
WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS

Executive Summary

March 2022

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Legal Aid Practitioners Group (LAPG) have long identified the need for research to better understand the demographics of the legal aid profession. Pre-existing data on the specifics of legal aid practice has been piecemeal and insufficiently able to elucidate conditions on the ground. As such, this report presents and analyses the results of the most comprehensive study of past, present and aspiring legal aid practitioners ever conducted in England and Wales.

The aims of the research were, firstly, to develop a baseline demographic profile of legal aid practitioners as well as gaining a better understanding of education and training, and salaries and fee arrangements. Secondly, the research sought to identify routes into the profession and practitioners' perceptions on barriers faced. Thirdly, the study aimed to better identify and describe the key challenges facing legal aid lawyers across different areas of law; and to provide an indication of how legal aid advice providers may have been affected by legal aid cuts, wider austerity reforms and by the Covid-19 pandemic. Composed of five separate surveys, the Legal Aid Census was distributed to LAPG's member organisations and wider networks between March and July 2021. In total, 255 former legal aid practitioners, 1208 current practitioners, 369 organisations, 32 sets of chambers, and 376 students responded.

In their responses, legal aid practitioners contrasted their initial high hopes and clear motivation to pursue a career in legal aid – such as tackling injustice, supporting local communities, enabling social change and improving access to justice – with a bleak and dispiriting reality: the legal aid sector is heavily relied upon but insufficiently equipped, mired in bureaucracy and inefficiencies, and beleaguered by persistent efforts to further reduce available resource. Whilst legal aid practitioners expressed feeling high levels of satisfaction with their work and a continued commitment to the factors that motivated them to pursue a career in legal aid in the first place, the findings call into question the extent to which the good will of the profession can be stretched endlessly.



Key findings

Establishing a Career in Legal Aid

- **Legal aid 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% (n=893) said they were drawn to the opportunity to help those facing economic, cultural or social disadvantage. A similar proportion (71.2%, n=840) also indicated they wanted to work to ensure access to justice would be more equitable for all in society and 70.6% (n=833) were motivated by the desire to make a positive impact on society. Only 0.5% (n=6) indicated that financial reasons motivated them to join the sector.
- **A high proportion of legal aid lawyers are first-generation university graduates and/or lawyers.** Over half of practitioners did not have parents or other caregivers who went to university (54.9%, n=655). More than three quarters of practitioners (80.5%, n=965) had no other legal professionals in their immediate family.
- **The majority of practitioners currently working in legal aid reported that they had faced financial barriers to entering the legal aid sector.** The experience of financial barriers during the process of qualifying was much more often reported by students in younger age groups than in older age groups, with 41.9 per cent (n=188) of those aged 18-35 reporting financial barriers compared to 35.9 per cent (n=161) of those aged 36-50, and 22.3 per cent (n=100) of those aged 51 and above.
- **High levels of student debt present a significant challenge for prospective legal aid practitioners.** Over the course of their legal education, over a third of practitioner respondents (38.4%, n=431) indicated that they had accrued debt. However, a higher proportion of students studying for their LLB/GDL/LPC/Bar Course/SQE (85.1%, n=148) indicated that they did or would have debt at the end of their legal education with the most commonly estimated amount being over £50,000.
- **Training opportunities for new entrants to the profession are limited.** Although 93.3 per cent (n=28) of chambers indicated that they currently trained pupil barristers, only 57.5 per cent (n=210) of other respondent organisations reported training practitioners. This was often ascribed to the impact of limited funding, capacity, resources, infrastructure and time.
- **Organisations reported considerable challenges in recruiting suitably qualified legal aid practitioners.** The majority of chambers (61.6% n=16) expressed difficulty finding qualified legal aid barristers. Other organisations reported that finding suitably qualified lawyers was not that easy (25.0%, n=76) or not at all easy (68.1%, n=207).

Working in Legal Aid

- **Financial remuneration is a significant concern for practitioners.** The most common salary for legal aid practitioners is between £30,000 and £39,999 and the majority of practitioners earn less than £49,999.
- **A majority indicated that they felt their salaries were unfair and that they frequently needed to work beyond set hours to meet demands.** Taken together, more than half of

practitioners either disagreed (33.2%, n=375) or strongly disagreed (22.8%, n=257) with the proposition that the salary and working arrangements for their roles were fair.

- **Legal aid practitioners are a motivated workforce. Most practitioners expressed satisfaction with their choice of career in legal aid notwithstanding the perceived poor rates of remuneration and challenging working conditions.** Of the 63.2 per cent (n=725) who expressed being very satisfied or satisfied with their work, this was attributed to the ability to help people and make a difference to people's lives, as well as an enjoyment of the actual work involved with legal aid practice.

Fixed Fees

- **The majority of practitioners considered that fixed fees arrangements were unsustainable.** Of those practitioners who provided details about the fees applicable to their work, 94.3 per cent (n=333) said they worked more hours than what they were paid to work. Analysis of the hours worked and the hours paid indicated that on average practitioners work 106 minutes for every 60 minutes of remuneration. The largest discrepancies for hours worked and hours paid were in the areas of social welfare law, community care and public law. When asked how the fixed fee regime might be improved over half of respondents (51.6%, n=237) said fees should be raised while 13.1 per cent (n=60) thought fixed fees should be abandoned altogether.
- **Legal aid practitioners engage in a range of practices to try to mitigate the loss of fixed fee work.** Some practitioners work longer hours and take on private work, while others report making adjustments to their own personal financial arrangements and outgoings to try to mitigate the loss. Troublingly from an access to justice perspective, practitioners also reported simply not taking on fixed fee work in order to prevent a loss.

Hourly Rates

- **A majority of practitioners reported that legal aid hourly rates were unsustainable.** A majority of practitioners (85.2%, n=231) indicated that they worked more hours than what they were remunerated for. On average, practitioners working under hourly rates reported working 90 minutes for every 60 minutes of remuneration.
- **Legal aid practitioners frequently undertake wide-ranging forms of unpaid work.** Most respondents (39.3%, n=268) indicated that case preparation - including time spent preparing documents, conducting legal research and bundle preparation - was the most significant unremunerated cost. Other respondents also referenced the time it takes to make applications to the Legal Aid Agency and deal with compliance issues (19.1%, n=130). A number of practitioners also referenced the time-consuming nature of dealing with clients (15.8%, n=108).

Exiting Practice Areas

- **Many current practitioners reported no longer practising in some areas of legal aid.** Crime (42.6%, n=270) was the most common area of legal aid that current practitioners had stopped practising in, followed by private family law (30.0%, n=190) and public family law (20.8%, n=132). The departure from an area of practice was most commonly attributed to the pursuing specialisation in a different area (56.6%, n=331); however, a third of respondents indicated that they left as it was no longer a financially viable area of practice (36.8%, n=215) and just under a quarter reported that they were forced to cease practice in that area as it had been taken out of the scope of legal aid (24.6%, n=144).
- **The impact of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 is evidenced by the areas of law in which organisations indicate they have ceased to offer legal aid services.** A total of 50.1 per cent (n=183) of organisations indicated that there were areas for which they used to but no longer provide legal aid services; debt (29.8%, n=54), welfare benefits (29.8%, n=54) and housing (23.8%, n=43) were the most commonly cited areas. 61 per cent (n=100) of organisations explained that this was because it was not profitable or economically viable to undertake the work.
- **Sets of chambers most commonly identify crime and family as areas where it is challenging to accept instructions (as a result of a reduction or lack of instructions, or due to the area being removed from scope).** When asked to explain why it was particularly challenging to accept instructions in these areas, three quarters of the 16 chambers who responded cited financial issues (75.0%, n=12).

Exiting the Sector

- **Over half of legal aid leavers indicated that they left the profession for better pay, working conditions and entitlements.** The next most commonly cited reasons included advancing career opportunities or prospects or pursuing an easier or less stressful position.
- **In spite of the challenges expressed by current practitioners** the majority indicated that they were likely (29.0%, n=332) or very likely (40.7%, n=466) to remain in legal aid in the next three years. However, as with legal aid leavers, 60.7 per cent (n=321) of current practitioners indicated that if they were to leave legal aid it would be in order to secure better pay, working conditions or entitlements.

The Impact of Covid-19

- **The impact of the Covid-19 pandemic on the legal aid workforce has been profound, bringing both advantages and disadvantages to individual practitioners and organisations.** Respondents identified some advantages of remote working, such as reducing the time spent travelling to hearings and reducing overhead costs for premises. However, supporting vulnerable clients, maintaining a supportive and cohesive workplace community and a healthy work-life balance, and proper supervision and training provision for junior staff, have all become more difficult since March 2020. 27.3 per cent (n=239) of practitioners reported that accessing or using technology to do their work was a major challenge during the pandemic, and 29.1 per

cent of organisations (n=92) and 23.8 per cent (n=5) of chambers reported that the need to source equipment and adapt to remote working was the most significant impact of the pandemic on their work.

- **The Covid-19 pandemic has exacerbated economic instability for some practitioners and organisations.** 22.6 per cent (n=7) of chambers and 20.1 per cent (n=69) of organisations reported being forced to make staff redundant during the pandemic. Overwhelmingly, the most common response to financial difficulties was to place staff on furlough, with 93.5 per cent (n=29) of chambers and 79.1 per cent (n=272) of organisations reporting that they made use of furlough.
- **The adverse impacts of the Covid-19 pandemic have been particularly challenging in some areas of law with more staff furloughed in the areas of criminal law and housing.** Staff in these areas were also more likely to experience redundancy. Additionally, several practitioners reported concerns about pandemic-related economic insecurity stemming from large outstanding caseloads subject to delays in the wider justice system, as well as pre-existing concerns about the financial viability of legal aid work and economic precarity within the sector.

Facing the Future of Legal Aid

- **The Legal Aid Census challenges several narratives which are commonly used in relation to legal professionals.** For example, the assumption that practitioners only come from privileged socio-economic backgrounds and circumstances, or that legal professionals earn significant salaries, or pursue careers in legal aid is because they are motivated to increase their own personal wealth.
- **The Census demonstrates that the legal aid sector is characterised by significant financial insecurity, which in turn has led to crisis.** This poses significant threats to the ability of legal aid organisations and chambers to operate, the sustainability of the current workforce, the possibilities for recruiting and retaining the future generation of legal aid practitioners, and the accessibility of justice.
- **Many of the challenges facing the sector pre-existed the Covid-19 pandemic but have been exacerbated by it.** The insecurity and threats that were already being faced across the sector, meant that the organisations, chambers and practitioners were less resilient in their ability to withstand the economic, practical, and emotional impact of COVID-19.
- **The findings of the Census reinforce the dire need for investment in the legal aid system** which is effectively being subsidised by practitioners. Investment in the sector is urgently required so as to ensure that those charged with representing the interests of the most vulnerable in society and upholding the rule of law are provided with adequate pay, progression, and support to enable them to perform that job effectively.