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LAPG Member Update

Issue 2 of 2024

Review of Civil Legal Aid - Call for Evidence

Special LAPG Update on the MOJ's call for evidence about civil legal aid

Yesterday the Ministry of Justice launched a [call for evidence](#) as part of the Review of Civil Legal Aid (RoCLA). It closes on **21 February 2024**.

What is this all about? They are inviting interested parties to submit evidence that will inform the Review, strengthening its evidence base and feeding into the development of short- and long-term policy solutions. They are especially, but not exclusively, interested in hearing the views of civil legal aid practitioners, people who have received legal aid, representative bodies and charities. They also invite contributions from academics who have carried out relevant research.

Responses to the MOJ's 18 questions in the Call for Evidence can either be submitted [online](#) or sent to rocla@justice.gov.uk. When submitting a response you do not need to answer all questions.

There is no 100 page report to wade through. There is no preface by the Lord Chancellor saying how important legal aid is and then setting out ways to undermine it. There are just (just!) 18 questions to answer. The findings of the RoCLA group are due to be published at the end of March 2024 i.e. in under three months' time. This is a 'call for evidence' which seems to us like a consultation but with five weeks for the MOJ to digest the findings before the RoCLA report is published.

It is really important to stress that people do not have to answer all questions. However we would urge everyone to respond to as many questions as possible and to share this 'Call for Evidence' with colleagues and others who might be able to respond. As LAPG Updates are sent out to our membership, we would normally ask that our Updates are not shared outside your organisation but please do feel free to send this on to anyone who might be interested in responding.

Here are the questions:-

Overarching questions

These questions seek views on broad, cross-cutting areas related to civil legal aid such as suggestions for improvements, future risks and opportunities, and the wider benefits of civil legal aid.

1. Do you have any suggestions of changes that could improve civil legal aid – both short-term and longer-term changes?

1.1. Do you have any suggestions of changes – both short-term and longer-term changes – that could improve each of the following categories of law?

- a. Family*
- b. Community Care*
- c. Housing & Debt*
- d. Immigration and Asylum*
- e. Mental Health*
- f. Discrimination*
- g. Education*
- h. Public Law*
- i. Claims Against Public Authorities*
- j. Clinical Negligence*
- k. Welfare Benefits*

Please provide any specific evidence or data you have that supports your suggestions.

2. What are the civil legal aid issues that are specific to your local area? Please provide any specific evidence or data you have that supports your response.

3. What do you think are the changes in the administration of civil legal aid that would be most beneficial to providers? Please provide any specific evidence or data you have that supports your response.

4. What potential risks and opportunities do you foresee in the future for civil legal aid: i) in general; and ii) if no changes are made to the current system? Please provide any specific evidence or data you have that supports your response.

5. What do you think are the possible downstream benefits of civil legal aid? The term 'downstream benefits' is used to describe the cost savings, other benefits to government and wider societal benefits when eligible individuals have access to legally aided advice and representation. Please provide any specific evidence or data you have that supports your response.

Fees

The Review aims to ensure that civil legal aid offers a financially viable business option for legal aid providers (both private and not-for-profit) and is an attractive career option. This question seeks views on the incentives created by the structure of the current fee system.

6. What are your views on the incentives created by the structure of the current fee system?

6.1. Do you think these support the effective resolution of problems at the earliest point?

6.2. How could the system be structured better?

Please provide any specific evidence or data you have that supports your response and any views or ideas you may have on other ways of payment or incentives.

Career development and diversity

These questions seek views on career development and how diversity of the profession could be increased. It is important for the sector to reflect the society it serves and make use of the best talent in society, so that members of the public can be confident in the legal services they receive. A more diverse sector also means a more diverse pipeline to the judiciary. The MoJ is eager to understand what more it can do to improve diversity in the context of civil legal aid practitioners.

7. Is there anything in particular in civil legal aid that prevents practitioners with protected characteristics from starting and continuing their careers? If yes, how could this be addressed? Please provide any specific evidence or data you have that supports your response.

8. How can the diversity of the profession be increased in legal aid practice, including ethnicity, disability, sex, age and socio-economic background? Please provide any specific evidence or data you have that supports your response.

User needs

The Review aims to ensure that the civil legal aid system is accessible to people eligible

for legal aid, and that these individuals can successfully apply for and receive legal aid. These questions seek views on the experience and needs of those seeking and receiving civil legal aid and how these needs can be best met.

9. What barriers/obstacles do you think individuals encounter when attempting to access civil legal aid? Please provide any specific evidence or data you have that supports your response.

10. What could be done to improve client choice such that it is easier for clients to find civil legal aid providers and make informed decisions about which one best meets their needs? Please provide any specific evidence or data you have that supports your response.

11. Do you think that some people who are eligible for civil legal aid may not know that it is available and/or how to access it? If so, how do you suggest that this is addressed? Please provide any specific evidence or data you have that supports your response.

12. How do you think that people receiving civil legal aid can be supported in cases where they have multiple or 'clustered' legal issues and some of these are outside of the scope of civil legal aid? Please provide any specific evidence or data you have that supports your response.

13. How do you think that the Exceptional Case Funding scheme is currently working, and are there any ways in which it could be improved? Please provide any specific evidence or data you have that supports your response.

Use of technology

The Review aims to feed into MoJ's wider strategic objectives on the use of technology. Technology should enable users to engage with the legal process and support the smooth running of the civil justice system. These questions seek views on how the use of technology could improve civil legal aid, including through where appropriate, remote advice.

14. What are the ways in which technology could be used to improve the delivery of civil legal aid and the sustainability of civil legal aid providers? We are interested in hearing about potential improvements from the perspective of legal aid providers and people that access civil legal aid. Please provide any specific evidence or data you have that supports your response.

15. Remote legal advice, for example advice given over the telephone or video call, can be beneficial for delivering civil legal aid advice. Please provide any specific evidence and thoughts on how the system could make the most effective use of remote advice services and the implications for services of this.

16. What do you think are the barriers with regards to using technology, for both

providers and users of civil legal aid?

16.1. Do you think there are any categories of law where the use of technology could be particularly helpful?

16.2. Do you think there are any categories of law where the use of technology would be particularly challenging?

Please provide any specific evidence or data you have that supports your response.

Early resolution

The Review aims to feed into MoJ's wider strategic objective to encourage, where appropriate, the early resolution of disputes, providing swift access to justice through early engagement where appropriate. This question seeks views on what could be done to encourage early resolution of disputes.

17. What do you think could be done to encourage early resolution of and/or prevention of disputes through the civil legal aid system? Please provide any specific evidence or data you have that supports your response.

Other areas for consideration

18. Is there anything else you wish to submit to the Review for consideration? Please provide any supporting details you feel appropriate.

Comment

Brief History

The Review of Civil Legal Aid was launched in January 2023. Information on the review is [here](#). There are four workstreams:-

1. Economic analysis of the structure of the civil legal aid market
2. Comparative analysis of systems in other countries
3. A series of data publications
4. Social research of user journeys.

LAPG has attended the meetings for all workstreams. We have been working closely with other representative and membership organisations to ensure that a wide variety of practitioners and policy specialist have participated in the Review and have connected the MOJ and their consultants to relevant practitioners for specific pieces of work. While in our view the Review still falls short in terms of scope, ambition and clarity of purpose, sustained lobbying in 2023 by LAPG and other groups did improve the terms of reference and the issues that the MOJ is focussing on through its research.

In each of the four areas there has been an initial meeting, possibly a follow-up and then in some cases a meeting to feed back on progress with research. However we were told that we could not share the information we were being given with our members. If you look at the website you will see that there are no minutes of meetings and very little detail on the process. This has made it very difficult for membership organisations to engage with members so it is actually a relief to now have something specific to ask you to look at.

As an aside, LAPG and other membership organisations have repeatedly asked for more transparency in this process. These requests have been made in meetings and by email but as you can see from the Gov.UK page there is very little information in the public domain. There have been some useful PowerPoints presented at meetings but these are not available nor are minutes of the meetings.

Timeline

The Call for Evidence closes on **21 February 2024**.

The Review of Civil Legal Aid will publish reports for all workstreams, releasing evidence papers on the dedicated website ahead of the project's conclusion on **31 March 2024**.

After that we think that there will be a period where the MOJ considers proposals and there will be a consultation in the summer.

How does a General Election affect the timeline? First of all there are local elections in May and a General Election could take place later in the year. There could be two periods of pre-election sensitivity (previously called Purdah) where certain government activity is curtailed. Details [here](#) if you want to find out more. So there could be delays in the process because of this.

And of course if/when there is a change of government we do not know if any recommendations that are made will be actioned. On the other hand, even if there is no change of government, that can be the case. See the 5000+ responses to the Legal Aid, Sentencing and Punishment of Offenders Bill consultation – almost all pointing out the dreadful consequences, yet the government brought in the LASPO Act with very few amendments.

The Law Society roundtables

The Law Society has set up six online roundtables to enable practitioners to interact with officials from the MOJ's RoCLA team, each one from 4.00pm – 5.30pm.

The six sessions are based on geographical areas:

- East Midlands and East of England (29 January)
- North East and Yorkshire (30 January)
- North West and West Midlands (31 January)
- South East and London (5 February)
- South West (6 February)
- Wales (8 February)

There are limited numbers so if you want to attend do book now. [Details are here.](#)

Top tips on responding

The RoCLA team is accepting responses online and by email. It is hard for us to use the online portal because it does not have the flexibility we need to send draft responses out and consult. We always work on a Word document for responses of this magnitude because we circulate this among colleagues, the LAPG Board, the LAPG Advisory Committee and members.

If you are responding online please do check out functionality at the outset to make sure that you do not lose work. What is the process for inputting and then returning to the response later? We also ensure we have a process for diarising deadlines for internal input, drafts and our final response, with more than one person responsible for checking at each stage, just in case.

We will look at some of the recent consultations we have prepared and will think if there is an easy way of sifting through them and putting information that might be useful to members in a future Update as this might help you to formulate your response.

Research outside RoCLA

The Law Society has commissioned Frontier Economics to conduct research to complement the MOJ's RoCLA research projects. LAPG has been inputting into this process. Thank you to those members who have already fed into Frontier's research on the costs and sustainability of civil legal aid contracts.

LAPG has been successful in obtaining funding from The Legal Education Foundation to enable us to carry out research into legal aid processes and sustainability. We are delighted to welcome Ariana Jahromi and Juliet-Nil Uraz as our researchers. We will update members on this exciting development in the next few weeks.

We know there is a great deal of cynicism about the Review of Civil Legal Aid and whether there is any genuine appetite in government to provide the extensive investment and system change needed to make legal aid viable. Anyone who has delivered legal aid or been involved in policy work around access to justice has plenty of reason to be cynical, and to be totally fed up with the government's

approach over many decades. We also know that many of you expend an enormous amount of energy and unpaid time trying to improve the legal aid system and campaign for access to justice. In the face of all of that we understand why many members will look at this latest MOJ initiative and throw their hands up and say 'why bother?'. But as always in the world of legal aid, it is dedicated, committed, expert practitioners like you who make the difference when it comes to improving the system and forcing through positive change. While things have looked bleak for some time, we do think this is a genuine opportunity to help shape policy and encourage this or the next government to create a truly sustainable legal aid scheme.

So if you can find the time to respond to this call for evidence (or send us anything you want us to include in our response), please do. We will be submitting a response so look out for future Updates setting out how we plan to respond and how you can feed into our work.

Take care one and all,

Chris Minnoch, CEO [@ChrisLAPG](#)

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Thank you for being brave enough to be part of the LAPG community!

LEGAL AID LAWYER OF THE YEAR AWARDS



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