

**Young Legal Aid Lawyers
and Public Law Project**

Overstretched & unsustainable: a case study of the immigration and asylum legal aid sector

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**YOUNG
LEGAL
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LAWYERS**



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Summary

Young practitioners in the immigration and asylum legal aid sector face a barrage of overwork, financial unsustainability and serious emotional and wellbeing concerns. These issues have clear and worrying consequences for access to justice and the future of the immigration and asylum legal aid sector.

This report explores the nature of the issues facing young legal aid practitioners and the consequences these issues may have on the wider sector and those who rely on it. Our data is drawn from a combination of:

- an online survey with young legal aid practitioners;
- semi-structured interviews with young legal aid practitioners; and
- focus groups conducted with practitioners, charities working in the immigration and asylum sector, and people who have lived experience of navigating the immigration and asylum system.

This report and the existing evidence base shows that there is an urgent need for the government to recognise and address the scale of the crisis facing the immigration and asylum legal aid sector. Immigration and asylum legal aid is vitally important for people to respond to and appeal decisions made by the Home Office. The nature of immigration law, Home Office administrative practice and the First-tier Tribunal (Immigration & Asylum Chamber) as an adversarial tribunal, means it is essential that those navigating these systems are able to access advice and representation. Furthermore, the Immigration Rules in the UK are extremely complex and long – the Immigration Rules have ‘quadrupled in length in the last ten years’ and, according to the Law Commission, been ‘comprehensively criticised for being poorly drafted’.ⁱ When combined with lengthy Home Office decision-making delaysⁱⁱ and initial Home Office decisions that are at present likely to be successfully challenged, particularly in areas such as asylum,ⁱⁱⁱ it is clear that a functioning immigration and asylum legal aid sector is vital. Not only is it important to prevent breaches of human rights such as unlawful removals, but it is a response to the nature of the immigration and asylum system that generates the need for people to engage with Home Office decisions.

Crucially, recent changes brought into effect by the Nationality and Borders Act 2022, such as Priority Removal Notices and the rebuttal mechanism, will create complex new processes for people to navigate and consequently additional streams of work for the legal aid sector. As this report shows, this work may have difficulty being absorbed in a sector already so overstretched.

Our research presents some key findings regarding the sustainability of the immigration and asylum legal aid sector:

- 73% of survey respondents do unseen or unbillable work every working day.
- Practitioners were routinely working over their contracted hours and finding it difficult to take leave. A majority of interviewees and survey respondents expressed a strong feeling that they were always working either at or beyond their capacity in the legal aid sector.

- Training and development was limited and supervisors were stretched with their own caseloads.
- The majority of survey respondents expressed a strong preference for hourly rates over fixed fees, saying that they were a more 'realistic' and 'fairer' way of being remunerated for legally aided work.
- 70% of survey respondents have experienced vicarious trauma or 'burnout' from their practice.
- The interaction of the legal aid regime with backlogs in Home Office decision-making was cited by many participants as one of the reasons it was difficult to make a legal aid practice financially sustainable.
- The primary obstacle for those we spoke to who had lived experience of trying to secure legal advice and representation was finding a legal aid provider to take them on, which could take many months.
- When asked what they saw as the most likely scenario in the next five years, 24% said they anticipated taking on more immigration and asylum legal aid work and 30% said they anticipated continuing to work in immigration and asylum legal aid practice to the same extent as they did at present. 14% said they would take on less immigration and asylum legal aid work and 19% said they anticipated either leaving immigration and asylum legal aid practice or legal aid practice entirely.

Recommendations

Within six months

1. Ministry of Justice: introduce a 15% fixed fee uplift. This should be an interim, emergency measure, pending the outcome of the Review of Civil Legal Aid.
2. Legal Aid Agency and the Ministry of Justice: urgently begin routinely collecting and publishing data on capacity in the immigration and asylum legal aid sector, broken down by geographical region. Data collection should take into account the issue of 'advice droughts', where there appears to be legal aid provision in an area, but this is unavailable in practice. For example, by asking providers to report their own level of capacity.
3. Legal Aid Agency: simplify the audit and billing process for legal aid providers and introduce more billing stages so that providers can claim their profit costs at regular intervals.
4. Legal Aid providers: ensure members of staff have access to meaningful and long-term forms of support to address high rates of vicarious trauma and burnout.
5. Legal Aid providers: ensure that any interim increase in legal aid rates translate into an increase in pay for members of staff.

Within twelve months

6. Lord Chancellor, the Legal Aid Agency and the Ministry of Justice: develop a strategy to address the urgent issues of advice deserts and droughts, ensuring there is sustainable capacity. Section 1(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 imposes on the Lord Chancellor a duty to 'secure that legal aid is made available in accordance with this Part', and section 1(4) enables him to 'do anything' to further those functions. Section 2(1) empowers him to make 'such arrangements as [he] considers appropriate'.^{iv} As a result, the Lord Chancellor has broad powers to meet his statutory duty. Addressing the issue of advice deserts and droughts could therefore take a number of forms beyond the established legal aid system, for example through grant funding individual organisations.^v
7. Home Office: work with the Legal Aid Agency and the Ministry of Justice to ensure that asylum dispersal areas have sufficient legal aid providers prior to accommodating people in these areas.

Introduction

Background

The focus of the research is to explore the diversity and complexity of immigration work and the relationship between the immigration legal aid regime and sustainability in the sector in England and Wales. It looks at how legal aid fees affect the work of junior immigration practitioners in particular, and considers the extent to which that may affect access to justice for people who need advice, casework and representation in immigration and asylum law. This report adopts the definition of sustainability proposed by The Law Society^{vi}:

‘Delivery of legal aid on civil issues to the same or greater proportions of people that are eligible over the long term.’

This research has benefited from the expertise of a practitioner reference group who have met throughout the project. Their purpose has been to:

- Bring together expertise from across the immigration and asylum legal aid sector to advise on the direction and delivery of YLAL’s research project into the sustainability of the immigration and asylum legal aid sector.
- Help ensure that the project is filling a gap in the empirical research and is meaningfully engaged in the longer-term conversations in this space.
- Offer a network of contacts through which to gather research participants, as well as to disseminate the research outputs.

As well as assisting with the design and direction of the project, the practitioner reference group also participated in a focus group exploring their experiences of the immigration and asylum legal aid sector and the proposals contained in the consultation on new fees for new services.^{vii}

Previous research

Legal aid is the use of public funds to help people to access legal advice, family mediation and court or tribunal representation. Legal aid contracting was introduced in 2000 with the Access to Justice Act 1999. This created the Legal Services Commission, the agency responsible for administering the legal aid scheme prior to the Legal Aid Agency.^{viii} Since 2000, there has been a ‘marked shift from payment at hourly rates to fixed fees’.^{ix} A 10% cut to civil legal aid fees was introduced in 2011 and was followed by the Legal Aid Sentencing and Punishment of Offenders Act in 2012 which took most non-asylum immigration matters out of scope for legal aid.^x

Previous research in this area has consistently identified issues concerning advice deserts, the complexities surrounding contracting and auditing processes with the Legal Aid Agency^{xi} and the financial difficulties of sustaining a legal aid practice.^{xii} ‘The Legal Aid Market: Challenges for Publicly Funded Immigration and Asylum Legal Representation’ (2021) by Dr Jo Wilding finds that immigration and asylum legal aid providers are under considerable pressure in terms of financial risk, cash-flow difficulties and the high transaction costs and administrative burden of doing legal aid work.^{xiii} In particular, Dr Wilding’s research provides evidence of the prevalence of ‘advice droughts’, where there appears to be legal aid provision in an area, but

this is unavailable in practice as providers are either at capacity or mediating the amount of legal aid work they conduct to limit financial risk.^{xiv}

The spread of immigration and asylum legal aid providers across the UK is uneven. Dr Wilding estimates that there is a 'Primary Legal aid Deficit in Wales and in every region of England'.^{xv} Immigration and asylum legal aid provision in England and Wales is 'not even adequate for first-time adult asylum applications'.^{xvi} In November 2022 Dr Wilding estimated, based on the available data, that almost 'half of the main applicants (excluding dependants) who claimed asylum in the year to June 2022 did not have a legal aid representative'.^{xvii}

Even in London, there is still a 'very large gap between need and capacity', despite it having the greatest number of legal aid and Office of the Immigration Services Commissioner (OISC) providers.^{xviii} 40% of the offices holding legal aid contracts in England and Wales are in London.^{xix}

Many studies and organisations have explored the issues with recruitment and retention in immigration and asylum legal aid, and civil legal aid more broadly.^{xx} The 2021 Legal Aid Census commissioned by the Legal Aid Practitioners Group received 2,240 responses to the census and presents a comprehensive picture of the health of the wider legal aid sector.^{xxi} 18.3% of current practitioners who responded to the census said that they were 'unlikely' or 'very unlikely' to remain in legal aid in the next three years.^{xxii} The majority of practitioners responding to the census 'considered that fixed fee arrangements were unsustainable, with practitioners working 106 minutes for every 60 minutes of remuneration on average'.^{xxiii} The Bar Council have suggested that the problems surrounding retention and career development for junior legal aid lawyers, particularly those without independent financial means, may have serious consequences for the diversity of the profession.^{xxiv} They argue that there is a 'real danger that efforts to make the Bar as a career more accessible to those from less privileged backgrounds, women and barristers from ethnic minority backgrounds will go into reverse'.^{xxv}

The issue of sustainability in the legal aid sector is recognised to be urgent – the Legal Aid Practitioners Group have said that without significant investment and reform 'it is unlikely that we will have a functioning legal aid sector at all by the end of the next decade'.^{xxvi} As a result of the severity of these sustainability issues for civil legal aid providers, a recent Justice Committee report recommended 'a complete overhaul of the system'.^{xxvii} Dr Wilding has noted that whilst the issue is urgent, sustainable funding is not a quick solution because the sector is 'badly depleted'.^{xxviii} Instead, she argues that the sector needs 'strategic re-growing'.^{xxix}

Legal aid data gap

There is an absence of data held centrally by the Legal Aid Agency and Ministry of Justice that could provide a comprehensive picture of the functioning of the legal aid market. Dr Wilding has suggested that the failure of government bodies to 'collect adequate evidence about the functioning of the [legal aid] market' amounts to the Lord Chancellor effectively 'ignoring a statutory duty to secure the availability of legal aid'.^{xxx}

In June 2022, the Ministry of Justice launched a consultation, 'Immigration Legal Aid: A consultation on new fees for new services', which contained proposals for the remuneration of online system appeals as well as new processes, such as Priority Removal Notices.^{xxxi} The proposals are based on survey data collected by the Ministry of Justice. A large sample (60) of

legal aid provider offices who had completed at least five cases on the online system were invited to respond to the survey. However, only 17 responded and only 14 responses were full and valid. Additionally, where responses gave a range rather than a single figure to indicate the complexity and variation in time taken to conduct immigration and asylum legal aid work, the survey analysts instead recorded the mid-point of the range.^{xxxii} Furthermore, the Equalities Statement itself recognises that it is based on 'limited information on legal aid providers' and the conclusions drawn about the immigration and asylum legal aid sector and its characteristics are based on data from a 2015 survey conducted by the Legal Aid Agency.^{xxxiii} This highlights the need for improved government data collection with regard to legal aid.

In light of this existing evidence base, this research seeks to explore the sustainability of the immigration and asylum legal aid sector, with a particular focus on the experiences of young legal aid practitioners. The primary focus of this report is to offer empirical evidence of the issues surrounding junior practitioners conducting legally aided immigration and asylum work and the impact this may have on the longer-term sustainability of the sector. In addition, this report will investigate what impacts these issues might be having on access to justice for people who need advice, casework and representation in immigration and asylum matters.

Methodology

The empirical data this research report draws on was collected between 5 May 2022 and 21 July 2022. The research spanned both quantitative and qualitative methods, involving an online survey, semi-structured interviews and focus groups.

In total, this research had 67 participants,^{xxxiv} across a number of different research interactions.

	Number of participants
Online survey with junior practitioners	37
Semi-structured interviews with junior practitioners ^{xxxv}	8
Focus group with reference group practitioners and YLAL members	13
Focus group with London Charity Mental Health Working Group (LCMHWG) caseworkers	6
Focus group with Migrants Organise members	3
Total	67

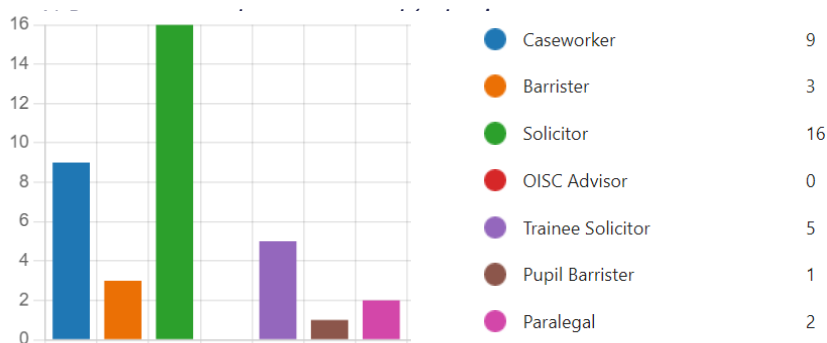
Online surveys with junior practitioners

The survey was open for responses from 5 May 2022 until 1 July 2022. It was open to anyone who was:

- a caseworker, paralegal, solicitor or barrister up to 10 years' call or 10 years' Post Qualified Experience;
- a regulated immigration adviser or caseworker with up to 15 years' experience;
- or a student or aspiring professional.

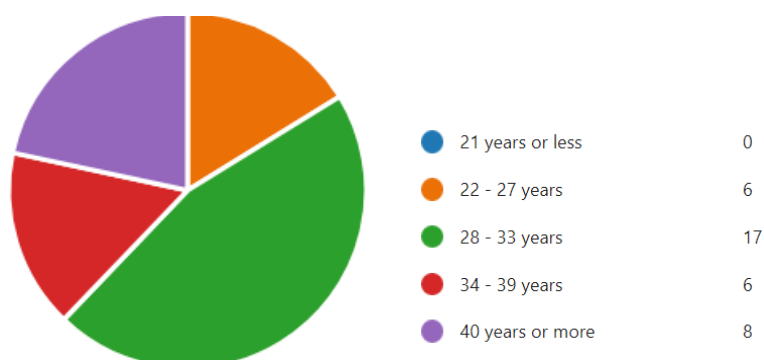
The most common roles of survey respondents were solicitor (43%) or caseworker (24%) (see figure 1). In total we received 37 survey response.

Figure 1: Responses to survey question, 'What is your job title?'



Most survey respondents were between 28 and 33 years old (46%), although 22% were 40 years old or more (see figure 2).

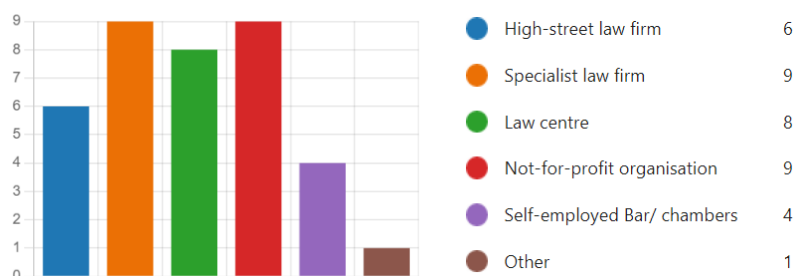
Figure 2: Responses to survey question, 'What is your age?'



The majority of survey respondents identified as female (70%) and either of an English, Welsh, Scottish, Northern Irish or British ethnicity or any other white background (69%).

There was good variation in where survey respondents worked, with 24% working for a specialist law firm, 22% working for a law centre and 24% working for a not-for-profit organisation (see figure 3). 46% worked in an organisation with between 20 and 49 employees or members and a further 24% worked in an organisation with between 6 and 19 employees or members.

Figure 3: Responses to survey question, 'Where do you work?'



The geographical spread of survey respondents was relatively limited. 57% worked in organisations based in Greater London, 19% worked in organisations based in the North West of England, and the remaining 24% of respondents were spread out between the North East of England (1 respondent), Yorkshire and the Humber (2), the East Midlands (2), the South West of England (3) and South East Wales (1).

Respondents conducted primarily legal aid work, with 57% responding that over 61% of their overall individual practice was made up of immigration and asylum legal aid work (see figure 4). Most respondents conducted either no private immigration work (38%) or if they did, it contributed less than 20% of their overall practice (32%) (see figure 5).

Figure 4: Responses to survey question, 'On average, what percentage would you say of your overall practice does your immigration and asylum legal aid practice constitute? This refers to work for which there is a Legal Aid Agency contract, rather than other grant-funded or pro bono work.'

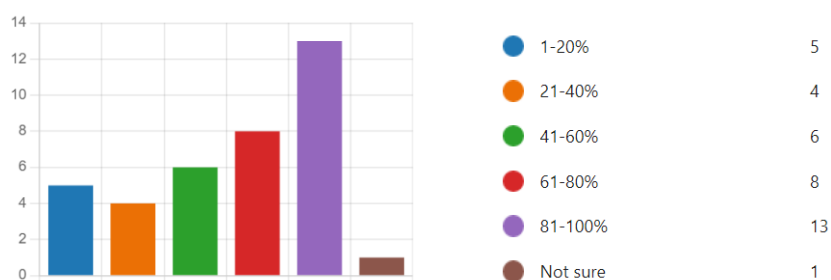
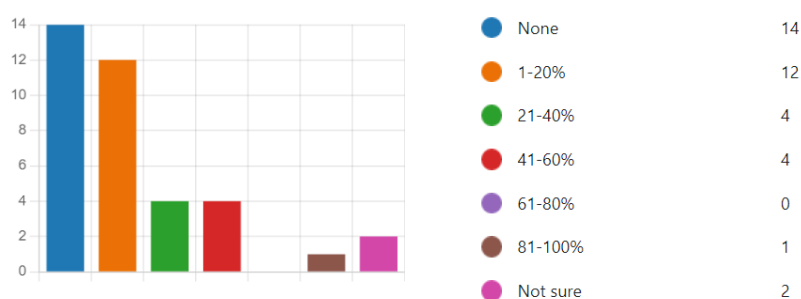


Figure 5: Responses to survey question, 'On average, what percentage would you say of your overall practice does your immigration private practice constitute, if any?'



Semi-structured interviews with junior practitioners

In addition to the survey, we interviewed eight junior practitioners about their experiences of working in the immigration and asylum legal aid sector via Microsoft Teams. These practitioners came to us through either having completed the survey or through seeing our call for interviews. Four interviewees were immigration caseworkers or advisers and four were solicitors.

Focus groups

We conducted three online focus groups with the following participants:

- London Charity Mental Health Working Group (LCMHWG) caseworkers
- Migrants Organise members
- Practitioner reference group and YLAL members

The London Charity Mental Health Working Group is a collaboration between a number of London-based charities working in the immigration and asylum sector with clients who often have complex mental health issues. It was set up by Migrants Organise and involves Haringey Migrants Support Centre, Hackney Migrant Centre and London Red Cross.

Migrants Organise is a membership organisation who 'combine advice and support for individuals affected by the hostile environment immigration policies with community organising, advocacy, research and campaigning to help dismantle structural racism.'^{xxxvi} Their members have lived experience of navigating the immigration system in the UK.

Research limitations

It is worth noting that a possible limitation of this research is its narrow engagement with those who have lived experience of accessing legally aided immigration and asylum advice. As a result, this research speaks largely to the first theme of the sustainability of the immigration and asylum legal aid sector.

Secondly, we recognise the potential for sampling bias when recruiting survey, interview and focus group participants, as many participants will have engaged with the research as a result of a pre-existing connection to the organisations conducting it. For example, through 'following' one of the participating organisations on a social media platform. In particular, the practitioners we interviewed came to us through either having completed the survey or through seeing our call for interviews. Therefore, it may be the case that a sampling bias exists towards those practitioners who were interested in sharing their specific experiences with us or were in the process of considering what legal aid practice meant to them. Despite these limitations in our methodology, the total number of participants (67) goes some way to counter possible sampling bias, and the conclusions we draw in this report are an accurate reflection of the evidence base produced.

Current issues facing the immigration and asylum legal aid sector

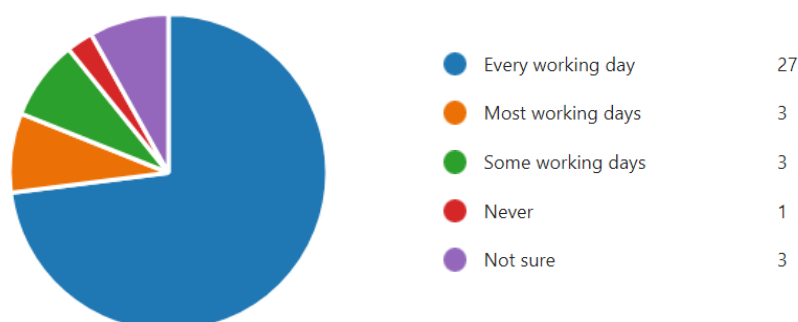
Overstretched legal practitioners

Capacity

A majority of interviewees and survey respondents expressed a strong feeling that they were always working either at or beyond their capacity. 73% of survey respondents worked on average more hours per week than they were contracted to and 22% worked the same number of hours they were contracted to.^{xxxvii} Of those that worked the same number of hours as they were contracted to, 50% were caseworkers.

73% of survey respondents also said that they do 'unseen' or 'unbillable' work every working day and a further 16% said they did it most or some working days (see figure 6). For most respondents this work took the form of administrative work, but others also mentioned that assisting vulnerable clients with non-legal matters, establishing rapport with children or vulnerable adults and chasing delays took a significant amount of time.

Figure 6: Responses to survey question, 'How common is it for you to do 'unseen' or 'unbillable' work?'



Administrative work also formed a significant part of many interviewees' everyday working lives. In particular, interviewees who had moved from high street or specialist law firms into not-for-profit organisations or law centres said they were surprised when they first moved about the lack of administrative support and how much time it took away from their 'billable' work. Those interviewees who did have billing or administrative support said it was generally not sufficient.

'It's very difficult because even if she [the paralegal] has 18 hours [per week], that's 3 and a 1/2 hours per case worker, that's not much. [...] It's not the fault of her competency. It's just that we're limited on resources. So the underlying expectation is that we have to be administratively self-sufficient.'

One interviewee said that their workplace did pay additional staff to do their billing work, but due to the complexity of immigration and asylum legal aid billing, they would only get through 'a couple of files a day'. Billing for legal aid work therefore appeared to be a disproportionately time-intensive process, even for those with specialism in the area.

Working conditions

Only 46% of survey respondents had billing targets set by their employer and all were either caseworkers, solicitors or trainee solicitors, plus one paralegal who was part of a team that had a yearly billing target. Those that did have billing targets often talked about the pressure that it put on their work, particularly because of how long it often took to close legally aided immigration and asylum cases because of Home Office and justice system delays. For several respondents, billing targets contributed to needing to take on a high caseload. One survey respondent said:

'It [billing target] contributed to overall pressure to work as fast as possible, leading to unnecessary frustration when taking statements from vulnerable clients, for example; pressure to keep increasing the workload and a feeling from management that they were doing me a favour through employment.'

86% of survey respondents had employee entitlements, such as annual leave and paid sick leave. Only 57% (20) of those who answered the follow-up question about how they utilise these entitlements said they were always able to utilise these entitlements (figure 7) and only 29% (10) said they were always able to take their full entitlement to annual leave (figure 8). For those that did always or usually take their full entitlement to annual leave, some respondents expressed guilt for the additional burden this put on their colleagues.

'I make a point of taking what I'm entitled to although feel bad doing so.'

However, others who always or usually take their full entitlement were happy with the amount of annual leave they took and the working culture that surrounded it.

'Current workplace is very strong on encouraging staff to take annual leave, recognising the challenges of this work and prevalence of burnout. No guilt over taking A/L (which I have experienced in other legal aid practices) so I aim to take it in full every year, if I can, or roll it over to the next year.'

For those that did not take their entitlement to annual leave, the reasons they suggested for this was the high workload and concerns about a backlog on their return, or feeling like no-one would be able to cover for them whilst they were away.

'It's a catch 22. It's important to take annual leave but if your cases are not covered when you are away from the office, then you automatically come back to more work.'

'I have no support staff, so it is very difficult to take time off as other caseworkers/solicitors on the team are working at full capacity. We do our best to pick up for each other when there is annual leave but it's not always possible.'

Figure 7: Responses to survey question, 'If yes, are you always able to utilise these employee entitlements?'



Support for practitioners

37% of survey respondents said the supervision they received was sufficient. These respondents found their supervisors to be accessible and often had regular meetings, either remotely or face-to-face with them, plus more ad-hoc support.

27% of survey respondents said the supervision they received was not sufficient.^{xxxviii} These respondents often felt under-supported and that their supervisor was so busy with their own caseload that even with the best intentions, supervision became a 'secondary focus'.

'I think there's a lot of expectation to just 'crack on' because everyone is so busy and there isn't really time for supervisions or staff management.'

The type of supervision available was also important. Some respondents wanted support beyond a supervisor reviewing their work or answering technical questions, such as general encouragement or support to manage the non-clinical aspects of the work.

'The focus [of supervisory support] is only on applying the law etc and nothing on vicarious trauma or any other soft skills training.'

From the perspective of the survey respondents and interviews who had supervisory roles themselves, many said they enjoyed supervising colleagues but expressed frustration at having to balance a large caseload with supervisory work they wanted to be able to give more time to.

'Very difficult to do while my own workload consists of at least 50 cases at the same time. Constantly overworking doesn't help to maintain positivity for the person who needs the supervision.'

Wider support and personal development training was patchy across survey response and interviews, with many participants suggesting training was encouraged, but had to be sought out by the individual.

Financial sustainability

Mechanisms for legal aid remuneration

The majority of survey respondents expressed a strong preference for hourly rates over fixed fees, saying that they were a more 'realistic' and 'fairer' way of being remunerated for legally aided work.

'Hourly rates tend to be fairer for all, as they faithfully represent the work that you put in.'

Respondents also said that hourly rates reduced the dangers of working at risk of not being paid in full for the hours worked. This zone between the fixed fee level and the escape threshold, where work was undertaken effectively 'at risk', was mentioned by very many of the survey respondents and interviewees at various points throughout the research.

'Working at hourly rates feels like it reduces the 'risks' to us because we can do the necessary work on the case without the 'risk' of going over the fixed fee but not escaping the file and therefore not getting paid for all of the hours work done on a particular case.'

'Hourly rates is better in terms of you are definitely getting paid for the work that you are doing so you can focus on doing your job right and better quality.'

Participants described how difficult it was to predict sometimes if a case was likely to be able to be completed at the fixed fee level, or if sufficient work was required to push it out of the 'at risk' zone and over the escape threshold. One interviewee noted that their firm had a policy of making an assessment early on in a case as to whether it was likely to meet the escape threshold or not, and to work accordingly on the basis of this assessment. This avoided the financial challenges of working 'at risk', but the interviewee said that assessing the work needing to be done on a case was not always straightforward. Another survey respondent described how their previous employer had tried to keep all cases within the fixed fee rate to avoid working 'at risk':

'In the last firm I worked at, low rates meant that the partners put pressure on us to complete cases within the legal aid fixed fee rather than trying to reach escape rate fees, but I found this a really worrying practice as asylum cases are so complex.'

A number of survey respondents and interviewees highlighted that even on a fixed fee regime, the majority of their cases surpassed the escape threshold and went to hourly rates. These participants considered it very difficult if not impossible to do sufficient work on a case at the fixed fee level, particularly if they were complex cases.

'Almost all of my current cases are fixed fee immigration and asylum matters, but due to the complexity of the cases and the vulnerabilities of the clients I almost always go three times over the fixed fee leading to the fees escaping to hourly rates. In my experience it's almost impossible to do a proper job on an asylum case within a fixed fee.'

Despite this preference, a number of survey respondents and interviewees said that hourly rates themselves were set at too low a level to cover the full cost of running a legal aid practice. Furthermore, some survey respondents and interviewees felt that the escape threshold was too high and it would be preferable if time spent on cases only had to be double rather than triple the fixed fee before it went to hourly rates. For this reason, we welcome the proposal in the recent Ministry of Justice consultation for a new escape threshold for online system appeals set at twice the value of the relevant fixed fee, rather than three times.^{xxxix}

A minority of survey respondents suggested that fixed fee regimes were preferable for them, as work done under hourly rates was very complex to audit and keeping track of costs and making applications for extensions was too time-consuming.

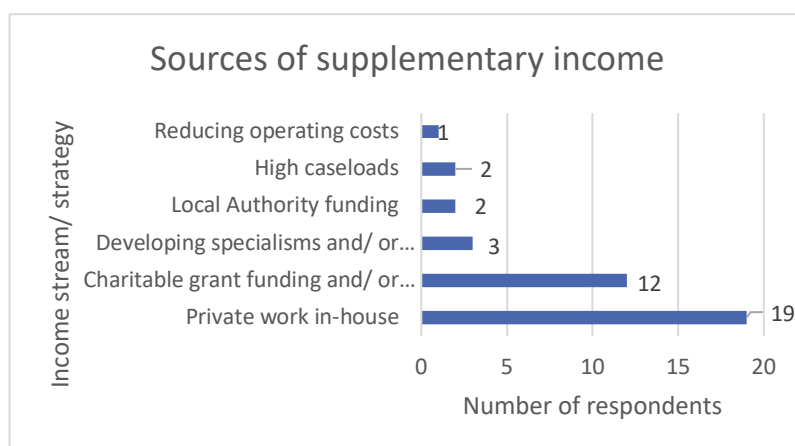
Finally, the interaction of the legal aid regime with backlogs in Home Office decision-making was cited by many participants as one of the reasons it was difficult to make a legal aid practice financially sustainable. These delays meant that closing a file, and getting paid for the work done on it, could take years. One interviewee suggested that the recent change to allow 'stage billing' only addressed this issue to a limited extent, as they never had time to submit a bill before a file was closed. Similarly, two respondents said they were discouraged from incurring too many disbursements, to avoid the cash flow issues this created as disbursements represented an upfront cost of a case that could take a significant period of time to be closed. Furthermore, for a number of participants, delays made predicting work patterns difficult and therefore it was hard to realistically anticipate participants' likely future capacity.

Models of legal aid practice

As a result of these challenges, survey respondents, interviewees and focus group participants all shared different ways that they and their organisation tried to make legal aid practice financially sustainable.

Survey respondents suggested a number of additional income streams or strategies^{xl} which allowed organisations to continue offering legal aid despite, as a number of participants suggested, their legal aid cases operating at a loss (see figure 9).^{xli}

Figure 9: Responses to survey question, 'How do you or your employer sustain a legal aid practice?'



The most common additional income streams were doing private work or getting grant funding or donations. These streams were used to cross-fund the organisation's legal aid practice.

'The legal aid funding / hourly rates / work that is classified as billable is not sufficient to cover our operating costs without additional grant funding which essentially subsidises our legal aid practice and allows us to continue offering a free service to our vulnerable clients.'

Two survey respondents said that the organisation they were employed by tried to make legal aid practice financially feasible by taking on very high caseloads, or as one survey respondent phrased it 'getting more LAA cases than is healthy for employees to handle'.

An interviewee similarly raised this issue, suggesting that constantly working at capacity was the only way to make legal aid practice work financially.

'For everything to work in terms of the funding position to be safe, the base level is drowning mode. There's no space to reserve capacity or there's no people... You're constantly at capacity or just gasping for breath.'

For one survey respondent, their employer had reduced operating costs and kept salaries low in order to make legal aid practice viable.

'By being careful with costs, using open source so no licensing fees where possible, no management costs as done by the owners/directors, in house IT, in house contract management, low salaries.'

In addition, one interviewee discussed an unusual model where their organisation, who was funded by legal aid and grants, had an affiliated private law firm which helped to cross-fund their organisation.

The different models of legal aid practice had consequences for workplace culture. Although not always the case, participants who worked in law centres or organisations that received grant funding were generally more likely to report that they had a supportive working environment. A number of participants made connections between their workplace receiving grant funding and their workload being more manageable than if they were solely reliant on legal aid rates. One participant who worked for both a high-street law firm and a charity said the latter were much better at making time to consider staff stress levels, vicarious trauma and the importance of peer support.

Emotional sustainability and wellbeing

These conditions of overstretched legal aid practitioners and difficulties in making a legal aid practice financially sustainable, took a significant toll on very many of our research participants. The vast majority of survey respondents, interviewees and LCMHWG focus group members said that they experienced difficulties with their 'work/ life' balance. Many discussed how their workload negatively affected their relationships with family and friends and their social life more generally.

'It takes over life. It's better now I'm part time although I still do more than my part time hours. Client work can impact on mental health if not sufficiently boundaried. Demand and capacity are always huge issues so I think we take on more than we should.'

'When I previously worked in a high street legal aid practice the long hours, low pay and general low morale hugely affected my wellbeing and life outside work.'

A number of participants said that they found it hard to 'switch off' from work at the end of a day, with many working into the evenings and weekends.

'The work is difficult emotionally and I never really shut off when outside the office. I also work longer hours than I am contracted so my evenings are always shorter.'

'It's stressful. I love the work but it is a lot, and it doesn't end. It is very difficult to switch off outside of work. I often feel guilty for taking annual leave, particularly when I return to demanding clients.'

'The work is generally heavy, high stakes and emotionally draining. I do some overtime due to the sheer quantity of clients and work expected to be done. Generally I really enjoy the work but it can a lot of pressure, and this can have a negative impact on mood, fatigue and stress.'

Large caseloads

For many participants, large caseloads caused by the nature of the legal aid regime were the primary cause of these issues around 'work/ life' balance. A number of interviewees described how they had taken on greater numbers of cases during the pandemic when cases were progressing much more slowly, but now they had extremely large caseloads which were still taking a long time to work through because of backlogs in Home Office decision-making. One interviewee had a particularly large caseload as a result:

'But during the pandemic cause you know everything came to a complete standstill and the Home Office was making zero decisions for the longest time, but clients were still coming. So it was like OK, well we're still working, so I'll take you on. So I have ended up with 140 cases or something like that which is just insane.'

In addition, one interviewee noted that these wellbeing issues were difficult enough on their own, but for legal aid practitioners who experienced any additional barriers to working in the

sector, such as neurodiversity or personal financial instability, it was even harder to get the kind of support they needed.

Vicarious trauma and burnout

Having a large caseload and working with vulnerable clients meant that many of the survey respondents and interviewees worked long days with limited breaks which allowed ‘burnout’ and anxiety to build up. One respondent outlined the deeply troubling testimonies they listened to on an everyday basis.

‘I listen to witness testimony where children have been raped and tortured, where they’ve seen their mothers and sisters and baby brothers being raped and tortured. I listen with an open heart.’

Participants described the work as ‘exhausting’, ‘stressful’ and ‘depressing’, with many sharing that they had experienced periods of ‘burnout’ or feeling overwhelmed by long periods of over-working. 70% of survey respondents said that they had experienced vicarious trauma or burnout (see figure 9).

Figure 7: Responses to survey question, ‘Have you ever experienced vicarious trauma or ‘burnout’ from your practice?’



One interviewee said that they did not realise the impact of working at (or over) their capacity over a prolonged period was having. It was not until a family member mentioned it that they acknowledged they were struggling, but it was hard to recognise when this level of work was considered ‘normal’ in their workplace:

‘I didn’t realize that I was [burning out]. But then when I started trying to get the help for it, the realisation of it just hits you. It’s like when you’re numb and then the numbness goes away and then you finally feel the pain. It feels 10 times worse.’

The majority of survey respondents said that they received little to no support for burnout or vicarious trauma from their employers, with some remarking that a ‘just get on with it’ attitude prevailed. Many had accessed support or therapy on a private basis. Some survey respondents said that whilst they had received vicarious trauma training, there was no ongoing support or change to workplace practices after this.

For two interviewees in particular, structural issues played a significant role in negatively affecting their wellbeing. Specifically, one interviewee felt that the vilification of lawyers in the press and by prominent political figures was damaging morale in the sector. For the other interviewee, they found it difficult at times to work within an immigration system which could be so harmful for those within it. In particular, they said that the legal aid regime and the difficulties of making legal aid practice financially viable often created difficult situations for legal aid practitioners. For example, the interviewee noted that taking a very detailed statement from a client may offer benefits for a client's case as well as helping to push a case towards the escape threshold, yet there is a risk of re-traumatising the client in the process. Balancing these at times competing duties to clients was difficult and made worse by the constant need to be vigilant about the financial risks and costs of legal aid work.

Consequences for access to justice

The issues outlined above have significant knock-on effects for people who need advice, casework and representation in immigration and asylum law.

Obstacles to accessing legal advice and representation

The primary obstacle for those we spoke to who had lived experience of trying to secure legal advice and representation was simply finding a legal aid provider to take them on. Even if they did manage to secure a legal aid provider, the Migrants Organise members' focus group told us they had difficulties in continuing as a client after being moved multiple times to various asylum dispersal areas around the UK. One participant said that they had been moved 'three or four times' and this made maintaining relationship with a solicitor very difficult. For another participant, after spending a significant period of time unsuccessfully trying to find a legal aid provider to take their case on, they felt they had no other option but to go to a private solicitor which they then struggled to pay for.

Delays and long periods of waiting

All the participants of the Migrants Organise focus group talked about the delays both in securing a legal aid solicitor to take on their case and in the progress of their immigration or asylum case. One participant had 'been in the system' for nearly 18 months with no signs of their application being decided in the near future.

The LCMHWG focus group participants shared with us similar cases of their clients struggling to secure legal advice and representation and the delays in case progression when they did. They described the negative impact these periods of limbo had on their clients' mental health, which was often already poor as a result of trauma. Indeed, such long asylum-decision waiting periods have been associated with an 'increased risk of psychiatric disorders'.^{xlii} Furthermore, access to support such as accommodation and public funds was often limited for their clients, creating as one participant phrased it 'a precarious living situation' alongside the indefinite periods of waiting.

Poor quality legal advice and representation

Both LCMHWG and Migrants Organise focus group participants described incidences where they felt the quality and efficiency of legal advice or representation was poor. After a long period of trying to secure a legal aid provider to take on their case this was an additional frustration and often lead to further delays in a case. In these participants' experiences, some of the solicitors they worked with were themselves very overstretched and could be incommunicative or failed to do what they said they would do. One participant noted that quality in legal advice and representation had worsened as providers became increasingly overstretched. This meant LCMHWG members often had to do a lot of 'backseat driving representation', as one participant described it, to manage these situations.

Referral issues

The charities and community organisations who were part of the LCMHWG focus group all expressed concern about the severe and urgent problems they had in making successful referrals to legal aid providers for their clients. For one organisation, their backlog of clients waiting for referrals reached 100 and they decided to pause new intakes for one month to explore how best to continue offering their service in the face of these referral issues.

Participants suggested that the problem had been brewing for a number of years but had become especially difficult since the end of 2021. As one participant outlined, legal aid provider capacity was limited both in the short and medium terms.

'The situation has worsened and at the moment when we contact firms, not only do they say "we don't have capacity", but they say "we will not have capacity for the next four to five months" or something like that.'

Exceptional Case Funding is provided by the Legal Aid Agency for cases that are out of scope for legal aid, but where there would be a breach, or the risk of a breach, of an individual's human rights without legal aid.^{xliii} Applications for Exceptional Case Funding can be made by individuals, but are often made with the help of an advice organisation. A number of the LCMHWG focus group participants told us that they made applications to the Legal Aid Agency for Exceptional Case Funding for their clients as part of their initial advice and that these were generally very successful and decided promptly. However, even with a grant of Exceptional Case Funding and the initial casework such as a Subject Access Request completed, they then experienced the same issues with referring clients to a legal aid provider.

Haringey Migrant Support Centre (HMSC) shared statistics with us about their difficulties in successfully referring their clients to immigration lawyers, which reflects the concerns shared in the LCMHWG focus group (see appendix 1). From December 2021 to June 2022, they were unable to refer 42% of their clients. A further 39% were successfully referred to a legal aid lawyer and 19% were referred to a non-legal aid lawyer. Of those that were referred to a non-legal aid lawyer, this was primarily as a result of being unable to refer them to a legal aid lawyer (meaning that some people who were entitled to free legal representation paid privately for it) or because a pro-bono organisation was able to take on the case. Overall, in this period 854 referrals were attempted in respect of 69 individuals, but only 27 accepted by a legal aid provider, representing an extremely low referral acceptance rate of just 3%. For a relatively small organisation such as HMSC, these attempted legal aid referrals represent an enormous amount of work when so few are successful. That these concerns were shared by the wider LCMHWG focus group suggests that Haringey Migrant Support Centre is not alone in having these low referral statistics. Furthermore, with London the only region in England and Wales where there is a very small surplus for Primary Legal Aid Need compared to possible supply,^{xliv} the referral issues faced by an organisation such as Haringey Migrant Support Centre are likely to be even worse in other areas of England and Wales.

From a legal aid provider perspective, many legal aid lawyer participants told us that they also had extensive waiting lists and were having to turn many people away. One lawyer we spoke to only started their current role two months prior to us interviewing them and they already had

30 people on their legal aid waiting list. Another lawyer said that it was not uncommon to be referred people who had been trying to find a provider for a year.

The future of the immigration and asylum legal aid sector

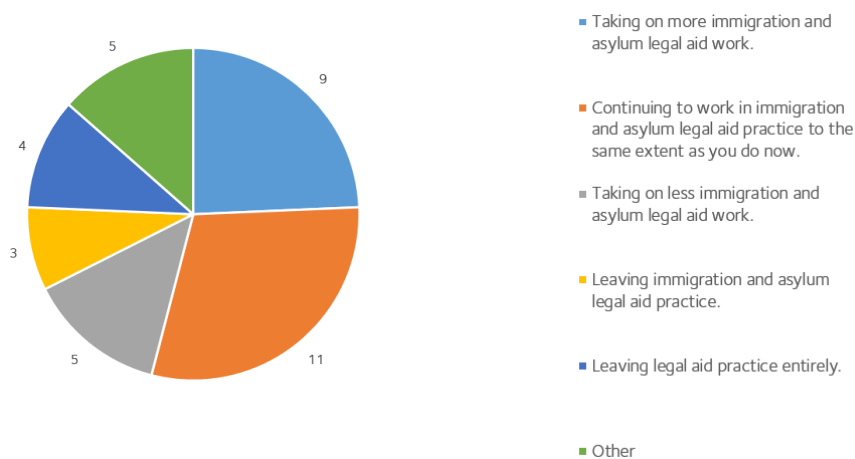
Legal aid career trajectories

The legal aid practitioners that we spoke to as part of this research were overwhelmingly positive about the value of legal aid and strongly identified with the sector. This was reflected in participants' routes into legal aid, many of whom knew they wanted to work in the immigration and asylum legal aid sector and overcame significant barriers to do so, in particular significant financial barriers. For example, a number of participants had to work or take out loans whilst studying or training. One participant continues to work in two jobs in order to make working in the sector sustainable on a personal financial level. Other participants discussed the lack of entry level positions and the need to find experience through unpaid roles and self-funded study. Two participants said that university careers advisors had warned them against a career in legal aid, suggesting 'it wasn't a "thing" anymore', according to one participant.

Over half (51%) of survey respondents said they were unable to advance their career in legal aid practice in the way that they would like to or were finding it extremely difficult. A further 16% were unsure about whether they were going to be able to advance their career in legal aid practice. Many respondents discussed the lack of personal or professional development opportunities and limited possibilities for career or pay progression. Specifically, a number of caseworkers highlighted that their employer was unable to help them to qualify as a solicitor and the fees for the Legal Practice Course or Solicitors Qualifying Examination were 'prohibitive for those of us on Legal Aid salaries'. For one caseworker we interviewed, they felt that they had reached something of a casework ceiling and were having to rely on family to study to qualify as a solicitor, given the lack of other routes. As one respondent suggested, there are 'few incentives' to train in legal aid practice compared to private practice, even though they would prefer to do so.

32% of respondents said they were able to advance their career in legal aid practice, or suggested the compromises that they were having to make in order to make a career possible, such as taking on more private work. One respondent said that whilst they considered they could advance their career in legal aid at present, they were concerned about their future salary progression.

Figure 10: Responses to survey question, 'In five years' time, what do you see as the most likely scenario for you?'



When asked what they saw as the most likely scenario in the next five years (see figure 10), 54% said they anticipated either taking on more immigration and asylum legal aid work or continuing to work in immigration and asylum legal aid practice to the same extent as they did at present. These respondents felt strongly about continuing their legal aid practice and a commitment to the work, with one suggesting it was their 'calling'. Others suggested that a legal aid practice was their initial motivating force behind a legal career. For example, one participant said that they wished to continue in legal aid as 'the client base better represents the reason I entered into this career'.

14% said they would take on less immigration and asylum legal aid work and 19% said they anticipated either leaving immigration and asylum legal aid practice or legal aid practice entirely. For these respondents, they anticipated making these decisions over the next five years as a result of feeling overworked, or frustrated by a low salary or poor working culture. For a number of respondents, they anticipated that they wanted to be in a position to start a family or buy a house in the next five years and felt that their experience of inflexible working patterns and low pay in legal aid practice was incompatible with these life changes. One respondent expressed a sense of guilt for planning to leave the sector and hoped to return, but felt that they needed a 'break' in the short-term.

Leaving the legal aid sector

In addition to the survey respondents who suggested they may leave the immigration and asylum legal aid sector or the legal aid sector entirely in the next five years, four interviewees (50%) had either left immigration and asylum legal aid practice very recently or were taking a break to study with a view to possibly returning.

For one interviewee who had very recently left immigration and asylum legal aid practice, they found that the more experienced they became in immigration and asylum legal aid work, the more they were encouraged to take on private work and were 'actively discouraged from taking on legal aid work' which was left to more junior staff members. They were sympathetic to their employer's need to make the legal aid work the organisation took on financially viable by off-setting it with privately paid work, but the interviewee came to the conclusion that they may as well be doing private work outside of immigration and asylum and receive a higher salary. In

this instance, the financial unsustainability of legal aid on an organisational level impacted negatively on the retention of a young legal aid practitioner.

Another interviewee was leaving legal aid practice to work for a charity providing immigration and asylum legal assistance. They felt they were able to have a greater impact with fewer personal sacrifices outside the legal aid sector.

'I can achieve more and have a better sort of work life balance and a better salary in the charitable sector than I can in the legal aid sector. I've got more resources at the charity. I've got more support, I get paid better. I've got more time to spend on cases.'

This interviewee said that this move out of legal aid and into the charity sector was not uncommon and they knew that there were severe recruitment issues with immigration caseworkers in other legal aid organisations.

Even those participants who were planning on staying in the legal aid sector saw that many of their colleagues were leaving, and this created additional pressures for their workload.

'[We] lost critical staff to better paid work, [we're] unable to replace them as no qualified caseworkers prepared to work for the salary, or no qualified caseworkers exist in the region.'

On an organisational level, a number of participants raised the issues of what they perceived to be an 'identity crisis' for some organisations in the legal aid sector. In the face of financial concerns with making a legal aid practice sustainable, some providers were taking on increasing amounts of private work, despite this not being part of their external image or identity.

'I think there's a bit of a gap in how [provider] is seen by people and then how [provider] thinks they need to move in order to be sustainable in the long term.'

Participants from a number of charities and community organisations facing difficulties in referring clients to a legal aid provider said they were having to rethink the role of their organisation. As one participant said, the nature of the current legal aid regime, and the enormous difficulties they were having in finding legal aid providers for their clients, 'put [their] whole mission and purpose into question in terms of [their] strategy as an organisation.'

One community organisation became accredited with the Office of the Immigration Services Commissioner to be able to provide some legal advice themselves and develop internal capacity to reduce the impact of referral issues. However, this was still 'insufficient' in terms of addressing the scale of the referral problems they faced.

Conclusion and recommendations

In January 2023, the Government announced its intention to carry out a review of civil legal aid (which includes immigration and asylum matters), with the aim of publishing the outcome of the review by 30 March 2024.^{xlv}

This report and the existing evidence base shows that there is an urgent need for the government to recognise and address the scale of the crisis facing the immigration and asylum legal aid sector. This is not a crisis that can wait until March 2024 and we are concerned that the timescale and focus of the Review of Civil Legal Aid will not facilitate the scale and speed of the changes needed.

Young practitioners in the immigration and asylum legal aid sector face a barrage of overwork, financial unsustainability and serious emotional and wellbeing concerns. As one participant told us, it often felt like they were having to fight battles across too many fronts in order to stay on top of their caseload.

*'I can fight against Home Office decisions. I can fight against the Legal Aid Agency sometimes if I need to. I'll fight against the courts when they're slow. But I can't fight against my own firm, the Legal Aid Agency **and** the courts **and** the Home Office.'*

These issues have clear and worrying consequences for access to justice and the future of the immigration and asylum legal aid sector. Of those surveyed as part of this research, 33% said that in the next five years they anticipated that they would either take on less immigration and asylum legal aid work, or that they would leave immigration and asylum legal aid practice or legal aid practice entirely. This represents a concerning near-future capacity gap in a sector already suffering from severe recruitment and retention issues.

Recent changes made by the Government – specifically the introduction of new fees for new services^{xlvi} – do not begin to address the long-standing issues of advice deserts and droughts that many legal aid providers are working in and many people going through the immigration and asylum system are struggling with. The additional work created by new processes introduced by the Nationality and Borders Act 2022, such as Priority Removal Notices and the rebuttal mechanism, will have difficulty being absorbed in a sector already so overstretched. Furthermore, a continued focus on offering fixed fees rather than hourly rates is likely to further exacerbate the financial instability this report outlines and encourage working practices that are damaging both for those working in the sector and those trying to navigate the immigration and asylum system.

In the foreword of a recent Ministry of Justice consultation,^{xlvii} Tom Pursglove MP (then Minister for Justice and Tackling Illegal Migration) expressed a commitment to 'ensure legal aid practitioners are adequately remunerated for the immigration and asylum work they do' and to 'ensure fair and equitable payment and continued access to this important service'.

In light of the report findings and to ensure that these commitments are met, we therefore recommend the following actions:

Within six months

1. Ministry of Justice: introduce a 15% fixed fee uplift. This should be an interim, emergency measure, pending the outcome of the Review of Civil Legal Aid.
2. Legal Aid Agency and the Ministry of Justice: urgently begin routinely collecting and publishing data on capacity in the immigration and asylum legal aid sector, broken down by geographical region. Data collection should take into account the issue of 'advice droughts', where there appears to be legal aid provision in an area, but this is unavailable in practice. For example, by asking providers to report their own level of capacity.
3. Legal Aid Agency: simplify the audit and billing process for legal aid providers and introduce more billing stages so that providers can claim their profit costs at regular intervals.
4. Legal Aid providers: ensure members of staff have access to meaningful and long-term forms of support to address high rates of vicarious trauma and burnout.
5. Legal Aid providers: ensure that any interim increase in legal aid rates translate into an increase in pay for members of staff.

Within twelve months

6. Lord Chancellor, the Legal Aid Agency and the Ministry of Justice: develop a strategy to address the urgent issues of advice deserts and droughts, ensuring there is sustainable capacity. Section 1(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 imposes on the Lord Chancellor a duty to 'secure that legal aid is made available in accordance with this Part', and section 1(4) enables him to 'do anything' to further those functions. Section 2(1) empowers him to make 'such arrangements as [he] considers appropriate'.^{xlviii} As a result, the Lord Chancellor has broad powers to meet his statutory duty. Addressing the issue of advice deserts and droughts could therefore take a number of forms beyond the established legal aid system, for example through grant funding individual organisations.^{xlix}
7. Home Office: work with the Legal Aid Agency and the Ministry of Justice to ensure that asylum dispersal areas have sufficient legal aid providers prior to accommodating people in these areas.

Appendix 1: Referral case study from Haringey Migrant Support Centre

The statistics provided here were the most accurate available at the time of reporting.



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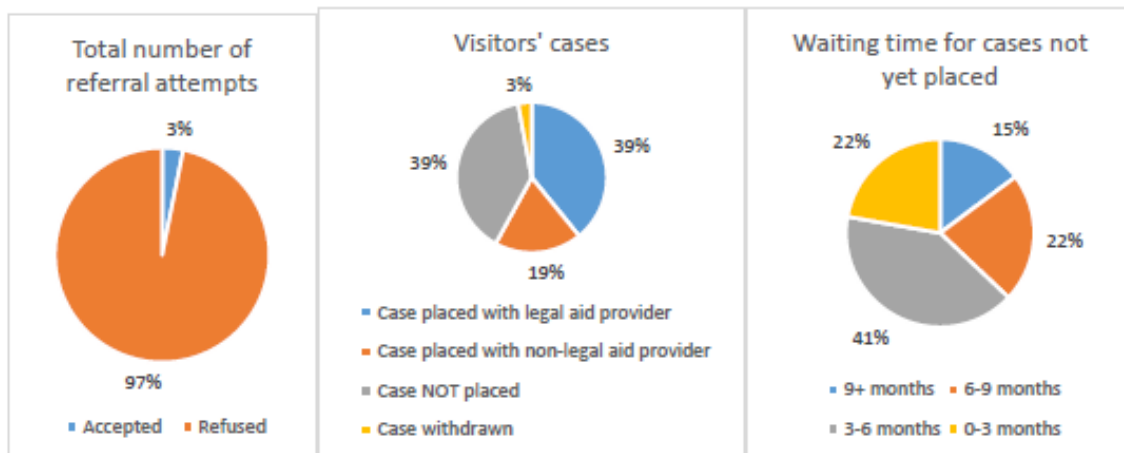
The lack of capacity within the immigration legal aid sector: impact on HMSC's visitors (Statistics and case studies)

Statistics for 01/12/2021 to 31/05/2022 (6 months)¹

- Number of referrals attempted: 854 referrals²
- Total number of cases we attempted to refer: 69 cases (visitors)
- Average number of referrals attempted per visitor: over 12 referrals per visitor
- Number of legal aid firms we referred to: 43 legal aid firms
- Referral outcomes, for 69 visitors
 - 27 cases accepted by legal aid providers, i.e. 39%
 - 13 cases placed with non-legal aid providers, i.e. 19% (these referrals are not included in the 854 mentioned above)
 - 2 cases withdrawn (eg. voluntary return), i.e. 3%
 - 27 visitors still waiting on the list as of 31/05/22, i.e. 39%
- Percentage of referrals accepted: 3% (27 of 854 referral attempts)
Only 1 referral out of 31 is successful in average. This illustrates what a large body of work legal aid referrals is for a small charity like HMSC.
- Waiting time to be placed with a provider (either legal aid or not)
 - 90 days / 3 months in average
 - For cases that were placed: 45 days / 1.5 months in average
 - For cases that weren't placed: 160 days / 5.3 months in average (and still waiting...)
 - Out of the 27 visitors who are still on our waiting list, 37% have been waiting for more than 6 months (10 visitors)

¹ These statistics don't include cases that are placed directly with our partners, without any other referral attempted.

² Each case referred is counted as one referral. If we refer several cases to the same firm at the same time, they are counted as several referrals.



Two case studies: The impact of the lack of capacity in the legal aid sector

Case 1

FA is a Nigerian woman in her sixties. She approached HMSC at the beginning of July 2021 and was quickly identified as a victim of trafficking. She was immediately referred to the National Referral Mechanism (NRM) and she received a positive reasonable grounds decision. Since then, FA has been referred 30 times to Legal Aid solicitors and was unfortunately accepted by none of them. The first referral was dated 26 October 2021. This has an impact on her immigration status, but also her living conditions and her mental health. In terms of her living conditions, FA has no recourse to public funds. She lives in poverty and resorts to foodbanks. She might soon have no place to live as she cannot stay at her friends for long. The lack of legal aid support has meant that her destitution continues without state support which is revictimizing. As a long-time victim of modern slavery, the lack of a Legal Aid lawyer has also exacerbated her vulnerability. FA cannot read or write and requires an interpreter, she is very isolated and communications are difficult.

Case 2

JZ has been in the UK for 10 years and has a British son. He was advised by Haringey Migrant Support Centre to make an application based on his relationship with his child. JZ has been referred 22 times to Legal Aid solicitors since he was granted Exceptional Case Funding and was accepted by none of them. The first referral was dated January 4, 2022. This impacts his living conditions and mental state. JZ is destitute and homeless. He stays on his friends' sofa or sleeps rough. Moreover, he has been served a notice of liability to removal from the UK which puts him in constant fear of removal. The lack of legal aid capacity has meant that JZ is forced to continue living in inhumane conditions and that his well-established human rights (family life) are endangered.

About us

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 3,500 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.

One of our core objectives is campaigning for a sustainable legal aid system to ensure that those who desperately need access to legal advice and representation are able to obtain it.

Public Law Project is an independent national legal charity. We are researchers, lawyers, trainers, and public law policy experts.

Our aim is to make sure state decision-making is fair and lawful and that anyone can hold the state to account.

For over 30 years we have represented and supported people marginalised through poverty, discrimination, or disadvantage when they have been affected by unlawful state decision-making.

Public Law Project contributes and responds to consultations, policy proposals, and legislation to ensure public law remedies, access to justice, and the rule of law are not undermined.

We provide evidence to inquiries, reviews, statutory bodies, and parliamentary committees in relation to our areas of expertise, and we publish independent research and guides to increase understanding of public law.

Public Law Project's research and publications are available at:

www.publiclawproject.org.uk/resources-search/

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Endnotes

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- ^{xx} Wilding, J., Mguni, M., & van Isacker, T. (2021). A Huge Gulf: Demand and Supply for Immigration Legal Advice in London, p. 10. Justice Together. <https://www.phf.org.uk/wp-content/uploads/2021/06/A-Huge-Gulf-Demand-for-and-supply-of-immigration-advice-in-London-June-2021.pdf>; The Bar Council. (2021). Running on Empty: Civil Legal Aid Research Report. The Bar Council. <https://www.barcouncil.org.uk/uploads/assets/6a65477c-9288-4db2-897b696f548813cd/Running-on-Empty-Civil-Legal-AidFull-Report.pdf>; Denvir, C., Kinghan, J., Mant, J., Newman, D., & Aristotle, S. (2022). We are Legal Aid: Findings from the 2021 Legal Aid Census. Legal Aid Practitioners Group. https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Findings-from-the-2021-Legal-Aid-Census_Final.pdf
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- ^{xxiii} Denvir, C., Kinghan, J., Mant, J., Newman, D., & Aristotle, S. (2022). We are Legal Aid: Findings from the 2021 Legal Aid Census, p.34. Legal Aid Practitioners Group. https://lapg.co.uk/wp-content/uploads/We-Are-Legal-Aid_Findings-from-the-2021-Legal-Aid-Census_Final.pdf
- ^{xxiv} The Bar Council. (2021). Running on Empty: Civil Legal Aid Research Report. The Bar Council. <https://www.barcouncil.org.uk/uploads/assets/6a65477c-9288-4db2-897b696f548813cd/Running-on-Empty-Civil-Legal-AidFull-Report.pdf>
- ^{xxv} The Bar Council. (2021). Running on Empty: Civil Legal Aid Research Report, p.21. The Bar Council. <https://www.barcouncil.org.uk/uploads/assets/6a65477c-9288-4db2-897b696f548813cd/Running-on-Empty-Civil-Legal-AidFull-Report.pdf>
- ^{xxvi} House of Commons Justice Committee. (2021). The Future of Legal Aid: Third Report of Session 2021–22, p. 53. <https://committees.parliament.uk/publications/6979/documents/72829/default/>
- ^{xxvii} House of Commons Justice Committee. (2021). The Future of Legal Aid: Third Report of Session 2021–22, p. 56. <https://committees.parliament.uk/publications/6979/documents/72829/default/>
- ^{xxviii} Wilding, J. (2023). *Migrant integration: Research on immigration legal advice services*. Welsh Government, p. n/a. <https://www.gov.wales/sites/default/files/pdf-versions/2023/1/4/1674144316/forced-migrants-wales-research-adequacy-and-availability-legal-advice-contents.pdf>
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- ^{xxx} Wilding, J. (2022). Beyond Advice Deserts: Strategic Ignorance and the Lack of Access to Asylum Legal Advice. *Journal of the Society for Advanced Legal Studies*, 3(3). <https://journals.sas.ac.uk/amicus/article/view/5439>
- ^{xxxi} <https://www.gov.uk/government/consultations/immigration-legal-aid-a-consultation-on-new-fees-for-new-services>
- ^{xxxii} Ministry of Justice. (2022). Immigration/Asylum survey data. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1098142/immigration-survey-report-data.pdf
- ^{xxxiii} Ministry of Justice. (2022). Immigration Legal Aid: A consultation on new fees for new services, p.29. https://consult.justice.gov.uk/digital-communications/immigration-legal-aid-new-fees-consultation/supporting_documents/immigrationlegalaidfees%20consultationdocument.pdf

^{xxxiv} Throughout the report, we use ‘participants’ as a general term for anyone who completed a survey, was interviewed or took part in a focus group as part of this research. ‘Survey respondents’ or ‘respondents’ refers specifically to those who completed the survey.

^{xxxv} The definition of junior practitioner we adopted was anyone who was a caseworker, paralegal, solicitor or barrister up to 10 years’ call, PQE or with 15 years’ experience as a caseworker, as well as any students and aspiring professionals. One survey respondent and one interviewee did not quite meet this definition as they had qualified over 10 years prior to the interview, but their experiences were nonetheless valuable for the purposes of this research.

^{xxxvi} Migrants Organise. (2023). <https://www.migrantsorganise.org/about-us/>

^{xxxvii} A further two respondents (5%) preferred not to give their contracted number of hours, but they both worked more than 50 hour weeks in practice.

^{xxxviii} Six respondents answered ‘not sure’.

^{xxxix} Ministry of Justice. (2022). Immigration Legal Aid: A consultation on new fees for new services. https://consult.justice.gov.uk/digital-communications/immigration-legal-aid-new-fees-consultation/supporting_documents/immigrationlegalaidfees%20consultationdocument.pdf

^{xl} It is worth noting that many participants raised the issues of high caseloads at other points of the survey or in interviews and focus groups, but this relates to survey respondents specifically saying their employer used high caseloads to facilitate a financially sustainable legal aid practice.

^{xli} Some respondents’ employers used a number of different income streams to support their legal aid practice which is why this chart totals more than the number of survey respondents.

^{xlii} Camilla Hvidtfeldt, Jørgen Holm Petersen, and Marie Norredam. 2020. ‘Prolonged Periods of Waiting for an Asylum Decision and the Risk of Psychiatric Diagnoses: A 22-Year Longitudinal Cohort Study from Denmark’. *International Journal of Epidemiology* 49(2): 400–409.

^{xliii} Public Law Project. (2018). How to get Exceptional Case Funding for immigration cases. Public Law Project. <https://publiclawproject.org.uk/content/uploads/2018/07/PLP-ECF-Immigration-Guide.pdf>

^{xliv} Jo Wilding. 2022. No Access to Justice: How Legal Advice Deserts Fail Refugees, Migrants and Our Communities. Refugee Action. <https://www.refugee-action.org.uk/no-access-to-justice-how-legal-advice-deserts-fail-refugees-migrants-and-our-communities/>

^{xlv} Ministry of Justice. (2023). Guidance: Civil Legal Aid Review. <https://www.gov.uk/guidance/civil-legal-aid-review>

^{xlvi} Public Law Project. (2023). ILPA/ PLP joint statement on the government’s response to the recent consultation on immigration legal aid fees https://publiclawproject.org.uk/content/uploads/2023/01/230123_New-Fees-for-New-Services-consultation-response-ILPA-PLP-statement.pdf

^{xlvii} Ministry of Justice. (2022). Immigration Legal Aid: A consultation on new fees for new services, p. 2. https://consult.justice.gov.uk/digital-communications/immigration-legal-aid-new-fees-consultation/supporting_documents/immigrationlegalaidfees%20consultationdocument.pdf

^{xlviii} Legal Aid, Sentencing and Punishment of Offenders Act 2012. Retrieved 22 September 2022, from <https://www.legislation.gov.uk/ukpga/2012/10/contents/enacted>

^{xliv} Wilding, J. (2022). Beyond Advice Deserts: Strategic Ignorance and the Lack of Access to Asylum Legal Advice. *Journal of the Society for Advanced Legal Studies*, 3(3). <https://journals.sas.ac.uk/amicus/article/view/5439>



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