benefits, education and community care.

The student Census data largely aligns with the findings of the practitioner data with only a small increase in provision. Of those who had previously studied or were currently studying for their LLB or GDL, 62.6% were given the opportunity to study topics relevant to legal aid. The most commonly offered module was family law, followed by employment law and modules related to the legal profession. Again, modules on social welfare law and housing law were far less commonly offered.

Of those students studying for a vocational degree, including LPC, BTC and SQE, 79.5% were given the opportunity to study modules relevant to legal aid. As with undergraduate studies, the modules most commonly offered included family law and employment. In contrast to the offerings at the LLB/GDL stage, students at the vocational stage were more often offered immigration law modules, and offered fewer modules related to social justice, social welfare or the legal profession.

The Census gathered data on the modules students perceived to be most useful to their future careers in legal aid. Of the students who answered in relation the LLB/GDL stage, the modules most commonly reported as being useful were the same modules that are not commonly being offered; including immigration law followed by social welfare and housing law. In contrast, of the vocational/SQE students who answered, housing was more often viewed as enhancing the legal aid relevance of their studies. Vocational students also expressed greater demand for social welfare law modules when compared to LLB/GDL students.

YLAL is concerned that legal education is insufficiently preparing students for legal aid practice. Of the students respondents who had or were undertaking their LLB, GDL, LPC, BTC or SQE, more tended to disagree (29.9%) or strongly disagree (8.0%) with the view that their legal education to date had prepared them well for a career in legal aid relative to those who agreed (25.9%) or strongly agreed (6.9%) with this view; while almost a third of student respondents neither agreed nor disagreed (29.3%).

For those with more favourable views, students often said that their institution did as well as it could have done or that their institution provided some exposure to content deemed relevant to legal aid. Often this line of reasoning was contextualised via reference to the relatively short length of their degree and the required content that needed to be covered.

Overall, however, half of respondents (50%) indicated that the lack of modules relevant to legal aid and the lack of career events and/or information provided about careers in legal aid left them feeling unprepared for a career in the field. This was expressed by one student as follows:

'...even if there are some events and pro bono opportunities, the [law] course is entirely angled towards commercial/private law...I believe social justice/legal aid is completely neglected by universities at an undergraduate level, and if you do not have the personal passion for it [to find] events, journals, [and] opportunities yourself, universities will not push you towards the legal aid world...'

By extension, 23% of students explained that they only became acquainted with legal aid via pro bono, volunteer and/or clinical work, with 12.2% indicating that they lacked practical understanding of legal aid work in spite of having taken relevant modules.

The Census findings indicate the perceived importance of modules relevant to legal aid as well as the availability of experiential learning opportunities, either by way of pro bono projects or clinical legal education, as a factor in supporting students towards their future careers in legal aid. When asked to explain 'what has been the most valuable aspect of your legal education to date for preparing you for a career in legal aid?' students noted the provision of 'specific modules' relevant to legal aid (43.1%) and 'pro bono/clinical/volunteer' work undertaken as part of their studies (42.2%).

Practitioners identified limitations in how their university education prepared them for working in legal aid. Less than half of practitioners who undertook undergraduate legal education reported having had the opportunity to take relevant courses. Social welfare law and related social justice areas, in particular, have emerged as areas of practice that students may have been denied access to. Survey results indicate that only a small number of educational opportunities were made available to current practitioners in areas such as immigration, housing, welfare benefits, education and community care at when they were at the undergraduate level. However, opportunities to study legal aid relevant courses improved at the conversion or vocational stage as compared to the undergraduate stage..

YLAL is concerned that the opportunity to take relevant courses will drastically decrease with the introduction of the SQE, which lacks key areas of social welfare law. YLAL is concerned that the failure to include areas of law traditionally funded by legal aid on the SQE syllabus will leave students ill-equipped to enter into the legal aid sector.

Inevitably, interest in legal aid practice will decrease if students are not provided with opportunities to study and be exposed to these areas of law. YLAL believes that legal aid should be treated as a core area of knowledge for all solicitors, regardless of their eventual specialism. YLAL considers that it is important for all solicitors, whether they will end up acting for claimants or respondents, to understand how the right to legal aid and the provision of legal aid fits within the context of our legal system as a whole. The principle of equal access to justice, irrespective of means, is fundamental to the rule of law. Awareness of this creates a better all-round practice.

Careers information in legal education

Notably, only 34.4% of practitioners who attended university confirmed that they had access to careers events and/or information about careers in legal aid while at university. Only a minority of practitioners had access to such information when studying for another undergraduate degree (12.2%). A higher proportion of practitioners (40.1%) said they received information during the LPC. Where 'other' stages were mentioned, practitioners received information during school, CILEX training, non-law postgraduate study or during their solicitor-apprenticeship.

Where information was provided, it was disseminated variously via the university careers service (68.8%), pro bono projects/clinical casework (32.3%), individual academic members of staff (29.8%), student societies (27.4%) or legal aid firms giving presentations (21.8%).

When asked why they thought they had no access to careers events and/or information about careers in legal aid at university, 44.1% of practitioners indicated that there was a strong focus on commercial law and legal aid was either discouraged or disregarded, while 58% reported that they did not have careers advice at all.

There was a strong feeling among practitioners that there had been a bias towards commercial law: *'Careers events were geared towards commercial firms and commercial routes.'* There was also a sentiment that the universities were not interested in highlighting legal aid as a career option: *'lecturers saw legal aid as a career dead end and did not promote it.'*

For those students who were or had undertaken an LLB or GDL or were undertaking a vocational degree, 45.1% reported having had access to careers events and/or information about careers in legal aid, whilst 40% did not, and 14.9% were unsure.

When asked why they did not have access to events and/or information about careers in legal aid, the largest proportion of students said that the focus at their institution was on commercial law (40%). 25% of students indicated that their institution perceived no demand for career information in legal aid or did not see legal aid as a priority. As one student explained, *'I doubt it would've been a popular choice among my cohort. Legal aid has a reputation for being difficult work without much pay.'*

A further 18.3% indicated that the messaging provided by staff within their institution was that there was no future in legal aid and that students were dissuaded from pursuing a career in the field. As one student put it,

'when I mentioned that I was interested in a career in legal aid, specifically as a criminal barrister, I was told that there was little point pursuing this career path as there is no money in it.'

Another student observed the pressures that graduate employment statistics may play in discouraging students from a career in legal aid:

'as legal aid has limited jobs, encouraging students to pursue this career is not beneficial to universities who want to keep their 'alumni employment levels' as high as possible.'

As with practitioners, there was a concern among students that their university was focused on commercial law: *{t}he university seems to push everyone down the commercial law route, with the events they give and the law firms that come on campus.'*

Some students indicated that legal aid seemed to be more 'a means to fill a CV' through pro bono work or volunteering than a career in its own right: *'legal aid is never represented as a career or training option only as a way to gain experience!'*

Pro Bono, Clinics and Work Experience

The Census practitioner data reveals that only 34.4% of current practitioners who attended university confirmed that they had access to careers events and/or information about careers in legal aid whilst at university. The LAPG Student Survey data indicates a small increase in the availability of legal aid careers advice for current students to 45.1%. When asked why they did not have access to events and/or information about careers in legal aid, 40% of students said that the focus at their institution was on commercial law and 25% said that their institution perceived no demand for career information in legal aid or did not see legal aid as a priority.

Pro bono projects featured quite strongly in practitioners' experience of legal education. Just over half (53%) undertook pro bono during their time at university, either at undergraduate level or during the vocational stage.

Only 26.4% of practitioners indicated that they were offered the opportunity to work in a student legal advice clinic during their undergraduate degree.

Student responses suggested a drop in the number of opportunities either made available or taken up by respondents. 42.5% of student respondents had undertaken pro bono projects and/or activities arranged by their institution during their legal studies, with 51.7% not having done so and 5.7% indicating that they did not know. In addition, 43.7% indicated that they had not undertaken legal work experience independently outside of their institution, while 56.3% had.

Students revealed the challenges of the COVID-19 pandemic in terms of being able to access work experience. Problems included office closures, having work experience opportunities repeatedly cancelled, there being fewer opportunities and more competition for places, and homeschooling commitments resulting in less time available to pursue work experience opportunities.

In addition to opportunities made available by their university, of those practitioners who had attended or were attending university, a total of 90.6% undertook work experience arranged independently prior to their qualification and/or training. Of those practitioners who had not attended or were not attending university, a total of 74.7% undertook work experience arranged independently prior to their qualification and/or training.

The most common forms of work experience were paralegal work (51.3% and 62.5% respectively) followed by different forms of pro bono or voluntary work outside of law school (46.6% and 14.3% respectively). Only 23.7% of respondents who had attended or were attending university indicated that they had undertaken vacation schemes as a form of work experience, which is relatively low compared with the prevalence of vacation schemes for those pursuing careers in corporate law.

The majority of practitioners who had attended or were attending university said they did not have access to work experience through family or friends (68.9%) with the same true of those who had not attended university (87.8%). Of those who did have access to work experience through personal networks (31.1% for those who attended university and 12.2% for those who did not), the majority said they had a friend of the family in the legal profession (64.5% and 66.7% respectively). Student responses largely echoed these findings. Of the students undertaking their LLB/LPC/GDL/bar course/SQE training who answered the question, 77.5% did not have access to work experience via family and friends.

Work Experience as Preparation for Legal Aid Practice

Taking those who attended university and those who did not as a whole, around half of practitioners either strongly agreed (19.3%) or agreed (33.2%) that their work experience prepared them well for their careers in legal aid. Overall, 14.8% of respondents observed that their work experience provided no preparation for the emotional and/or financial hardships of legal aid work. This comment was particularly prominent amongst those who disagreed or strongly disagreed with the view that their work experience prepared them for their career in legal aid.

As one respondent noted,

'I don't think a short period of work experience can prepare you for the demoralising effect of doing substantial hours of work unpaid in legal aid and having difficult work paid less and less well year after year after year.'

Another respondent emphasised that their lack of work experience specifically in the field of legal aid meant that for them, *'the trauma of practising in this area is much harder than I ever could have anticipated.'*

Although there were those who indicated that the emotional and/or financial aspects of legal aid practice could not be adequately conveyed during work experience, there were those who observed the value of being exposed to the practicalities of legal aid work and understanding the needs of legal aid clients. For these

respondents, their work experience was valuable insofar as it enhanced their professional capabilities, as the following quote exemplifies:

'I spent 6 years working in various charity and international organisation posts before commencing my recognised period of training and I think that really helped to be able to take a holistic approach to clients (not have tunnel vision just to look at one legal issue without taking the context of the client's personal circumstances into account) which also helps to anticipate potential future barriers likely to be faced by clients (e.g. we resolve homelessness issue but then the client is likely to face a benefits issue due to the way the UC system works and the client's challenges in engaging with the system).'

There were particular feelings that legal aid work had a specific skill set best understood through experience: *'[w]orking with marginalised and vulnerable groups has provided me with skills that are important to legal aid work.'*

For others, work experience was important in helping them clarify their interest in a career in law and refining the type of career they wished to pursue. As one respondent explained, *'I understood from the experience that I did want a career in law and that I would be better suited for a high street firm rather than a larger firm.'*

In light of the lack of opportunity to take relevant courses at all stages of legal education and the lack of information about careers in legal aid, there appears to be a general consensus that work experience is a necessary to prepare students for legal aid practice and enhances career prospects. However, as discussed above, unpaid work experience continues to represent a significant barrier to social mobility. YLAL is therefore concerned that those from lower socio-economic backgrounds and those with caring responsibilities, who may struggle to undertake unpaid work experience, are missing out on vital preparation for legal aid practice.

Recommendations

- ❖ YLAL recommends that the content of the SQE be amended to ensure that areas of social welfare law and civil legal aid are made available within the context of SQE1 and 2.
- ❖ YLAL recommends that a Social Welfare specific preparatory course for the SQE be created and made available to students.
- ❖ YLAL seeks a commitment from university careers departments to offer information about careers in social welfare law.
- ❖ YLAL recommends that course providers offer LLM SQE prep courses to allow people to utilise postgraduate funding options which are otherwise not available.

Finding 4 - stress, lack of support, juggling legal aid work with life’s pressures are affecting retention in the profession

Another common theme that has continued to affect YLALs since the time of our last report is stress and poor wellbeing. In 2018, one fifth of respondents cited this as being the biggest challenge they experienced.³⁸

Wellbeing was not specifically explored within the Census, but key indicators can be pulled from the data and combined with other YLAL work which demonstrate that this is very much a live problem.

Positively, it appears that the main motivation for those entering the profession has continued to be a commitment to legal aid work in some form. Over half of respondents to the LAPG surveys cited altruistic reasons such as wanting to make justice more equitable and making a fairer society. It should also be noted that only two respondents are said to have responded that they were attracted to the profession by the possibility of making a decent living but that neither felt this was currently possible. Indeed, one cited the post 1995 changes to legal aid policy which indicates how long ago legal aid work was considered well-remunerated by some.

The majority of those surveyed who had left the profession also offered altruistic motivations for undertaking legal aid work initially.

Alongside this a large proportion of practitioners felt that their remuneration was not appropriate, as set out in this table:

	N	%
The level of remuneration is unacceptable/insulting	164	31.4
Remuneration does not factor in the difficulties/stress of the job, including difficult clients, unsociable hours, being on stand-by	92	17.6
Remuneration is inadequate or some work is unpaid	82	15.7
Remuneration does not reflect how hard we work	82	15.7
Compared to other similar roles in the private sector my remuneration is less	72	13.8

³⁸ Young Legal Aid Lawyers: Social Mobility in a Time of Austerity, March 2018: <http://www.younglegalaidlawyers.org/sites/default/files/Soc%20Mob%20Report%20-%20edited.pdf>, p38

Over a third of current practitioners felt that the level of remuneration is unacceptable or insulting. The LAPG data is not disaggregated to show the breakdown in level of experience. However it is reasonable to assume that junior practitioners bear the brunt of low remuneration. Our previous reports both on social mobility and more recently COVID-19 have shown that the combination of low salary and ever-increasing student debt means the issue of remuneration is particularly acute for those entering the profession.

Over the course of the COVID-19 pandemic YLAL conducted three surveys of its members which included a snapshot of the current wellbeing of junior practitioners from early 2020 to late 2021. The findings of these reports have caused YLAL significant concern that the wellbeing of junior practitioners is not being safeguarded. For example, at the time of our third report two thirds of YLAL members who responded stated that the impact of COVID-19 had negatively impacted their mental health. Whilst concerns about the pandemic have faded, it is clear from the current LAPG data and YLAL's historic reports that the resilience of the profession has already been dangerously stretched.

It bears repeating that these findings predate the current cost of living crisis and, as such, many of the financial factors detailed above will have become more acute and potentially damaging to practitioner wellbeing.

At the time of YLAL's 2018 report, we raised concerns about attacks on our profession from members of the Government and sections of the press both in terms of perceived political leanings and on the basis that we are 'fat cats'. Unfortunately such attacks have only increased in the intervening years with several Cabinet ministers and the Prime Minister making repeated negative comments about legal aid lawyers in the last month.³⁹ YLAL is concerned about this on two fronts with regard to junior wellbeing.

Firstly, this has an inevitably negative impact on practitioner wellbeing. As outlined above, many aspiring lawyers enter this profession knowing they are unlikely to be well-paid for their work. Combining that with the feeling of being undervalued and unappreciated, and the experience of vicarious trauma, it is difficult to see how the profession can continue in a sustainable and equitable way.

³⁹ Boris Johnson vows he WILL get Rwanda migrant plan done as he blasts 'legal eagles and liberal lawyers' for months of delays - after 696 cross Channel in three days, <https://www.dailymail.co.uk/news/article-10782261/Boris-Johnson-blasts-legal-eagles-liberal-lawyers-trying-block-120m-Rwanda-migrant-plan.html>

Table 3.4. Ten most common least-liked aspects of working in legal aid (n=726)⁶⁵

	N	%
Poor remuneration/for the complexity of work	305	42.0
Too many audits/administrative work/battling LAA for payment	232	32.0
Unsustainably large workload/'burnout'/long hours	110	15.2
The Legal Aid Agency/Ministry of Justice/CCMS	95	13.1
Lack of resources/funding for LA and related bodies (eg. CCMS, Courts)	94	12.9
Poor fees/amount of work needed to do to get paid a decent salary	80	11.0
Impact on mental health e.g. stress, anxiety, vicarious trauma	78	10.7
Feeling undervalued/poor public perception of LA work	74	10.2
Lack of client eligibility/scope of LA too narrow	45	6.2
No work-life balance/impacts on personal time	44	6.1

Secondly, it has the potential to impact the physical safety of junior practitioners. As is clear from YLAL's previous surveys and COVID-19 reports, it is junior practitioners who are most often 'at the coal face' with regards to legal aid work. This was clearly seen during the pandemic where junior practitioners were often expected to go into high risk environments with massive variations in safety measures. There is also a risk of physical attack as demonstrated by the incident of an alleged extremist attending an immigration firm with the alleged intention of killing an immigration solicitor.⁴⁰

The LAPG Census has provided a useful and thorough snapshot of the entire legal aid sector. It highlights that the system is being supported by the goodwill and pro bono hard work of practitioners and reasonably questions how long this can continue. As identified in our first social mobility report published 12 years ago:

'YLAL believes that it is time that lawyers who devote their careers to legal aid work are recognised as providing a public service, rather than being branded as fat cats. The evidence in this report illustrates

⁴⁰ Alleged extremist to face trial for law firm terror attack,

<https://www.legalfutures.co.uk/latest-news/alleged-extremist-to-face-trial-for-law-firm-terror-attack>

just how difficult it is for new lawyers from disadvantaged backgrounds to forge a career in legal aid. Public recognition of the work legal aid lawyers do and some practical help to encourage new lawyers from all backgrounds to commit to this area would be an excellent start.'

The issues identified in this report are longstanding and, in YLAL's view, time is running out to ensure that the legal aid sector does not enter terminal decline despite the best will and intention of dedicated young legal aid lawyers.

Recommendations

- ❖ YLAL calls for the Government to reverse the cuts brought in by LASPO.
- ❖ Law firms, businesses and organisations providing legal aid should recognise, understand and properly address the causes of the emotional and psychological impact reported by respondents. They should improve working conditions and offer adequate and accessible support to employees and juniors, without stigma or judgement.
- ❖ There should be greater flexibility allowed to those with caring responsibilities and disabilities. Employers should be more open to part time work, flexible working hours and work from home where appropriate. The Legal Aid sector should modernise itself in line with most other professions.
- ❖ Chambers should implement progressive maternity and parental leave policies, including reduced rent.

Concluding Thoughts

We acknowledge the progress that has been made towards a diverse profession over many years and the hard work of individuals that has contributed to this. We welcome that the proportion of YLALs who come from diverse ethnic backgrounds has continued to increase. However, we risk losing these gains if radical changes are not made. Significant obstacles to entering the profession remain. In all likelihood, the situation is much worse than when the Survey data was collected due to the deepening cost of living crisis and increased pressures of working from home and hybrid working following the Covid-19 pandemic. For many, particularly those from marginalised and disadvantaged backgrounds, the reality of a career in legal aid is becoming increasingly unsustainable.

We believe that the legal profession – like the justice system – should be open to all. Unless the issues within this report are addressed, retention of talent in the legal aid sector will become a bigger issue and social mobility within the profession will be greatly compromised.

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A special acknowledgement to LAPG for allowing us to use their Census data and providing detailed analysis of the figures without which we could not have completed this report.

Annex A - Summary recommendations

These are the recommendations made in YLAL's Social Mobility Report of 2022:

- ❖ YLAL seeks a commitment from contributing firms for the continuation and expansion of the Social Welfare Solicitors Qualifying Fund to ensure that this vital source of funding remains available to ensure that those who are not independently wealthy are able to qualify as legal aid practitioners into the future.
- ❖ YLAL implores the SRA to reinstate the a mandatory minimum salary for solicitors to ensure that YLALs receive salaries in line with the Minimum Income Standard.
- ❖ YLAL recommends that the BSB increase the minimum salary for pupil barristers in line with the Minimum Income Standard which is used to calculate the Real Living Wage.
- ❖ Reform of the legal aid billing pipeline to ensure prompt payment of junior barrister fees.
- ❖ Companies, firms and organisations in the legal aid or traditionally legally aided sector should adopt our Best Practice Work Experience Charter at Annex A.
- ❖ Government funds should be made available to small legal aid firms and not for profit organisations to assist them to properly remunerate or reimburse those undertaking work experience in line with our Charter when they are unable to pay to do so themselves.
- ❖ The SRA should prioritise completion of its announced research into the ethnic attainment gap within the SQE results.
- ❖ We urge the Government to accept and implement the findings of the Independent Review of Criminal Legal Aid with regards to the immediate injection of funding that is required to maintain the system.
- ❖ YLAL recommends the creation of an Arbitration system for disputes around what constitutes QWE in order to protect YLALs from potential exploitation.

- ❖ YLAL calls for a discount for SQE courses for those who are committed to working in social welfare areas.
- ❖ YLAL recommends that the content of the SQE be amended to ensure that areas of social welfare law and civil legal aid are made available within the context of SQE1 and 2.
- ❖ YLAL recommends that a Social Welfare specific preparatory course for the SQE be created and made available to students.
- ❖ YLAL seeks a commitment from university careers departments to offer information about careers in social welfare law.
- ❖ YLAL recommends that course providers offer LLM SQE prep courses to allow people to utilise postgraduate funding options which are otherwise not available.
- ❖ YLAL calls for the Government to reverse the cuts brought in by LASPO.
- ❖ Law firms, businesses and organisations providing legal aid should recognise, understand and properly address the causes of the emotional and psychological impact reported by respondents. They should improve working conditions and offer adequate and accessible support to employees and juniors, without stigma or judgement.
- ❖ There should be greater flexibility allowed to those with caring responsibilities and disabilities. Employers should be more open to part time work, flexible working hours and work from home where appropriate. The Legal Aid sector should modernise itself in line with most other professions.
- ❖ Chambers should implement progressive maternity and parental leave policies, including reduced rent.

Annex B - Best Practice Charter for Work Experience

Our respondents fell into two categories of how they felt the problem of unpaid work experience should be tackled. The first was to bring together recruiters:

“Firms and chambers need to unite in ruling out unpaid work experience as exploitative and potentially unlawful “

The second was to tackle those organisations who themselves provide unpaid work experience opportunities, which in turn encourage the prevalence of unpaid experience on CVs:

“As most work placements tend to be unpaid, it is difficult to find a sustainable role in legal aid. This could be overcome through paid work placements” “[NGOs] should all stop taking on unpaid internships. Then firms would not be able to demand experience”

YLAL recommends that legal aid firms who offer or intend to offer work experience placements should meet a number of requirements. We have drafted a charter which we ask legal aid firms to follow in the future to improve the current situation. We hope the Charter will help to protect young legal aid lawyers from unpaid work experience with undefined job descriptions for unspecified periods of time.

WORK EXPERIENCE CHARTER

Preamble

We [insert firm name] are committed to providing high quality legal work experience, accessing social mobility and encouraging the next generation of aspiring legal aid lawyers to enter the profession. We recognise the barriers to accessing work as a legal aid lawyer. We therefore promise to comply as far as possible with the conditions for work experience set out below:

Application

1. All work experience placements will be advertised in public (for example, on the host's website) so there is equal opportunity to access opportunities for those who do not have existing connections to individuals in the organisation

Remuneration/reimbursement

2. We endeavour to pay work experience at the real living wage.

3. Where it is not possible to pay a salary or stipend (for example where additional work experience is granted outside of normal firm schemes) we will make clear to staff within the host organisation and interns that work experience participants are volunteers and should not be treated as workers.

4. We will in any case pay reasonable travel costs for travelling to work and all costs for expenses incurred for out of office travel for work related reasons.

Duration

5. Work experience will generally not exceed a period of one month full time or three months part time. Any work experience staying longer than this period should not be done so on any pre-condition for full time paid work, or under any false expectation that the work experience will lead to full time employment.

Quality of work

6. Work experience candidates will not be used to fill any shortfall in staff or labour.

7. Work experience candidates will be given some element of constructive legal work that will aid their understanding of working in the legal sector.

8. Where possible, feedback will be given to candidates on substantive pieces of work.

Integration

9. Work experience candidates will be given a proper induction to the organisation, including where appropriate access to a staff handbook, to ensure that they are able to approach tasks confidently from the outset, maximise the output of their time with the organisation and understand what their role will encompass.

10. Work experience candidates will have a mentor or other point of contact for guidance, feedback and troubleshooting on their work, with meetings arranged at least at the beginning and end of the placement and access to the mentor while the placement is ongoing.

11. We will endeavour to ensure that work experience candidates are invited to social occasions with the firm to allow them to meet other interns and staff, and be included in events that could enhance their professional development (for example, talks and training sessions).

Outcome

12. Work experience interns will be provided with a reference at the conclusion of the placement.

Further Contact Details

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