
WE ARE LEGAL AID FINDINGS FROM THE 2021 LEGAL AID CENSUS

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March 2022



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Acknowledgements

Our thanks go to the participants in the pilot phase of the research, especially to Simon Mullings for providing in-depth feedback on survey questions. We are grateful to the Baring Foundation for providing funding for research assistance. We would like to thank Chris Minnoch and Rohini Teather at Legal Aid Practitioners Group for commissioning the research and for their support throughout. We would also like to express our immense appreciation to the many legal aid practitioners – past, present and future – who took the time to complete the Legal Aid Census 2021.



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1. Introduction

Legal aid is a crucial component in the fabric of the justice system in England and Wales. It plays a key role in facilitating access to justice, helping to ensure legal needs are met and that individuals can establish or enforce their rights across various areas of law. Legal aid practitioners assist clients with a wide range of issues, including but not limited to those relating to criminal defence, family matters, education, housing, immigration, discrimination, debt and community care. Legal aid services are typically provided for communities and clients through private law firms, not-for-profit advice agencies, local law centres and national charities. Yet, the legal aid system is experiencing unprecedented pressures and challenges.¹ The Covid-19 pandemic,² changes brought about by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO),³ fee arrangements,⁴ court closures⁵ and wider attempts to reduce legal aid spending⁶ are just a few conditions and events that have contributed to concerns that the sector is increasingly unviable.

A review of the legal aid landscape which elevates the perspectives of those working day-to-day in the sector is vital and long overdue. Pre-existing data on the specifics of legal aid practice has been piecemeal, lacking context and insufficiently able to elucidate conditions on the ground. As such, this report presents and analyses the results of the most comprehensive set of surveys of legal aid practitioners ever conducted in England and Wales. It provides a greater and more accurate understanding of a sector adversely impacted by repeated crises and challenges. In the aftermath of Covid-19 lockdowns and nine years since the enactment of LASPO, legal aid practitioners reveal the true extent of the current state of legal aid in response to the five surveys that make up the Legal Aid Census.

1.1 Background

The legal aid system in England and Wales has endured significant challenges over the last three decades. The Carter Review in 2006 prioritised a system of best value tendering⁷ which led to fragmentation and bureaucratisation as well as rigidity in relation to fee arrangements. Sommerlad argued that during this time the ‘consumption’ of legal services became a ‘sufficient alternative to just outcomes’.⁸ More recently, LASPO has dramatically reduced the areas within scope for civil legal aid funding.⁹ As a result, the ability of legal aid practitioners to fulfil complex and multi-

faceted client needs has been hindered by the lack of early legal advice and representation across debt, housing, employment, welfare benefits, immigration and family law. Those most adversely impacted by the changes include children and young people, migrants and refugees, disabled people and those with mental and physical ill-health.¹⁰

The wider austerity cuts that brought about changes such as welfare reform and reductions in local government funding have made the legal aid landscape all the more challenging in recent years. Research shows that the housing crisis and deepening levels of inequality in society, even before the Covid-19 pandemic, presented lawyers with almost insurmountable difficulties day-to-day in their casework, especially given the inability to resolve issues in their early stages.¹¹ A 2018 survey of MPs similarly indicated that more than half had seen an increase in the number of constituents seeking advice, and that advice was especially needed in the areas of welfare benefits and housing.¹² These challenges are not restricted to civil legal aid provision but have also been prevalent in criminal legal aid where resource constraints in the system have had considerable knock-on impacts on clients.¹³

Legal aid practitioners have been struggling for some time to sustain legal aid service provision amidst these pressures. In 2013, there were 1,592 firms with criminal legal aid contracts¹⁴ and 1,881 firms with civil legal aid contracts, but these numbers had dropped to 1,104¹⁵ and 1,445 respectively by March 2021. The Law Society's 2014 Otterburn Report noted that most criminal solicitors firms' finances were 'precarious', with profit margins near 5 per cent.¹⁶ There has been a significant reduction in the number of civil legal aid advice providers, leading to a steady decline in the number of matters started in civil legal aid. Recent research also shows expansive legal advice deserts across England and Wales: in some areas, there is simply no provision available for community care and housing law as well as significantly reduced provision in immigration and asylum, welfare benefits and education.¹⁷

Researchers repeatedly note the disconnect between the intended impact of 'command and control' policy changes and the reality on the ground.¹⁸ For example, challenges in relation to supply and demand in immigration and asylum service provision as a result of marketisation have been well documented.¹⁹ Likewise, while the intention had been that by limiting legal aid in private family law, more people might pursue mediation rather than more adversarial court processes, research demonstrates a decreasing number of separating and divorcing couples pursuing mediation and an increase in the number of cases issued in court.²⁰ For those pursuing family court proceedings, LASPO has led to a significant reduction in the availability of advice and representation and an increase in litigants in person presenting with a diversity of support needs.²¹

Against this background, the disillusionment experienced by legal aid lawyers as a result of negative perceptions of their work, both from government actors²² and in the public sphere has been profound, and high levels of resilience and persistence are required to overcome ongoing challenges and constraints.²³ It has been further noted that the negative public perception of legal aid practitioners as being 'fat cats' or 'activists' has caused undue harm to the sector generally.²⁴ This combination of resource constraints, challenging working conditions and wider negative perceptions of legal aid work has led to a sustainability crisis in the profession with poor rates of retention and an 'ageing demographic' of legal aid practitioners.²⁵ The Covid-19 pandemic has exacerbated existing problems by creating new and urgent legal issues for clients

while simultaneously inhibiting opportunities for individuals to access justice.²⁶ It has consequently strained minimal resources for practitioners and arguably worsened an existing well-being crisis in the legal aid profession.²⁷

Numerous reviews - including three in the past year alone - have called into question the long-term sustainability of legal aid. For example the House of Commons Justice Committee's inquiry of 2021 found that there was an 'urgent need to overhaul the system so that providers are paid for all the work they do to support their clients, especially at the early stages of the process'.²⁸ To this extent, the inquiry concluded that the structure of the fee scheme did not support high quality service to clients, and the legal aid scheme generally lacked flexibility.²⁹ The House of Lords Constitution Select Committee report published in March 2021 concluded that the justice system is 'under strain' and that 'actions that might have been capable of alleviating the effects of the pandemic' had not been taken, with the backlog of cases in the criminal courts now reaching 'crisis levels'.³⁰ The Westminster Commission on Legal Aid echoed concerns regarding the sustainability of the system detailed in other reports. Drawing on comprehensive evidence from legal aid practitioners and clients, the Commission found that problems with recruitment and retention of practitioners were widely reported, with firms struggling to support trainees.³¹ Whilst the Independent Review of Criminal Legal Aid identified similar problems and recommended overall that funding should be increased for solicitors and barristers by at least 15 per cent, as well as proposing wider systemic changes to drive efficiency and reduce costs.³²

The concerns highlighted by these inquiries raise important questions regarding the future of legal aid that can only be answered with a better understanding of the experience of current, former and prospective legal aid professionals and legal aid service providers. The consequent Legal Aid Census on which this document reports, was therefore borne out of a desire on the part of many practitioner groups who work closely with LAPG - including, for example, the Black Solicitors Network, Housing Law Practitioners Association, Legal Action Group, and Shelter - to acquire a more representative and thorough understanding of the legal aid landscape.

1.2 The Legal Aid Census

The aims of the research were to develop a baseline demographic profile of legal aid practitioners as well as gaining a better understanding of education and training, salaries, fee arrangements and job satisfaction. The surveys sought to identify routes into the profession, lawyers' perceptions on barriers faced and how these correlate to socio-economic background. They also 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. Finally, the surveys sought to capture how lawyers had adapted to the changing legal aid landscape; and their perceptions on what is needed to sustain the legal aid sector in future.

1.2.1 Design and Pilot

The Census was comprised of five online surveys designed to capture responses from each of the following stakeholder groups:

1. Former legal aid practitioners ('Legal Aid Leavers')
2. Current legal aid practitioners ('Practitioners')
3. Organisations engaged in the provision of legal aid services ('Organisations')
4. Chambers engaged in the provision of legal aid services ('Chambers')
5. Prospective legal aid practitioners ('Students')

Respondents in the first four groups were asked for their perspectives on a range of topics, including but not limited to: the delivery of legal aid; their personal experiences in the industry; the impact of factors such as LASPO and the pandemic on the sector; the Legal Aid Agency; salaries and remuneration; recruitment, retention, training and professional development; and working conditions. Current students who indicated an interest in pursuing a career in legal aid were asked a series of questions regarding their experiences of legal education and training as well as their motivations for pursuing a career in legal aid.

1.2.2 Dissemination

All of the surveys - except that which was designed for current students - underwent a pilot phase in March 2021. A representative group of stakeholders participated and provided feedback on the survey instruments in order to ensure they aligned with the research aims and that the survey questions were being interpreted as intended. In response to suggestions made by these stakeholders, a number of changes were made to the surveys in order to revise question structure and clarify question framing prior to the surveys' wider dissemination in April 2021. The surveys were open online for responses between 12 April and 11 June 2021, and an invitation to participate in the Census was disseminated by LAPG to all of its members (334 legal aid organisations) at regular intervals over the data collection period. Calls to participate in the survey were also disseminated by 33 membership and professional bodies using their membership and mailing lists. A publicly available list of legal aid providers (published by the Legal Aid Agency) was also consulted for dissemination and attempts made to contact each provider.

The student survey was open for responses between 14 June and 12 July 2021. Information about the survey along with an encouragement to participate was disseminated to law students in England and Wales via social media platforms and academic networks, including, for example, the Clinical Legal Education Organisation and Young Legal Aid Lawyers.

All data and responses were stored securely, managed in accordance with GDPR, and pseudo-anonymised as appropriate. The recruitment strategy, methods of data analysis, and data management plan received ethical approval from Cardiff University (Ethics Reference number: SREC/030221/02).

1.2.3 Response Rate

The Census gathered a wide range of data from managers and directors of legal aid organisations, barristers, solicitors, legal executives, clerks, paralegals, caseworkers, students, aspiring legal aid practitioners, and former legal aid practitioners. In total, 255 former legal aid practitioners, 1208 current practitioners, 369 organisations, 32 chambers, and 376 students responded to the Legal Aid Census.³³

1.2.3.1 Former Practitioners

In total, 255 former legal aid practitioners responded to the survey. Solicitors comprised almost half (49.8%, n=127) of the respondents who reported that they had left legal aid, followed by barristers (27.5%, n=70) and paralegals (10.6%, n=27). These respondents reported having worked in a range of different locations; London (48.6%, n=122) and south east England (20.3%, n=51) were most commonly referenced, with fewer respondents having worked in Wales overall and no respondents having worked in mid-Wales. Higher numbers of respondents who reported leaving legal aid were working in crime (34.5%, n=88) and family law, with 31.4 per cent (n=80) in private family law and 25.9 per cent (n=66) in public family law. Additionally, 22.7 per cent (n=58) of former practitioners had left housing law. The vast majority of respondents (94.5%, n=241) had spent at least a year working in legal aid before they left. Over a quarter had worked for 1-5 years (26.7%, n=68) or for 11-20 years (26.7%, n=68), while 23.1 per cent (n=59) had worked for 6-10 years and 18.0 per cent of respondents (n=46) had left after more than two decades in legal aid.

1.2.3.2 Current Practitioners

In total, 1,208 current legal aid practitioners responded to the practitioners survey. Solicitors comprised just over a third (35.1%, n=424) of the respondents who reported that they had left legal aid, followed by barristers (33.7%, n=407) and trainee/pupil/legal apprentice (10.3%, n=125). Nearly half of the practitioners who responded were based in London (46.4%, n=558), with much smaller numbers based in Wales and none based in mid-Wales. Practitioners had been working in legal aid for a considerable period of time, with a third of respondents (33.2%, n=400) having been in the sector for 21 years or more and just under a quarter (24.3%, n=293) having been in the sector for 11-20 years.

88.4 per cent (n=1,055) of current practitioners reported that their organisation also undertook work that was not funded by legal aid, with only 11.6 per cent (n=139) providing solely legal aid-funded work. The practitioners in this survey largely worked in two types of organisations. Nearly half of all practitioners (48.3%, n=580) worked in for-profit firms with legal aid contracts, while over a third (35.3%, n=424) worked in chambers. Smaller numbers worked in not-for-profit specialist advice (5.3%, n=64) and law centres (5.1%, n=61).

All areas of legal aid practice were represented in the cohort of practitioners, with 57.2 per cent (n=689) indicating that they worked across more than one practice area. Of the 516 practitioners who indicated that they worked in only one area of law, the majority (48.8% n=252) were crime practitioners. When considering the total percentage of practitioners working in different areas, including those working across more than one area of law, the greatest number of practitioners reported working in public family law (31.9%, n=384), followed by crime (29.6%, n=357) and private family law (29.0%, n=349).

1.2.3.3 Organisations

In total, 369 organisations responded to the organisational survey (which excluded chambers who were captured by the chambers survey). The majority of organisations (67.8%, n=250) were for-profit firms providing both private and legal aid services. 6.0 per cent (n=22) of organisations specified an 'other' organisational type but did not elaborate further. As with practitioners and

chambers, most organisations were based in London (31.6%, n=116); unlike chambers and practitioners, however, the spread of organisations encompassed all parts of England and Wales including mid-Wales. Also unlike chambers, the majority of organisations were on the small side, with 41.4 per cent (n=152) reporting a headcount of between zero to ten employees. As would be expected in light of this, organisations also reported smaller numbers of fee earners, with 45.1 per cent (n=164) of organisations having zero to four full time equivalent fee earners. Organisations also tended towards being long-standing service providers, with 58.1 per cent (n=208) having provided legal aid services for longer than 21 years. Most organisations (93.1%, n=337) held a legal aid contract. Contracts were predominantly held in crime (44.5%, n=150), public (39.8%, n=134) and private (35.3%, n=119) family, and housing law (26.4%, n=89).

1.2.3.4 Chambers

Most chambers (46.9%, n=15) were based in London, followed by the English Midlands (15.6%, n=5). There was an absence of representation from chambers in the South East of England, North Wales, and mid-Wales. This reflects general concerns that only a minority of chambers are in a position to accept instructions on publicly-funded cases.

The most common area of work was crime (65.6%, n=21), followed by public and private family law (56.3%, n=18) and Court of Protection work (50.0%, n=16). Fewer chambers reported members predominantly working in employment (3.1%, n=1), welfare benefits (6.3%, n=2), debt (6.3%, n=2) and prison law (9.4%, n=3), or across all areas of law (1.3%, n=1).

On the whole, chambers responding to the survey were on the larger side, with 38.7 per cent (n=12) reporting more than 61 barristers in residence including pupils but not including door tenants or associated tenants. There were no chambers with less than ten barristers in residence within the sample. In spite of respondent chambers tending towards the larger side, the number of QCs in residence tended to be small in comparison, with 68.0 per cent (n=17) of chambers having one to five QCs.

1.2.3.5 Current Students

In total, 376 students completed the survey. Of the 376 students who responded to the survey, 52.9 per cent (n=199) were considering a career in legal aid whilst 47.1 per cent (n=177) were not. 54.5 per cent (n=108) of students were undertaking an undergraduate law degree (LLB), followed by 17.1 per cent (n=34) studying for an LPC (including combined LLM courses) and 8.5 per cent (n=17) completing their Bar course (including combined LLM courses). Smaller numbers were undertaking a non-practice LLM, GDL, other undergraduate degree, other studies, or had enrolled on the SQE.

Analysis of student data from this point onwards excludes those students who were not considering a career in legal aid, as well as those not currently studying for degrees/qualifications required for registration as a barrister or solicitor (i.e. the LLB, GDL, LPC, bar course or SQE studies).³⁴

1.2.4 Analysis

The surveys included questions that were both closed and open-ended in nature. In order to gain insights across the totality of responses provided with respect to any one open-ended question, the research team coded open-ended questions for key themes. In total, six researchers were

involved in coding the open-ended questions posed across the five surveys. To commence, open-ended questions across all of the surveys were thematically grouped, with each thematic group of questions assigned to a single coder. This facilitated a consistent approach to the coding of similar questions across the different surveys. Where multiple themes were raised in a single response, only the main three issues were coded.³⁵

Codes were devised following review of all of the open-ended responses in respect of a particular question. As per the method outlined in Montgomery and Crittenden, each response to a particular open-ended question was evaluated in turn, with new codes created where an open-ended response raised a theme that did not fit into any of the existing codes.³⁶ The coding of all open-ended questions passed through an initial phase in which preliminary codes were evaluated for thematic completeness by the same single member of the research team, prior to finalisation. Once coding of the full set of responses for each question was completed, a random subset of the total number of open-ended responses given in respect of each question was reviewed by a second coder. The purpose of the second coding was to confirm that the codes attributed to each response by the first coder were relevant and appropriate. For questions where more than 100 responses were received, a minimum of 20 per cent were subject to second coding. For questions with less than 100 responses, the percentage subject to second coding increased on a sliding scale.³⁷ Agreement between the first and second coder across the full set of open-ended questions analysed was high. On average, the second coder agreed with 99.6 per cent of the codes assigned by the first coder. Statistics presented are those derived from the codes assigned by the first coder.

This report analyses findings from all five surveys that comprised the Census and relies upon descriptive statistics to set out key findings in relation to:

1. Establishing a career in legal aid, including motivations for pursuing a career in legal aid, the financing of education, the availability of training and employment opportunities and the process of finding and retaining staff (Section 2);
2. The experience of working in legal aid, including working conditions, wellbeing, salaries and job satisfaction (Section 3);
3. Data captured in relation to working under fixed fees (Section 4);
4. Data captured in relation to working under hourly rates (Section 5)
5. Who exits practice areas and why (Section 6);
6. Who exits the legal aid profession and why (Section 7)
7. The response of the sector to Covid-19 (Section 8); and
8. The key challenges faced by the sector (Section 9)

The text indicates where descriptive statistics relate to coded open-ended questions. Descriptive statistics used throughout this report are coupled with quotes extracted from the open-ended responses in order to provide greater context for findings and to illuminate the perspectives of respondents in their own words. Percentages reported exclude those who did not answer the question. In addition, in respect of the qualitative questions, percentages exclude responses where a respondent indicated in their open-ended response that the question was 'not relevant'. In these instances, the number of responses removed is noted in the footnotes.

2. Establishing a Career in Legal Aid

Practitioners are largely motivated to pursue a career in legal aid because of a commitment to social justice. Contrary to common assumptions, a high proportion of legal aid lawyers are first-generation university graduates and/or lawyers. Problematically, many practitioners report facing financial barriers to establishing a career in legal aid and educational debt presents a significant challenge for prospective legal aid practitioners. This coupled with a lack of training opportunities upon graduation may account for the difficulty organisations report in recruiting suitably qualified legal aid practitioners.

2.1 Choice of Career

The Census captured the responses of 1208 current practitioners who had established a career in legal aid, 175 students studying for their LLB, GDL, LPC, bar course or enrolled in the SQE who expressed an interest in pursuing a career in legal aid, and 255 former legal aid practitioners.

Current, prospective and former practitioners acknowledged a wide range of factors that encouraged them or were encouraging them to seek a career in legal aid. The survey responses reflected a strong desire to enhance access to justice and support those experiencing disadvantage. As shown in Table 2.1, of those practitioners who answered (n=1180), 75.7 per cent (n=893) were drawn to legal aid practice by the opportunity to help those facing economic, cultural or social disadvantage. Similarly, 71.2 per cent (n=840) indicated they wanted to work to ensure access to justice would be more equitable for all in society, and 70.6 per cent (n=833) indicated they were motivated by the desire to make a positive impact on society. Other factors not listed in Table 2.1 such as making a fairer society (50.3%, n=594) or a difference in the community (42.1%, n=497) did not feature among the five most common motivations, but were still prevalent.

It is striking that comparatively few respondents gravitated towards the profession in search of an income, as only six practitioners (0.5%, n=6) indicated that financial reasons motivated them

to join the sector. Of these, four practitioners indicated that they found employment in legal aid because they required an income, whilst two indicated that they were initially attracted to the area because it was possible to make a decent living.

Table 2.1 Five most common motivations for working in Legal Aid (n=1180)³⁸

	N	%
Opportunity to help those facing economic, cultural or social disadvantage	893	75.7
Opportunity to make access to justice more equitable	840	71.2
Opportunity to have a positive impact on society	833	70.6
Opportunity to improve access to justice	756	64.1
Opportunity to apply my skills to help others	723	61.3

When practitioners were asked to select the primary motivating factor for their career choice, of those who answered (n=610), 26.4 per cent (n=161) selected helping those facing social, cultural or economic disadvantage and 17.7 per cent (n=108) selected using their skills to help others. Table 2.2 details the five most common primary motivations given by respondents.

Table 2.2 Five most common primary motivations for working in Legal Aid (n=610)³⁹

	N	%
Opportunity to help those facing economic, cultural or social disadvantage	161	26.4
Opportunity to apply my skills to help others	108	17.7
Opportunity to make access to justice more equitable	77	12.6
Sense of fulfilment or personal reward	61	10
Opportunity to have a positive impact on society	37	6.1

The survey also asked legal aid leavers an open-ended question regarding what they liked most about working in legal aid. Of the legal aid leavers who provided a response (n=197), coding of these open-ended responses revealed that the vast majority (65.5%, n=129) indicated they liked making a difference in people's lives or helping those facing disadvantage. A further 15.7 per cent (n=31) liked helping to provide access to justice.

The student survey responses of those working towards a qualifying degree in law at the academic or vocational stage, showed a similar trend with the majority of students selecting 'the opportunity to help those facing cultural, economic or social disadvantage' (86.6%, n=149 of 172) and 'the opportunity to make justice more equitable' (83.1%, n=143). It is striking to note that of the student respondents, a much higher proportion indicated that they wanted 'the opportunity to hold the government accountable' (59.9%, n=103) as compared to practitioners (36.9%, n=435) or legal aid leavers (9.1%, n=18).

Students who expressed a desire to work in legal aid were also asked whether their previous life experience had played a role in influencing their decision to pursue a career in legal aid. 88.4 per cent (n=61 of 59) confirmed that their background or life experiences had had an influence on their choice of career. An analysis of open-ended responses provided revealed that students who personally experienced injustice or poverty (44.9%, n=31) and witnessed or heard about injustice (46.4%, n=32) were influenced by their experiences to become legal aid practitioners. As one narrative elucidated:

*"Being mixed-race, particularly in an overwhelmingly white area of the country [and] [s]eeing injustice that is done time and again to marginalised groups makes me want to pursue my vision of a fairer society and a more accountable government. This particularly applies as my grandparents are part of the Windrush Generation affected by the Windrush Scandal."*⁴⁰

2.2 Financing Education and Training

As detailed in the appendix (Table A.4), 93.0 per cent of practitioners (n=1108 of 1192) attended school in the UK, with 7.0 per cent (n=84) reporting that they attended school overseas. Of those who attended school in the UK, approximately two thirds (64.1%) (n=705 of 1100) attended a state comprehensive school. Additionally, most practitioners reported they had attended or were currently attending university (93.8%, n=1133 of 1208).

Just less than a fifth of practitioners (18.5%, n=221 of 1197) were in receipt of state benefits or were eligible for free school meals during their primary or secondary education. Furthermore, the majority of practitioner respondents did not have parents or other caregivers who went to university (54.9%, n=655 of 1193) and more than three quarters of practitioners were first generation lawyers, with 80.5 per cent (n=965 of 1199) having no other legal professionals in their immediate family.

Student respondents considering a career in legal aid were given an opportunity to provide a number of further additional characteristics pertaining to their educational background. As Table A8 in the appendix reveals, the majority of respondents completed their schooling in the UK (79.4%, n=158 of 199) and attended a state comprehensive school (80.3%, n=126 of 157).

Interestingly, the proportion of students who indicated that their family was on benefits or eligible for free school meals at some point during their primary or secondary schooling (29.4%, n=58 of 197) was higher than that reported by current practitioners (18.5%, n=221 of 1197)⁴¹, whilst the proportion of students who reported that their parents, stepparents, carers or guardians attended university (47.2%, n=94 of 199) was slightly higher than for current practitioners (45.1%, n=538 of 1193)⁴².

Of those practitioners who did and did not attend university, 38.5 per cent (n=452 of 1174) indicated that they experienced or were experiencing financial barriers towards qualifying as a legal aid practitioner, compared to 61.5 per cent (n=722 of 1174) who did not. The experience of financial barriers varied by principal role and by age. Overall, the experience of financial barriers during the process of qualifying was more often reported by practitioners 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.

Open-ended responses provided by those who did and who did not report financial barriers identified a number of common difficulties. The top five most commonly mentioned difficulties are detailed in Table 2.3. As shown, the cost of study, training and qualification was the most widely experienced problem (38.4%, n=199 of 518). Other common issues included being reliant on family support (26.3%, n=136), being reliant on additional work and extra jobs (24.9%, n=129), and being concerned about the low levels of remuneration in legal aid work (23.6%, n=122). Respondents who reported 'other' problems cited not having appropriate work clothes, the lack of job certainty, and the requirement to self-fund the qualification process.

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

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

Of 173 student respondents who were completing their LLB/GDL/LPC/Bar Course/SQE, 64.7 per cent (n=112) reported that they had experienced or were experiencing financial barriers towards qualifying as a legal aid lawyer, compared to 35.3 per cent (n=61) who had not/were not.

In their responses, students also reflected on the extent to which their backgrounds could create and worsen these financial barriers. Given that legal aid work does not pay as well as other areas of law, many students felt unable to pursue it because they simply could not afford to after incurring the costs of qualifying. According to one respondent,

“Legal aid work simply isn’t as lucrative as non-legal aid routes. People in higher classes can sacrifice a dip in a paycheck because their family can help, people in higher classes can sacrifice their summer to an unpaid internship at a legal aid firm because their family can sustain them financially over the summer. I simply can’t do that. I must earn money in the summer and I have my enormous debts to pay off in the future.”⁴⁴

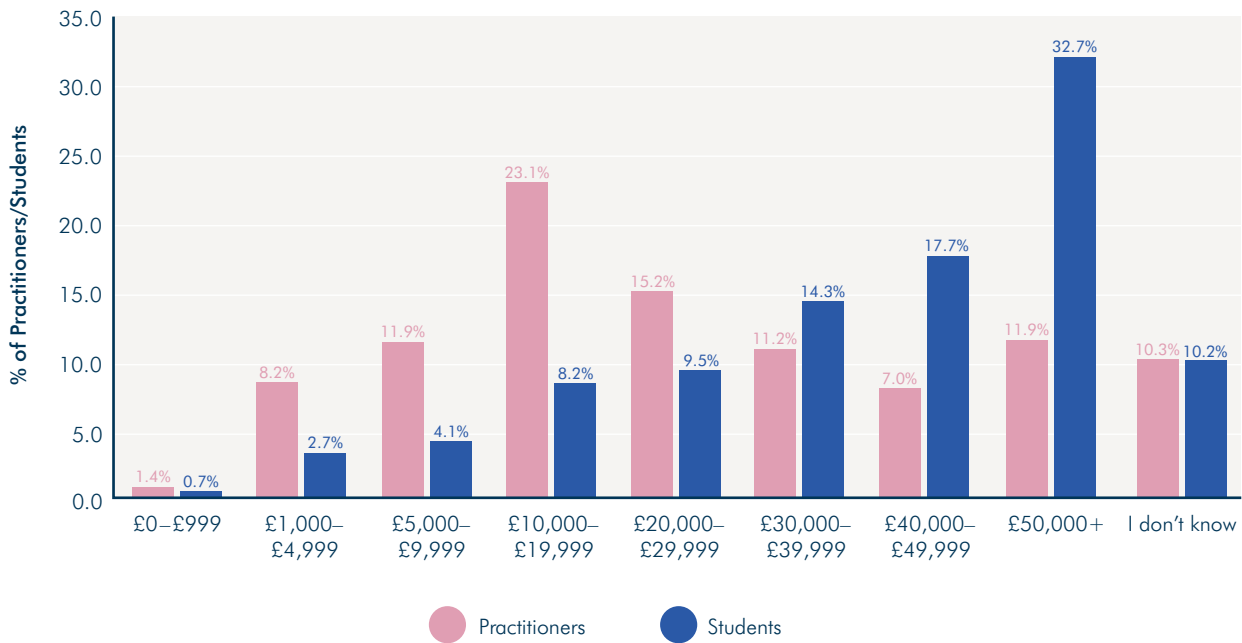
Concerns over the viability of a career in legal aid were pronounced amongst those who already had financial concerns.

Financial barriers were both precipitated and exacerbated by the levels of debt that existing and prospective practitioners incurred during their education and training. There were different experiences of debt between current practitioners and students but both cohorts experienced it to some degree. Over the course of their legal education, over a third of practitioners (38.4%, n=431 of 1123) indicated that they had accrued debt, while 61.6 per cent (n=692) indicated that they had no debt. The majority of students studying for their LLB/GDL/LPC/Bar Course/SQE (85.1%, n=148 of 174) indicated that they did or would have debt at the end of their legal education.

As shown in Figure 2.1 below the most commonly cited amount of debt for practitioners was within the range of £10,000-£19,999 which was reported by 23.1 per cent (n=99 of 429) of respondents. Even with the impact of inflation, current students reported higher levels of debt; the most commonly cited amount for students was £50,000+ as identified by 32.7 per cent (n=48 of 147).

Current students appear more likely to accrue debt and to complete their studies with higher levels of debt than is reported by current practitioners. The data suggests a marked escalation of debt issues for those currently studying to become legal practitioners.

Figure 2.1. Size of debt incurred from legal education by practitioners (n=429) and students (n=147)



For current students, the majority of student debt was in the form of student loans (87.8%, n=130 of 148). Other sources of debt included bank loans (15.5%, n=23), credit cards (13.5%, n=20) and family members (16.9%, n=25), with fewer respondents indicating debt would be owed to a local authority (1.4%, n=2). Those who said ‘other’ (1.4%, n=2) indicated that their debt was owed to a friend.

2.3 Availability of Training and Employment Opportunities

93.3 per cent (n=28 of 30) of chambers indicated that they currently trained pupil barristers, whereas 6.7 per cent (n=2) did not. For other organisations however, the rate of training opportunities was much lower, with 57.5 per cent (n=210 of 365) of organisations training practitioners, compared to 41.1 per cent (n=150) who did not and 1.4 per cent (n=5) who reported not to know.

Of those organisations who did train practitioners, a clear majority focused on training solicitors (93.8%, n=197 of 210). 31.0 per cent (n=65) also trained chartered legal executives (CILex), with far fewer organisations training caseworkers (2.9%, n=6), paralegals (4.8%, n=10), or apprentices (2.4%, n=5). 5.7 per cent of organisations (n=12) reported training ‘other’ professionals.

When asked to provide an open ended response to why they did not train practitioners, organisations most often suggested that limited funding, capacity, resources, infrastructure and time impeded their capacity. 43.8 per cent (n=56 of 128) of organisations referenced that training practitioners was not cost effective or that they could not afford it, while 24.2 per cent (n=31) referenced minimal capacity, the small or niche nature of the area in which they practised or their inability to offer relevant training. A further 16.4 per cent (n=21) referenced insufficient resources

and infrastructure, with 12.5 per cent (n=16) indicating that they had no time to do so, 5.5 per cent (n=7) reporting that they had no lawyers on staff or only offered mediation services, 4.7 per cent citing a lack of funding, and 3.9 per cent (n=5) indicating the impact of Covid-19 and the same number of organisations citing the difficulties recruiting. In contrast, 6.3 per cent of organisations (n=8) indicated that they were currently trying to recruit trainees or that they had had some trainees in the past.

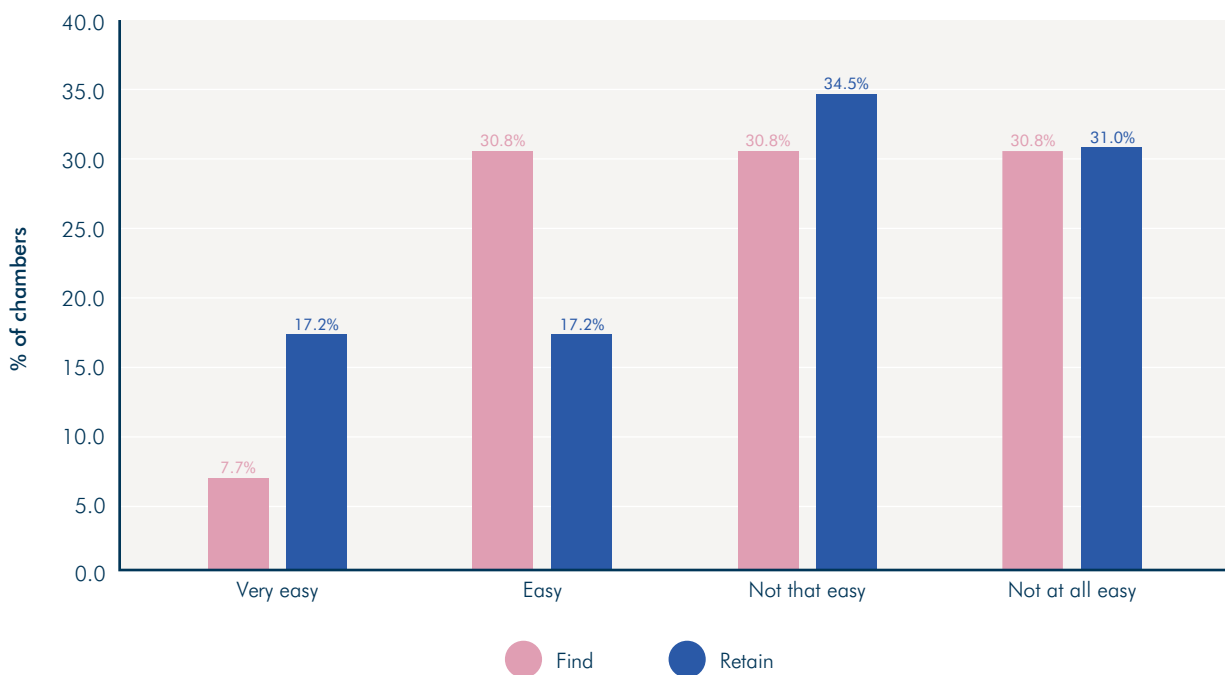
In addition to this, almost three quarters of organisations (73.2%, n=265 of 362) indicated that they were not recruiting or expanding, contrasting with 26.8 per cent (n=97) who were. The lack of growth in the sector may have adverse implications for the availability of student training in legal aid going forward. The lack of training contracts will thus form an additional barrier for students looking to move into legal aid work.

2.4 Finding and Retaining Suitably Qualified Practitioners

2.4.1 Chambers

As detailed in Figure 2.2, more than half of respondent chambers indicated that it was either ‘Not that Easy’ or ‘Not at all Easy’ to find suitably qualified staff. The vast majority of chambers (61.6% n=16 of 26) expressed difficulty finding qualified legal aid barristers. Similarly, retention of suitably qualified barristers was found to be challenging, with 65.5 per cent (n=19 of 29) of chambers stated that it was not that easy/not at all easy to retain practitioners who were suitably qualified.

Figure 2.2. The ease with which chambers can find (n=26⁴⁵) and retain (n=29) suitably qualified legal aid barristers



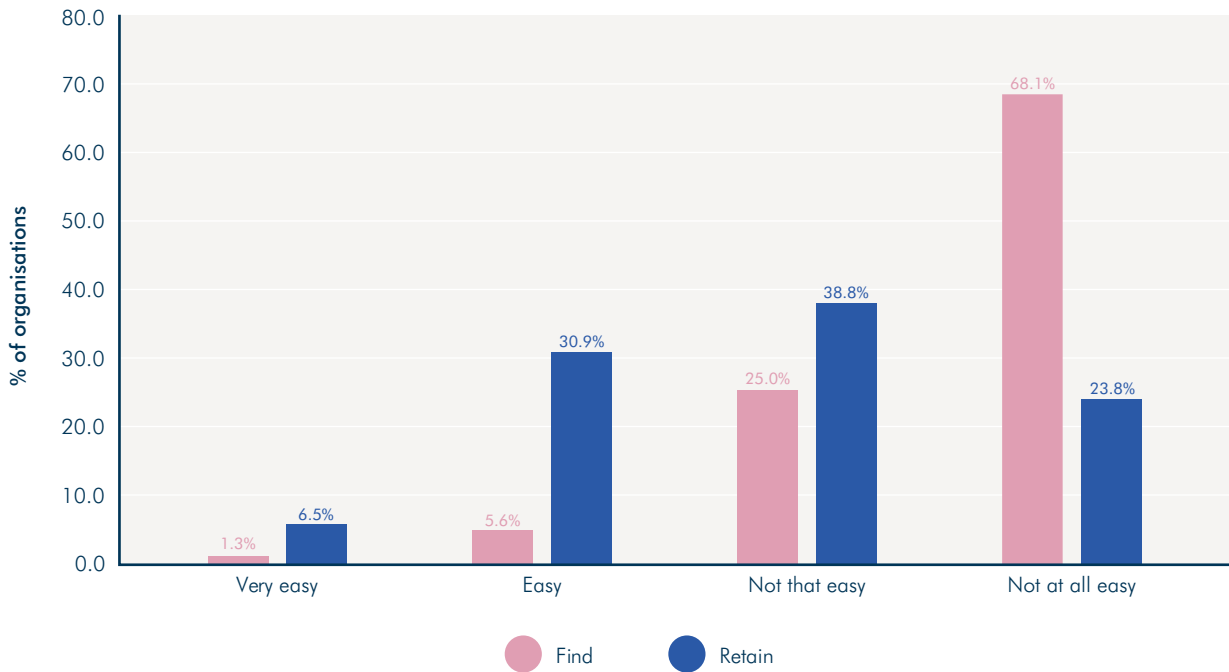
When asked to explain why it was easy or difficult to find suitable qualified legal aid barristers in an open-ended format, over 50.0 per cent of chambers (n=9 of 18) attributed the difficulty to there being better salaries available for barristers elsewhere. A smaller number of chambers (11.1%, n=2) attributed the difficulty to the lack of practitioners and high demand for their employment. The same proportion and number of chambers (11.1%, n=2) attributed the challenge to legal aid barristers tending to leave the profession entirely. At least one set of chambers also observed each of the following challenges: finding barristers with sufficient experience was difficult; barristers want to work in different locations; barristers do not want to work in legal aid; and barristers do not want to leave where they were currently working. Only 1 set of chambers (5.6%) indicated that it was not difficult to find suitably qualified barristers - this was put down to the fact that some barristers are committed to working in legal aid and are happy to do so for less [money].

The relevance of remuneration was also a factor in the reasons provided by 16 chambers as to why it was easy/difficult to retain suitable qualified barristers, with 50 per cent (n=8) of chambers observing that it was difficult because there are better salaries elsewhere, 25 per cent (n=4) indicating that barristers leave because they do not want to continue working in legal aid, and at least one set of chambers (6.3%) raising each of the following reasons: there are better working conditions elsewhere; there is poor work-life balance, challenging work and stressful workloads in legal aid; there is less legal aid work available for barristers; and barristers who leave legal aid leave the profession entirely. There were, however, a number of responses which painted a more positive picture, with 12.5 per cent (n=2) of chambers indicating that ease of retention depended on the area of practice and 18.8 per cent (n=3) of chambers observing that retention was possible as long as legal aid work is offset by private practice work. Only one set of chambers (6.3%) indicated that they had no difficulty with retention, which they attributed to their good working environment.

2.4.2 Organisations

Figure 2.3 depicts the ease with which organisations reported being able to find and retain suitably qualified lawyers. The majority of organisations reported that finding suitably qualified lawyers was not that easy (25.0%, n=76) or not at all easy (68.1%, n=207). Similarly, 38.8 per cent (n=119) indicated that it was not easy and 23.8 per cent (n=73) indicated it was not at all easy to retain suitably qualified lawyers.

Figure 2.3 The ease with which organisations can find (n=304) and retain (n=307) suitably qualified legal aid lawyers



When it came to explaining why it was or was not easy to find suitably qualified lawyers, a number of key themes emerged from the open-ended responses. As with sets of chambers, a large proportion of organisations (40.0%, n=126 of 315) attributed the difficulty of finding suitably qualified legal aid lawyers to the fact that there are better salaries elsewhere. Similarly, 37.1 per cent (n=117) attributed the challenges to a lack of lawyers and the fact they are in demand. Fewer organisations (14.6%, n=46) cited that it was difficult to find lawyers with the requisite experience, with 13.0 per cent (n=41) of organisations observing that lawyers were put off by the prospect of working in legal aid. Better working conditions elsewhere was noted by 8.6 per cent of organisations (n=27). 6.3 per cent (n=20) of organisations observed that younger lawyers were more likely to gravitate towards other employers within the legal profession, and 4.8 per cent (n=15) of organisations observed challenges related to having to compete with the salaries and conditions offered by the Crown Prosecution Service (CPS).

Less frequently mentioned reasons included lawyers wanting to work in different locations; the ageing workforce which is close to retirement; the existence of bureaucratic challenges in the sector, which operated as a deterrent for prospective new entrants; a real or perceived lack of opportunities for career progression and security; an inability to retain legal aid contracts; the fact that those leaving their roles tend to leave the profession entirely; the fact that lawyers often did not want to leave their current positions; and finding suitably qualified lawyers was down to luck.

Organisations who provided a response in respect of practice areas most often referenced crime (26.6%, n=25 of 94), public family (19.1%, n=18), and private family (14.9%, n=14) when

describing areas in which they were trying to recruit new practitioners. Clinical negligence (1.1%, n=1), employment (4.3%, n=4), and wills and probate (4.3%, n=4) were far less commonly mentioned areas of active recruitment.

3. Working in Legal Aid

Census findings indicate that financial remuneration is a significant concern for practitioners with a majority indicating that they felt their salaries were unfair and that they frequently needed to work beyond set hours to meet demands. Notwithstanding this, most practitioners expressed satisfaction with their choice of career in legal aid largely because it enabled them to make a contribution to social justice, widening access to justice and/or helping others.

3.1 Working Hours

Almost all practitioners reported working in their free time. Only 3.0 per cent (n=35 of 1179) did not work in their free time and around two thirds (62.0%, n=731) reported working in their free time every day. Over a quarter (26.8%, n=316) worked in their free time less frequently but still at least once or twice a week, whilst 8.2 per cent (n=97) worked in their free time once or twice a month. The extent to which practitioners worked in their free time varied by role-type, with heads of department, barristers, practice managers and heads of chambers more often reporting having to work in their free time nearly every day.⁴⁶ Legal aid work is therefore strongly characterised by a need to work beyond set working hours in order to meet demands.

3.2 Challenges and Stressors

When asked to identify client-related stresses and challenges, as shown in Table 3.1 the most frequent stressor/challenge selected by 67.7 per cent (n=795 of 1175) of respondents was the challenge of supporting clients with complex legal and other needs. This was followed by 50 per cent (n=588) who identified 'providing a quality service within the available time and resources', 49.7 per cent (n=584) who identified 'abusive, threatening or difficult clients', and 48.1 per cent (n= 565) who identified 'worry about client outcomes' in their responses. Only a small minority (3.1%, n=36) of practitioners specified that they did not face any of these challenges or stressors in their work.⁴⁷

As it relates to more general stressors in their work, four key stressors were selected by more than half of the respondents: the under-resourced justice system (71.8%, n=837 of 1166), managing work life balance (65.7%, n=766), dealing with the Legal Aid Agency (59.7%, n=696) and meeting tight deadlines (50.5%, n=589).⁴⁸

When given the opportunity to offer an open-ended response to 'other' client or general stresses faced, 53 practitioners provided further commentary. Coding of these responses revealed a number of additional issues, the most frequently mentioned being financial sustainability for the practitioner or their practice and the requirement to perform non-remunerated work (41.5%, n=22).⁴⁹

Table 3.1. Client-related, general and other challenges and stressors identified by practitioners in relation to their work

		N	%
Client-Related (n=1175)	Clients with complex legal/other needs	795	67.7
	Providing quality with the available time and resources	588	50.0
	Abusive, threatening or difficult clients	584	49.7
	Worry about client outcomes	565	48.1
	Complexity and severity of clients' legal matters	546	46.5
General (n=1166)	Under resourced justice system	837	71.8
	Managing work life balance	766	65.7
	Dealing with the Legal Aid Agency	696	59.7
	Meeting tight deadlines	589	50.5
	Fluctuating workload	356	30.5
Other (n=53) ⁵⁰	Financial Sustainability/requirement to perform non-remunerated work	22	41.5
	Failures in other elements of the system that adversely impact client outcomes	11	20.8
	Unrealistic expectations of judiciary/bullying judges/inconsistent judicial decision making	11	20.8

	N	%
Administrative battles with LAA/financial management of legal aid files/inability to get paid in a timely fashion/inability to secure legal aid funding for clients	6	11.3
Client mental health problems	5	9.4

The responses suggest that current legal aid practitioners face a broad range of challenges and stressors which relate to both their relationships with clients as well as the wider working conditions within the sector. Importantly, it is possible to draw parallels between the financial sustainability issues cited as reasons for leaving legal aid by legal aid leavers and the challenges that continue to be faced by current legal aid practitioners. These issues will be discussed further in Section 7.

3.3 Wellbeing

The practitioner survey also revealed the impact of legal aid work on the mental wellbeing of current legal aid professionals. Almost half of practitioners claimed their work in legal aid had an overall negative effect, with 39.3 per cent (n=463 of 1179) identifying work as having a ‘negative’ impact on their mental wellbeing, and 9.7 per cent (n=114) reporting it having an ‘extremely negative effect’. These responses compare to 27.8 per cent (n=328) who cited work as having a neutral impact, 1.4 per cent (n=17) who indicated that they did not know, and less than a quarter citing work as having a positive impact (20.0%, n=236), or an ‘extremely positive’ impact (1.8%, n=21).

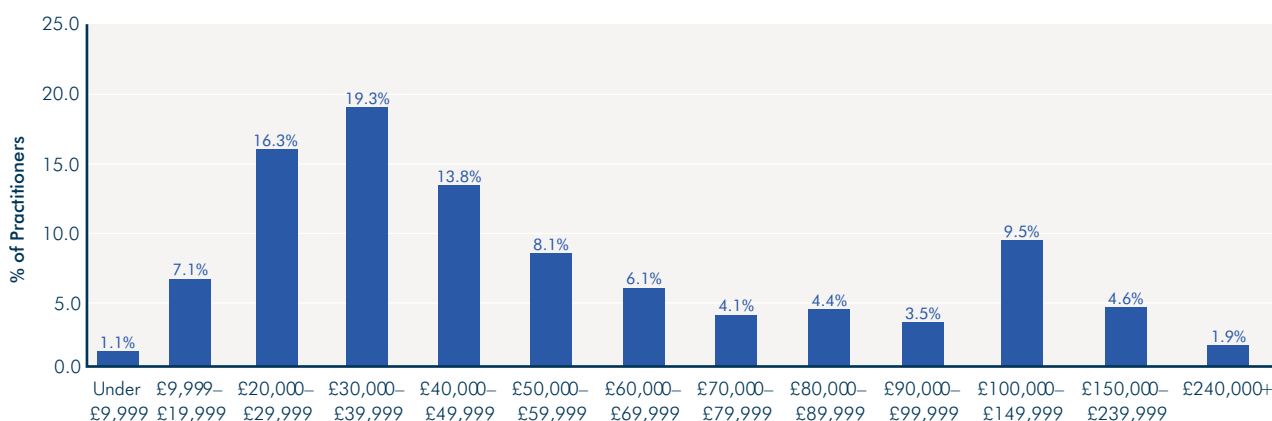
When asked to further explain the impact of their work on their mental wellbeing, 534 respondents provided context via an open-ended question. Whilst many of the responses simply reasserted the impact of work on mental wellbeing, a number of more substantive responses provide insight into the factors contributing towards diminished wellbeing. 10.1 per cent (n=54 of 534) of respondents, for instance, indicated that their work had caused them anxiety or stress, or had exacerbated their anxiety or stress. Similarly, 23.0 per cent (n=123) indicated that the workload is too large, leading to ‘burnout’, and 18.0 per cent (n=96) reported that balancing work and their personal life caused stress, since *“the actual legal work and representing clients is incredibly rewarding but working in an under resourced system is extremely negative.”*⁵¹ Another respondent added the following: *“[h]igh levels of stress and traumatic content, self employed status i.e. no reliable salary, non-delegable duties and cab rank rule [are a] pretty toxic combination. It is very hard to prioritise time off to keep myself fit for work and fit to engage with my family.”*⁵²

Worryingly, 7.1 per cent (n=38) of respondents indicated that they found the subject matter of their work traumatising, whilst 10.9 per cent (n=58) indicated that the financial aspects of the job (mainly concerns regarding being paid, dealing with the LAA, or low salary) was stressful. It is also reassuring to note, however, that while 18.0 per cent (n=96) indicated that work was sometimes stressful or hard, overall they found their work enjoyable or satisfying.

3.4 Salary and Working Arrangements

The full time equivalent salary (FTE) of legal aid practitioners ranged from under £9,999 to over £240,000. Most practitioners indicated a salary level of between £30,000 - £39,999 (19.3%, n=228 of 1185) as shown in Figure 3.1. As revealed in Figure 3.1 more than half of legal aid practitioners (57.6%) earn less than £49,999. It is notable that 8.2 per cent (n=97) of practitioners earn less than £19,999.

Figure 3.1. Current salary of practitioners (n=1185)



Of those earning less than £19,999, at least 17.5 per cent (n=17 of 97) are solicitors and several act as heads of department. Conversely, those practitioners who reported earning £240,000 or more (1.9%, n=23), were largely barristers (87.0%, n =20), with 8.7 per cent (n=2) indicating they were ‘head of chambers’ and only one respondent (4.3%) holding the role of solicitor.

Very few practitioners earning above £100,000 provided only legal aid services. This included four practitioners earning between £100,000- £149,999 and one practitioner earning over £240,000, all of whom were barristers. Therefore, out of the 188 practitioners earning more than £100,000, only five (2.7%) provided legal-aid services in isolation and all were barristers.

It is also important to note that barristers’ rates of pay are subject to a reduction in earnings by way of rent payable to chambers. Of 392 barrister respondents who supplied rent information, the average proportion of salary payable to chambers was 16.6 per cent of earnings. At the top end, the maximum amount of chambers rent paid was 30 per cent of earnings. Where practitioners indicated that they paid zero per cent in rent, this was due to either being a pupil and not currently incurring the normal rent levy, or being given a six month reprieve from payment due to recently joining the chambers.

When it came to practitioner’s perspectives on their salary and working arrangements, cumulatively more than half of 1128 respondents either disagreed (33.2%, n=375) or strongly disagreed (22.8%, n=257) with the proposition that the salary and working arrangements for their role were fair, with just over a quarter either strongly agreeing (6.3%, n=71) or agreeing (20.7%, n=234) and 16.9 per cent (n=191) neither agreeing nor disagreeing.

When asked to express in their own words why they agreed or disagreed that their salary and working arrangements were fair, practitioners most often indicated that remuneration was unfair given the difficulty of legal aid work. For instance, respondents stated that “I work really hard and only just being able to scrape by in London on trainee minimum salary makes me feel immensely undervalued and demoralised”⁵³ and “[i]f I calculate the hours I put in, to the salary I receive, I’m paid around the minimum wage.”⁵⁴

Table 3.2 shows the five most common themes that emerged in the open-ended responses provided by practitioners. It reveals that 31.4 per cent (n=164 of 523) of responses alluded to the level of remuneration as being unacceptable or insulting, 17.6 per cent (n=92) indicated that “remuneration does not factor in the difficulties/stress of the job, including difficult clients, unsociable hours or being on stand-by”, 15.7 per cent (n=82) stated that their “remuneration is inadequate or some work is unpaid” or that the “remuneration does not reflect how hard we work”, and 13.8 per cent (n=72) indicated that their remuneration is less compared to similar roles in the private sector.

Table 3.2. Five most common reasons practitioners gave when agreeing/disagreeing that their salary/working conditions were fair (n=523)⁵⁵

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

3.5 Job Satisfaction

Notwithstanding the degree of concern expressed by practitioners in respect of their remuneration, the majority of current practitioners expressed satisfaction with their choice of career in legal aid. In total, 22.0 per cent (n=253 of 1149) were very satisfied and 41.2 per cent (n=473) were satisfied with their choice of career in legal aid, while 18.4 per cent (n=211) were neither satisfied/unsatisfied, 12.3 per cent (n=141) were unsatisfied and 6.2 per cent (n=71) were very unsatisfied.

There were a number of common responses respondents gave when asked to identify in their own words what they liked most about working in legal aid. Key themes emerging from the coding of these responses shown in Table 3.3 found that over half of the 692 respondents who provided an answer (56.2%, n=389) emphasised “making a difference in people’s lives/helping vulnerable people” as the aspect of legal aid work they found most gratifying. One respondent expressed

satisfaction with being able to “truly make a difference in the lives of my clients, some of whom have had the most difficult lives and have never had anyone in their corner fighting for them.”⁵⁶ Another practitioner noted that there was a sense of responsibility to help others that was meaningful:

“Clients often come to us when everything else has failed and we’re often the last person to help the client before they fall out of the system or become destitute/homeless/feel like they cannot go on any longer. It’s a huge responsibility but by applying our knowledge of the law, common sense and sign posting a client to get the help they need to sustain better long term outcomes and by resolving their legal matter or overturning a negative decision, it makes it all so worthwhile.”⁵⁷

In addition to the satisfaction derived from helping people, just over a quarter of respondents (29.9%, n=207) claimed to generally enjoy their work, and just under a quarter (21.8%, n=151) cited the opportunity to work on interesting or challenging cases.

Table 3.3. What practitioners like most about working in legal aid (n=692)

	N	%
Making a difference in peoples’ lives/helping vulnerable people	389	56.2
Helping to provide access to justice	113	16.3
Working on interesting/challenging cases	151	21.8
Job satisfaction/I enjoy my job	207	29.9
Holding the government/public sector/organisations to account	41	5.9
Face-to-face client work	99	14.3
Camaraderie with like-minded lawyers	79	11.4
Attending court	7	1.0
Nothing/not much	17	2.5

For some, the satisfaction derived from their role helped to counteract the wider challenges of working in legal aid. As one practitioner explained:

“I like the sense of achievement from managing to do a good job for a client, the implications of which can be huge. I have today just succeeded in ensuring that someone who has been sleeping in a cemetery over the last few days is provided with accommodation by the council and the decision that the homeless duty has been discharged has been withdrawn. It has been snowing over the last few days. The client’s

mental and physical health has been impacted as a result and there was a risk that he would become one of the many entrenched rough sleepers. This has been avoided [because of] my advocacy and representations. It is [the] moments like this that make all of the stress and bureaucracy worthwhile.”⁵⁸

Some practitioners noted that their passion for the work compensated for the impact it had on their work-life balance, whilst others acknowledged that in spite of their passion for the work itself, the lack of career progression did take a toll:

“I continue to undertake legal aid work as I feel passionate about helping vulnerable members of society. A lot of my work is from local domestic violence charities - these are relationships I have secured through my commitment to providing a good level of service for their referrals. However, over the years it has been disheartening with the legal aid cutbacks and seeing colleagues in other non-legal aid departments have salary and career progressions.”⁵⁹

It is interesting to note the continuity between why respondents entered the profession and their motivation to stay. The sentiment expressed here parallels the findings set out in Section 2, wherein a majority of respondents indicated that they were most attracted to legal aid work due to a desire to “help those facing economic, cultural or social disadvantage”, “make access to justice more equitable”, “have a positive impact on society”, “improve access to justice”, and/or “apply my skills to help others”. These findings suggest that it is possible for practitioners to achieve the ambitions that had originally motivated them to pursue a career in legal aid, though not without making significant sacrifices and/or balancing a number of other challenges.

These sacrifices and challenges were explored in greater depth via an open-ended question asking practitioners ‘What do you like least about working in legal aid?’. Table 3.4 reports on the ten most common themes emerging from the responses. As shown, nearly half (42.0%, n=305 of 726) identified poor remuneration as a factor they least liked about working in legal aid. For example, practitioners referenced “[t]he remuneration, the stress and the unrealistic expectations of clients/ judges/other stakeholders as to what can be achieved within the current system”⁶⁰ and “[t]he lack of job security, and the fear that the government can make a series of quick decisions that could make your practice area unsustainable to work in”⁶¹ as significant drawbacks.

A further 32 per cent (n=232) of respondents observed issues associated with remuneration, namely excessive auditing by the Legal Aid Agency, too much administrative work required to obtain payment, and constant battles with the Legal Aid Agency for payment:

“The audits. I am diligent, committed and run legal aid at a loss. At audit, all the work is nit-picked over and I am viewed with suspicion. The actual quality of what is provided to the clients appears irrelevant...The auditors seem to think we spend our lives focusing on the vast, complicated and sometimes changing landscape of legal aid requirements. It is a struggle to spin this plate alongside our actual work which is complicated and demanding.”⁶²

“The lack of job security, and the fear that the government can make a series of quick decisions that could make your practice area unsustainable to work in.”⁶³

“The Legal Aid Agency - it is without a doubt the most stressful part of the job. On three occasions over the last year I have found myself in tears solely because of unreasonable decisions / actions of the [LAA]. In each case, I challenged the LAA and got the funding sorted in the end, but the stress and anxiety to get to that point was enormous as you are forced to work at risk or face not getting paid (at already ridiculously low rates) or exposing your client to adverse costs because funding is not in place. It now feels harder to get legal aid than it does to win the actual case.”⁶⁴

These remuneration issues had flow-on effects to workload, with 15.2 per cent of practitioners (n=110) citing an unsustainably large workload, burnout and/or long hours.

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

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

4. Fixed Fees

Census findings indicate that the majority of practitioners considered that fixed fees arrangements were unsustainable, with practitioners working 106 minutes for every 60 minutes of remuneration on average. Whilst for some nothing could be done because client needs had to be met, other practitioners engaged in a range of different compensatory activities to mitigate the financial loss associated with fixed fee work, such as taking on private work, or working longer hours (beyond what they are contracted to work).

4.1 Working Under Fixed Fees

The most common form of arrangement under which individual practitioners were paid was fixed fees. A total of 70.1 per cent (n=829) of 1182 practitioners worked under fixed fee arrangements, compared to 29.9 per cent (n=353) who did not. The most common areas for fixed fees were crime (33.5%, n = 273), public family law (25.9%, n=211) and private family law (24.3%, n= 198) (See Table 4.1).

Table 4.1. Range of fixed fee areas in which practitioners worked (n= 814)

	N	%		N	%
Crime	273	33.5	Court of Protection	11	1.4
Family (public)	211	25.9	Welfare benefits	10	1.2
Family (private)	198	24.3	Education	9	1.1
Housing	116	14.3	Mediation	7	0.9
Immigration & asylum	93	11.4	Other	7	0.9

	N	%		N	%
Public law	83	10.2	Debt	5	0.6
Community care	46	5.7	Discrimination	4	0.5
Mental health	44	5.4	Inquests	3	0.4
Prison law	27	3.3	Employment	2	0.2
Claims against public authorities	26	3.2	Clinical negligence	1	0.1

Excluding those who did not provide a clear indication of which fixed fees applied to their work in their response,⁶⁶ a high proportion of responses (94.1%, n=333 of 354) indicated that the fixed fee cited by the practitioner did not adequately cover the number of hours actually worked to complete a fixed fee task. A far smaller proportion of responses indicated that it took less time to complete a fixed fee case than the number of hours afforded under the fixed fee regime (2.8%, n=10) whilst 3.1 per cent of responses (n=11) indicated that the number of hours covered under the fixed fee matched the number of hours it took to complete the work.

In total, the responses indicated that 100 per cent of the fixed fee work conducted in the areas of public family law, welfare benefits, prison law, discrimination, education and actions against the police were reported as taking more hours to complete than was paid. Areas where responses indicated that fixed fee work took less or the same number of hours as was paid are listed in Table 4.2.⁶⁷ Whilst the vast majority of responses indicated that fixed fee work took more hours to complete than practitioners were paid, there were a small number of responses in relation to crime, private family law, immigration & asylum and housing which pointed to practitioners being paid for longer than they worked. Further, there were some responses in relation to crime, immigration & asylum, community care, mental health and public law which indicated that the time paid was equivalent to the time worked.⁶⁸

Table 4.2. Practice areas where responses indicated being paid for a longer period of hours than was worked, or for the same number of hours as worked

	Work longer than paid		Paid for longer than worked		Paid for the same time as worked	
	N	%	N	%	N	%
Crime	36	81.8	3	6.8	5	11.4
Family (private)	19	90.5	2	9.5	0	0.0
Immigration & asylum	50	90.9	4	7.3	1	1.8

	Work longer than paid		Paid for longer than worked		Paid for the same time as worked	
	N	%	N	%	N	%
Housing	64	98.5	1	1.5	0	0.0
Community care	18	94.7	0	0.0	1	5.3
Mental health	10	83.3	0	0.0	2	16.7
Public law	33	97.1	0	0.0	1	2.9

Of the ten responses claiming that practitioners were paid more than they worked (provided by six respondents), one response referred to the time taken to complete a straight forward divorce. Two responses provided by a single respondent indicated that with regards to the asylum legal help fixed fee and the asylum controlled representation fixed fee at Stage 1, the fixed fee covered between 8-9 hours whilst the work under the fixed fee could be completed in 8 hours.

A response provided by a different practitioner relating to the same Stage 1 fixed fee work estimated that the fixed fee covers 10-15 hours of work yet the work itself can take approximately seven to eight hours. Another response - one of three provided by the practitioner - referred to fees for a magistrates' court trial as covering five hours although the work could be completed in four to five hours. It is notable that this was the only one of the three responses provided by this practitioner which was seen as being capable of completion in fewer hours than afforded under the fixed fees. Of the other fees referred to by this practitioner, the magistrate's guilty plea fixed fee was deemed to take a greater number of hours to complete than was paid, whilst the police station attendance fee took the same number of hours to complete as was paid.

Table 4.3 (with outliers removed) shows the differences between hours worked and hours remunerated under the fixed fee scheme. The data in the table reflects the responses which indicated that the number of hours taken to complete work under the fixed fee exceeded the number of hours paid (n=224). Relying on the median (the best measure of central tendency), the data revealed the fixed fee amount as covering 4.5 hours of work, with the work performed under that fixed fee actually amounting to 10 hours. With a ratio of number of hours worked for every hour paid at 2.1:1, only 57 minutes of every two hours of work performed is remunerated under the fixed fee regime.⁶⁹ Alternatively, this can be understood as requiring 106 minutes of work for every 60 minutes of remuneration.

Table 4.3. Summary statistics in relation to hours worked and hours remunerated under the fixed fee scheme (outliers removed) (n=224)⁷⁰

	Number of hours paid for under the fixed fee	Number of hours taken to complete work under the fixed fee	Number of hours worked for every hour paid
Mean (SD)	5.1 (2.6)	12.0 (7.2)	2.5 (1.1)
Median	4.5	10.0	2.1
Mode	3.0	10.0	2.0

Breaking these statistics down by practice area revealed which areas attracted a discrepancy well above the norm of 2.1:1. As detailed in Table 4.4, these included welfare benefits work (which attracted a ratio of 4.3 hours worked for every 1 hour remunerated), community care work (which attracted a ratio of 2.5 hours worked for every 1 hour remunerated), and public law work (where the ratio was 2.3 hours of work for every hour remunerated). Private family, immigration & asylum, and housing work attracted a ratio of 2.2:1, or only slightly above the overall median of 2.1:1. Only education was associated with a ratio that was more than 0.1 below the overall ratio at 1.8; however the veracity of this discrepancy is constrained by the low number of responses provided for this practice area.

Table 4.4. Median number of hours worked and hours remunerated under the fixed fee scheme by area of law (outliers removed) (n=224)⁷¹

	Hours paid for under the fixed fee		Hours taken to complete work under the fixed fee		Hours worked for every hour paid	
	N	Median	N	Median	N	Median
Family (public)	7	6.0	7	9.0	7	2.0
Crime	30	4.0	30	8.5	30	2.0
Family (private)	12	3.0	12	10.0	12	2.2
Welfare benefits	3	3.5	3	15.0	3	4.3
Immigration & asylum	33	8.0	33	20.0	33	2.2
Housing	57	3.0	57	7.5	57	2.2
Prison law	7	5.0	7	10.0	7	2.0

	Hours paid for under the fixed fee		Hours taken to complete work under the fixed fee		Hours worked for every hour paid	
	N	Median	N	Median	N	Median
Community care	13	5.0	13	10.0	13	2.5
Mental health	9	7.0	9	15.0	9	2.0
Public law	26	5.0	26	13.5	26	2.3
Education	1	5.5	1	10.0	1	1.8
AAP	5	6.0	5	15.0	5	2.1

4.2 The Viability of Fixed Fees

The survey responses indicate that current practitioners perceive there to be a wide range of issues and challenges inherent in the fixed fee regime. In total, 85.8 per cent (n=659 of 768) did not think the fixed fee regime was sustainable. A smaller number of respondents said they did not know (8.5%, n=65) and 6.1 per cent (n=47) thought that the regime was sustainable.⁷²

Practitioners elaborated on their responses in their own words and a number of common themes were identified. Table 4.5 below details the ten most common substantive explanations given by practitioners to explain their view on the sustainability of fixed fees. A majority of respondents identified that the levels of pay were simply too low or were not sufficiently motivating (28.0%, n=115) and a further 20.4 per cent (n=84) commented that cases took much longer than provided for by the fixed fee regime. In total, 18.2 per cent (n=75) referenced that the rates had not been increased in some time, 13.6 per cent (n=56) said they could not break even or otherwise had concerns in relation to profit and loss and 9.5 per cent (n=39) set out challenges in relation to how several different types of costs had to be subtracted from fixed fee rates. As one practitioner notes, “[t]he level of work required per case is not reflected in the fee. In order to earn sufficiently, we need to take on more and more work which is unsustainable and crippling.”⁷³

Other responses included concerns about how to sustain the profession in view of poor rates of pay under fixed fee arrangements (17.0%, n=70) as well as concerns that the structure of the fee system did not adequately ensure that legal aid practitioners could meet client needs (5.8%, n=24). Many highlighted the extent to which legal aid clients required increased levels of support - for instance, due to mental or physical ill-health conditions. Practitioners explained further:

“A domestic abuse case is £507. This kind of work includes meeting an extremely vulnerable client for the first time, seek[ing] their confidence to open up about traumatic abuse, prepar[ing] a detailed statement and application, serv[ing] papers, attend[ing] potentially two hearings, liais[ing] with [them,] etc. I would say these cases generally require around 25-30 hours of work.”⁷⁴

“The fee paid per hour is not reflective of the experience required to conduct cases that are complex. The clients can often be very demanding with mental and physical illnesses...”⁷⁵

A fixed fee of £507 for 25 hours work for example, would equate to £20.28 per hour. Notable other examples referenced in responses but not detailed in Table 4.5 included the view of 5.4 per cent (n=22) of practitioners that rates forced a reduced service or quality offering, and the belief of 1.2 per cent of practitioners (n=5) that the rates of pay forced reliance on family members for financial support.

Table 4.5 Ten most common responses given by practitioners as to why fixed fees were not sustainable (n=770)

	N	%
Poor rates of pay	115	28.0
Cases take longer than fixed regime suggests	84	20.4
Lack of increase in rates	75	18.2
Practitioners leaving/refusing to do legal aid work	70	17.0
Cannot break even/cases make a loss	56	13.6
Ignores other costs (e.g. tax/waiting/rent/admin/hiring other practitioners)	39	9.5
Problems with escape fee/claims procedures	32	7.8
Needing to subsidise with other work	31	7.5
Needing to work long hours for volume/must work hard to make it work	26	6.3
Cannot attend to needs of clients	24	5.8

A majority of practitioners generally expressed a sense of exasperation in terms of what is ‘expected’ of them under the fixed fee regime; for instance, one practitioner observed that “[n]obody else would be expected to work for the fixed fee work. The work is complicated, the clients are vulnerable and it can often take significant time going through documents and dealing with the issues.”⁷⁶

In the criminal legal aid context, many respondents also noted the problem of time spent waiting - often due to delays in the system - which are unremunerated. Several referenced that even within the context of remote hearings these ‘delays’ are still challenging:

“Fixed fee for a police station attendance varies due to day and time. Travel time and cost is only occasionally chargeable. Delays out of my control, i.e. no interpreter/ appropriate adult/nurse practitioner/mental health assessment available, increase the

*hours I am required in attendance... I may spend hours waiting around, unable to deal with anything. Equate the time spent to the fixed fee and it is very little..."*⁷⁷

Some respondents (7.8%, n=32) referenced the time-consuming nature of claiming for legal aid or dealing with the Legal Aid Agency. Several respondents elaborated on this point with reference to Legal Help in particular:

*"The reality is the time spent on the paperwork signing someone up for Legal Help and then reporting on it to the LAA exceeds the costs recoverable under the fixed fees. So essentially all work is carried out at a loss. It is worth taking this risk if we think that there is a viable chance of the matter proceeding to litigation but we have to limit the advice and assistance we offer to ensure that we have a viable practice. Often we don't even bother signing a client up for Legal Help and just do the initial work 'at risk' because it saves time and expense...."*⁷⁸

Some senior practitioners expressed concern that the hourly rates are 'a fraction' of that which is paid privately and will as such 'drain' the profession in future. In a similar vein, others lamented the lack of progression given stagnant rates of pay:

*"I am a very experienced QC in practice for nearly 35 years. I love the work I do but have to work extremely hard. I am fortunate to have been able to supplement the legal aid work I have done with privately paid work. That is not always possible. I am conscious that many people would consider I earn a lot of money but would be horrified by the number of hours I have to work to do so..."*⁷⁹

*"Pay rates have remained the same for the last 20 years or so. Our income has not kept pace with inflation & increases in the cost of living. Staff wages & overheads have continued to increase but our income has not kept up with increases outlined earlier. As a 64 year old solicitor who qualified in 1981 I earn less now than I earned 15 years ago for the same return."*⁸⁰

As shown in Table 4.6, whilst the majority of respondents indicated that they did not think fixed fees were sustainable, a higher proportion of 'I don't know' responses was noted in relation to public and private family law, education and court of protection work relative to the number of respondents saying 'yes' or 'no'. A higher proportion of respondents in family law and undertaking inquest work also considered that fixed fees were sustainable. Whilst 100 per cent of respondents indicated that the fixed fees for employment law were sustainable, the low number of respondents (n=1) limits the inferences that can be drawn in relation to this practice area.

Table 4.6 Whether practitioners viewed fixed fees as sustainable by practice area (n=765)

	Yes		No		Don't know	
	N	%	N	%	N	%
Crime	11	4.1	247	91.5	14	5.2
Prison law	3	7.3	36	87.8	2	4.9
Claims against public authorities	3	4.5	61	91.0	4	6.0
Community care	1	1.4	64	92.8	4	5.8
Debt	0	0.0	8	100.0	0	0.0
Discrimination	2	5.9	32	94.1	0	0.0
Education	1	6.3	13	81.3	2	12.5
Mediation	0	0.0	8	100.0	0	0.0
Housing	2	1.6	117	91.4	9	7.0
Immigration & asylum	3	3.0	91	91.0	6	6.0
Family (public)	26	11.6	169	75.4	31	13.8
Family (private)	20	9.7	156	75.4	32	15.5
Clinical negligence	0	0.0	3	100.0	0	0.0
Mental health	4	7.1	46	82.1	6	10.7
Public law	6	3.5	153	88.4	14	8.1
Welfare benefits	0	0.0	23	95.8	1	4.2
CoP	2	3.1	53	81.5	10	15.4
Inquests	1	25.0	3	75.0	0	0.0
AATP	0	0.0	1	100.0	0	0.0
Employment	1	100.0	0	0.0	0	0.0

Notably, no respondents holding positions as heads of department, directors or practice managers considered the fixed fee arrangements to be sustainable. Across practitioner roles, a majority of solicitors (86.6%, n=258), barristers (84.2%, n=192) and caseworkers (100.0%, n=30) all found the fixed fee arrangements to be unsustainable.

4.3 Mitigating Losses under Fixed Fees

Some practitioners acknowledged that they try to mitigate losses under fixed fee arrangements, while others did not think it was possible to do so. The verbatim responses revealed that the majority did not think anything could be done to mitigate loss because clients' needs had to be met and/or the best interests of clients had to be served (34.0%, n=109 of 321). A number of respondents also indicated the need to take on private work as a way of compensating for loss (18.4%, n=59), or to work longer hours or otherwise increase the volume of work in order to mitigate losses (13.1%, n=42). For example, one practitioner commented: *"I have to work longer hours and take less annual leave than my privately funded counterparts. I sacrifice my weekends and evenings regularly. I cannot afford to take prep days unless I really have to."*⁸²

A total of 11.5 per cent of respondents (n=37) said they tried to change the fee type in some way, with the majority of responses within this group saying their cases commonly reach the escape fee limit.

Whilst the fixed fee regime was introduced with the intention of removing the incentive for practitioners to accumulate hours unnecessarily on hourly paid work, it is notable that so few respondents (5.9%, n=19) identified efficiency or time management as feasible mitigation strategies. Troublingly, almost double the number of respondents (11.2%, n=36) indicated that they limited the fixed fee cases they took on or elected not to undertake fixed fee cases likely to lose money. For example:

*"[We] take on fewer legal aid cases [and] avoid cases where we think they will be unprofitable because of the fixed fee."*⁸³

*"We have had to stop accepting some legal help work because the fixed fees were even lower and we would make a loss on our time and they are heavily audited. It is not worth the time doing the work for money and with an expectation of exceptional service."*⁸⁴

*"To mitigate these losses we minimise the number of cases we take on which involve early stage advice. We have to ensure that the bulk of our work is actual litigation (in a costs shifting regime) to have any chance of viability."*⁸⁵

A total of 4.7 per cent (n=15) of respondents - those predominantly working in law centres and charities - indicated that they were able to mitigate losses by having different forms of grant funding to supplement their work. For example, *"[a]s a Law Centre we have been lucky to be able to secure non LAA funding. My last legal aid high street private practice firm closed as it was not possible to mitigate against such losses (together with other problems surviving on [legal aid] income)."*⁸⁶

In response to an open-ended question, practitioners offered a number of suggestions for how to improve the viability of the fixed fee regime. Table 4.7 highlights the five most common responses

provided by practitioners. Over half of these suggestions (51.7%, n=237 of 458) involved a general comment on the need to raise fees. Practitioners also commonly suggested a return to hourly rates (13.3%, n=61) or abandoning fixed fees altogether (13.1%, n=60). This was followed by making a range of suggestions for reform designed to increase accessibility including lower thresholds, making it easier to access the escape or generally reducing complexity in the system (12.7%, n=58). Whilst not among the five most common suggestions, some practitioners (8.5%, n=39) explicitly referenced the need for fixed fees to be subject to annual increases or to track rates of inflation. Others commented on the need for fixed fee arrangements to be more flexible in order to adequately capture the complexity of cases (6.1%, n=28).⁸⁷

Table 4.7 Five most common responses given by practitioners to improve the viability of the fixed fee regime (n=458)⁸⁸

	N	%
Increase fees	237	51.7
Return to hourly rates	61	13.3
Abandon fixed fees	60	13.1
Wider reforms (e.g. lower threshold for hourly rates, easier to access escape fee cases, less complexity)	58	12.7
Remunerate additional work (e.g. administration, preparation, travel, meetings)	44	9.6

5. Hourly Rates

As with fixed fees, a majority of practitioners reported that legal aid hourly rates were unsustainable, with practitioners working 90 minutes for every 60 minutes of remuneration. Unpaid work often involved case preparation (including time spent preparing documents, conducting legal research and bundle preparation), making applications to the Legal Aid Agency and handling Agency compliance issues, and responding to clients.

5.1 Working Under Hourly Rates

When asked how many hours the average case takes under hourly rates and how many hours they are paid (excluding those who did not provide a clear indication in their response), the vast majority who answered⁸⁹ indicated that they worked more hours than they were paid by the Legal Aid Agency (85.2%, n=231 of 271). A far smaller proportion (13.3%, n=36) of practitioners indicated that they claimed the hours worked, yet recognised that the claim might ultimately be rejected by the Legal Aid Agency (1.5%, n=4).

Table 5.1 (outliers removed) shows the differences between hours worked and hours claimed under the hourly rates scheme for those practitioners who indicated that the number of hours taken on the average case exceeded the number of hours claimed and who provided clear indications of what those hours were (n=173). Relying again on the median as the best measure of central tendency, the number of hours claimed on the average case was ten, while the number of hours taken on the average case was 20. The median number of hours spent relative to hours claimed was 1.5:1, meaning that for every 90 minutes worked, practitioners can claim for only 60 of those minutes.⁹⁰

Table 5.1. Summary statistics in relation to hours worked and hours remunerated under the hourly rate scheme (outliers removed) (n=173)⁹¹

	Number of hours claimed from LAA on average case	Number of hours spent on average case	Number of hours worked for every hour claimed
Mean (SD)	19.3 (18.7)	28.1 (25)	1.6 (0.4)
Median	10.0	20.0	1.5
Mode	10.0	15.00	1.5

Unlike the fixed fee data, it was not possible to link the hourly rate data to a particular area of law. As such, differences across practice areas could not be identified.

5.2 Unpaid Work

Table 5.2 below sets out the most significant costs that go unremunerated under hourly rates according to the coded open-ended responses of 682 practitioners.⁹² Most practitioners (39.3%, n=268) indicated that case preparation - including time spent on preparing documents, conducting legal research and bundle preparation - was the most significant unremunerated cost. Other practitioners referenced the time it takes to manage Legal Aid Agency applications and compliance issues (19.1%, n=130). A number of practitioners also referenced the time-consuming nature of dealing with clients that could not be remunerated (15.8%, n=108), and the burden of unpaid general administration (14.8%, n=101) and time spent travelling or waiting at court (13.6%, n=93). The general under-remuneration of legal aid work in certain types of cases (such as immigration and judicial review cases) as well as specific concerns about unpaid work related to liaising with individuals (such as experts or interpreters) or dealing with complaints were also referenced.

Table 5.2. Most significant cost not remunerated (n=682)

	N	%
Case preparation/documents/research/bundles	268	39.3
Legal aid application and compliance issues	130	19.1
Dealing with clients/conferences	108	15.8
Administration	101	14.8
Travel and waiting/wasted time at court	93	13.6

	N	%
Additional advice above the fee/out of scope work/signposting	91	13.3
General under-remuneration of legal aid work	90	13.2
Correspondence/chasing other parties	47	6.9
Other (e.g.being on call, experts, interpreters, complaints, damages, Crown Court cases, IT, problems with solicitor)	24	3.5
Supervision/training	18	2.6
Cases not going ahead/missed cases	9	1.3

In addition, a high proportion of practitioners acknowledged that often they did not claim for legal aid work because it was too time consuming to do so. In total, 43.0 per cent of respondents (n=441 of 1028) said they avoided claiming for certain work as compared to 38.6 per cent (n=394) who said they did not and 18.9 per cent (n=193) who said they were unsure. The likelihood of carrying out work that was not claimed for was particularly high in the areas of clinical negligence (57.1%, n=8), immigration & asylum (54.3%, n=57), prison law (53.8%, n=28), crime (53.9%, n=166) and mental health (50.0%, n=39). In addition, a slightly higher proportion of solicitors (49.9%, n=182) than barristers (39.5%, n=137) reported being likely to work but not receive pay for that work under the hourly rates of pay. Those at more senior levels (such as heads of department and directors) were also more likely to report working without pay than those in more junior positions, such as caseworkers and paralegals. Similarly, there is a steady rise in the number of respondents likely to undertake work they do not claim for commensurate with the number of years in practice.

Aside from the most significant unremunerated work, practitioners also noted other general tasks undertaken but not claimed for under hourly rates. The five most commonly mentioned tasks are captured in Table 5.3 below. As with the most significant costs not remunerated, several practitioners revealed that tasks relevant to making applications for legal aid again made up a large proportion of unremunerated work (40.3%, n=124). For example, one practitioner noted: *"[s]ometimes I will help a client but not apply for funding as the process is too arduous with legal aid or because the rules are so difficult to meet that it is not worth the risk that you may not be able to tick all the boxes."*⁹³ Another commented: *"[w]e can only claim 48 mins for a legal aid application when in reality it can take all day chasing clients and having to re-enter information. Plus amending rejected applications is even worse."*⁹⁴

Some practitioners (29.9%, n=92) also noted the unpaid nature of different forms of case preparation, including drafting, legal research or considering evidence. For example, *"[t]elephone calls often aren't charged as it is administratively too cumbersome to record every discussion - a synopsis is produced instead of multiple calls. As this is not evidence of itemised work it becomes non chargeable."*⁹⁵ Others referenced dealing with correspondence or chasing clients (10.4%,

n=32), or described “other” work including dealing with specific individuals (e.g special guardians or hospital managers) or issues relevant to cases including committals, prison matters or civil breaches (8.8%, n=27). Forms of work that fell outside of the five most common included unremunerated work in particular areas of practice, including family law (specifically divorce cases and domestic violence), judicial review and police station attendance.⁹⁶

Table 5.3. Five most common forms of work carried out but not claimed for (n=308)⁹⁷

	N	%
Legal aid applications/compliance/escape fees/exceptional	268	39.3
Case funding	124	40.3
Preparation/drafting/legal research/considering evidence	92	29.9
Correspondence/chasing other parties/responding to clients	32	10.4
Other	27	8.8
Investigative work prior to legal aid application	26	8.4

Practitioners provided more detail on other types of non-billable work in relation to hourly rates in an open-ended format. The five most common responses are detailed in Table 5.4. As detailed, the most prevalent non-billable work was providing support to clients (41.1%, n=209). Many practitioners referenced again the particular needs of legal aid clients, while others (32.1%, n=163) commented on the nature of legal aid applications and other wider tasks in relation to billing:

“Any legal aid lawyer knows that we are dealing with disadvantaged people - and we are probably the only professionals they come into contact with who might give them some time - so one becomes a part time social worker...it’s the myriad of things people ask us to do that we cannot get paid for.”⁹⁸

“[It]is very time consuming [to claim for work]. When you have clients who may lose their home, liberty or rights imminently, then the legal work has to take priority. This means time recording will take a back seat and tasks or time will be missed...”⁹⁹

“If a case goes three times the value, you can bill it on hourly rates but the forms and sorting out the file is time consuming and I don’t have anyone to assist me.”¹⁰⁰

Practitioners often cited legal research and case preparation (27.8%, n=141) and correspondence (14.6%, n=74); this was followed by references to other non-billable work such as general administration (14.4%, n=73).¹⁰¹

Table 5.4. Five most common ‘other’ examples of non-billable work (n= 516)¹⁰²

	N	%
Client support/advice before or after claim/conferences/free advice	209	41.1
Legal aid applications/compliance/billing	163	32.1
Preparation/drafting/bundles/legal research/going through evidence	141	27.8
Correspondence/dealing with and assisting different parties/meetings	74	14.6
General administration	73	14.4

5.3 The Viability of Hourly Rates

As with fixed fees, a large number of practitioners thought that hourly legal aid rates were unsustainable. In total, 78.5 per cent of respondents (n=822 of 1047) considered hourly rates to be unsustainable, while 15 per cent indicated they ‘didn’t know’ (n=157) and 7.6 per cent (n=80) considered that they were sustainable.

Table 5.5 below indicates whether practitioners thought hourly rates were sustainable by practice area. Practitioners were more likely to find hourly rates unsustainable in the areas of housing (86.7%, n=26) and education (86.7%, n=26), followed by debt (85.7%, n=12) and crime (85.1%, n=257). Whilst 50 per cent of respondents indicated that the hourly rates for actions against police were sustainable and 100 per cent for employment, the low number of respondents (n=1) limits the inferences that can be drawn in relation to these practice areas. Practitioners were more likely to find hourly rates sustainable in immigration & asylum (17.0%, n=18), mediation (16.7%, n=2) and debt (14.3%,n=2). As with fixed fees, it is interesting to note the highest proportion of ‘I don’t know’ responses was in relation to private (24.7%, n=74) and public (24.0%, n=77) family law.

Table 5.5. Whether practitioners thought hourly rates were sustainable by area of practice

	Yes		No		Don't know	
	N	%	N	%	N	%
Crime	16	5.3	257	85.1	31	10.3
Prison law	4	7.5	43	81.1	8	15.1
Claims against public authorities	6	4.4	106	78.5	24	17.8
Community care	8	6.1	109	82.6	16	12.1
Debt	2	14.3	12	85.7	1	7.1
Discrimination	4	5.8	57	82.6	10	14.5
Education	3	10.0	26	86.7	1	3.3
Mediation	2	16.7	9	75.0	1	8.3
Housing	11	5.4	176	86.7	17	8.4
Immigration & asylum	18	17.0	74	69.8	17	16.0
Family (public)	28	8.7	218	67.9	77	24.0
Family (private)	29	9.7	200	66.7	74	24.7
Clinical negligence	2	13.3	11	73.3	2	13.3
Mental health	9	11.5	54	69.2	16	20.5
Public law	16	5.7	235	83.6	32	11.4
Welfare benefits	3	6.7	37	82.2	6	13.3
Court of Protection	16	12.6	95	74.8	17	13.4
Other	1	12.5	7	87.5	1	12.5
Inquests	2	12.5	13	81.3	1	6.3
ACTP	1	50.0	1	50.0	0	0.0
Employment	1	33.3	0	0.0	2	66.7

As with fixed fees, higher proportions of senior practitioners found the rates to be unsustainable. For example, 95.7 per cent (n=44) of heads of department and 90.0 per cent (n=36) of directors of organisations thought hourly rates were not viable as compared to 69.6 per cent (n=78) of trainees, legal apprentices and pupils and 70.0 per cent (n=14) of paralegals. A higher proportion of barristers (10.9%, n=37) than solicitors (3.9%, n=15) considered that hourly rates were sustainable.

6. Exiting Practice Areas

Many current practitioners reported no longer practising in some areas of legal aid, notably crime, private family law and public family law. Whilst often this was a result of specialisation, a third of respondents indicated that they left as it was no longer a financially viable area of practice. In addition, over half of organisations indicated that there were areas for which they used to but no longer provide legal aid services with over half of these organisations attributing this to it not being profitable or economically viable to undertake the work. Respondent sets of chambers also identified difficulties accepting work in the areas of crime and family law, often because of financial issues.

6.1 Practitioners

As reported in Table 6.1, practitioners worked across all areas of legal aid practice, with the majority working in public family law (31.9%, n=384 of 1205) followed by crime (29.6%, n=357) and private family law (29.0%, n=349). These were also the most populous areas of former practice areas for current practitioners, with crime (42.6%, n=270 of 634) most common, followed by private (30.0%, n=190), and public (20.8%, n=132) family law. Whilst just over a fifth of respondents had ceased working in housing law (22.4%, n=142) and just under a fifth of current practitioners had ceased working in welfare benefits (18.1%, n=115).

Table 6.1 The current and former legal aid practice areas of current practitioners

	Current Practice Areas (n=1205)		Previous Practice Areas (n=634)	
	N	%	N	%
Crime	357	29.6	270	42.6
Immigration & asylum	123	10.2	91	14.4
Family (public)	384	31.9	132	20.8
Family (private)	349	29.0	190	30.0
Clinical negligence	15	1.2	59	9.3
Mental health	85	7.1	68	10.7
Public law	299	24.8	44	6.9
Welfare benefits	49	4.1	115	18.1
CoP	141	11.7	36	5.7
Other	8	0.7	10	1.6
Inquests	18	1.5	3	0.5
Prison law	59	4.9	101	15.9
AATP	2	0.2	-	-
Employment	3	0.2	18	2.8
Claims against public authorities	147	12.2	64	10.1
Community care	139	11.5	64	10.1
Debt	14	1.2	81	12.8
Discrimination	74	6.1	26	4.1
Education	33	2.7	37	5.8
Mediation	13	1.1	13	2.1

	Current Practice Areas (n=1205)		Previous Practice Areas (n=634)	
	N	%	N	%
Housing	222	18.4	142	22.4
General civil/litigation	-	-	11	1.7
Personal Injury	-	-	14	2.2

When practitioners were asked why they no longer worked in these areas of legal aid (Table 6.2), analysis of 585 open-ended responses revealed that leaving an area of practice was most commonly attributed to pursuing specialisation in a different area (56.6%, n=331 of 585). However, a third of respondents indicated that they exited the area 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 exit the area as it had been taken out of the scope of legal aid (24.6%, n=144). A further 12.8 per cent (n=75) indicated that they had changed employers or that their employer had moved away from undertaking legal aid work. An additional 5.5 per cent (n=32) reported that the legal aid contract held was terminated, not renewed, given up or could not be secured.¹⁰³

Table 6.2 Five more common reasons given by practitioners as to why they had left legal aid practice areas (n=585)

	N	%
Pursued specialisation in a different area	331	56.6
No longer financially viable	215	36.8
Taken out of scope for legal aid	144	24.6
Changed employer/employer moved away from legal aid services	75	12.8
LA contract terminated/not renewed/given up/could not be secured	32	5.5

Some practitioners were motivated to leave an area because of the problems of legal aid administration. As one respondent who changed firms explained: *"I hope not to have to deal directly with the [Legal Aid Agency]. Within a year I hope not to be working in law at all. My experiences of legal aid have been highly stressful and off putting."*¹⁰⁴

The same amount (4.6%, n=27) attributed their exit to 'personal preference'. A very slightly higher number (4.8%, n=28) indicated that they found it difficult to sustain balancing family and caring responsibilities with work. There were additional family-related pressures such as the unpredictability

of some areas of legal work such as crime: “[r]e crime, as a mother I couldn’t guarantee being able to pay childcare if a trial didn’t go ahead and that happened frequently.”¹⁰⁵

The reasons provided by practitioners did vary by practice area. Whilst pursuing specialisation in a different area remained the most common explanation across nearly all practice areas, it is notable that just under half (49.4%, n= 127) of crime practitioners reported leaving this area of practice because it was no longer financially viable. This speaks to criminal lawyers’ concerns about the lack of a fee rise since the 1990s and the reduction of fees by 8.75 per cent in 2014.

There could also be a domino effect as practitioners leave their original area of legal aid for another but then find similar problems in the new area. Such is the experience of one respondent who reported: “[I] [g]ave up crime to focus on my family practice [and] [g]ave up legal aid private family work due to the appalling rates of pay.”¹⁰⁶

The effect of LASPO in removing large areas of legal aid from scope can also be seen when looking at those areas of law where ‘pursuing specialisation in a different area’ was not the response of the majority. For debt, welfare benefits and employment, the area being taken out of legal aid scope was provided as an explanation as frequently as or more frequently than pursuing a different specialisation (53.9%, n=41 for debt; 50.9%, n=55 for welfare benefits; and 52.9%, n=9 for employment).

6.2 Organisations

As indicated in Section 1, 6.9 per cent (n=25 of 362) of organisations reported that they did not hold a legal aid contract, whilst 93.1 per cent (n=337) did.

All organisations were asked if there were areas of legal aid where they no longer provided legal aid services. 50.1 per cent (n=183 of 365) of organisations indicated that there were areas where they used to but no longer provided legal aid services.¹⁰⁷ As shown in Table 6.3, the areas of debt (29.8%, n=54 of 181), welfare benefits (29.8%, n=54), and housing (23.8%, n=43) were most commonly cited as those where organisations used to provide legal aid services but no longer did so.

Table 6.3 Areas where organisations used to provide legal aid services (n=181)¹⁰⁸

	N	%		N	%
Debt	54	29.8	Mental health	16	8.8
Welfare benefits	54	29.8	Education	12	6.6
Housing	43	23.8	Claims against public authorities	9	5
Crime	42	23.2	Public law	8	4.4

	N	%		N	%
Prison law	34	18.8	Employment	7	3.9
Family (private)	25	13.8	Mediation	6	3.3
Community care	24	13.3	Discrimination	5	2.8
Immigration & asylum	24	13.3	Other	5	2.8
Family (public)	24	13.3	Court of Protection	2	1.1
Clinical negligence	18	9.9	Personal injury	2	1.1

When asked to explain why their organisation had moved away from certain areas of legal aid practice, the open-ended responses given by 164 organisations reinforced the prominence of financial concerns. The five most common explanations given are detailed in Table 6.4. The majority (61%, n=100 of 164) explained their exit from certain areas of practice as owing to the fact that it was not profitable or economically viable to undertake the work. The difficulties involved in making the contract work financially was expressed by one organisational representative as follows: “[t]he solicitors could not generate enough income to cover their salaries, let alone their employment costs and made no contribution to office costs.”¹⁰⁹

Over a third (37.2%, n=61) of organisations also reported that they were not working in areas of legal aid because they had their contract terminated or the area had moved out of scope following LASPO.¹¹⁰

Table 6.4 Why organisations were no longer working/did not retain contracts in certain areas of legal aid (n=164)

	N	%
Not profitable/financially viable to undertake this work	100	61.0
Contract terminated/not renewed or awarded/area of law out of scope following LASPO	61	37.2
Contract requirements could no longer be meet	40	24.4
Couldn't recruit sufficiently qualified staff/staff left	31	18.9
LAA payment delays/too much red tape or auditing	9	5.5

In addition to those organisations discussed above who reported explicitly having exited certain practice areas, the data revealed that some organisations remained in practice areas by continuing to hold a contract in that area; in reality, however, they found it difficult to provide services under the contract due to concerns around financial viability. Of the organisations holding a legal aid contract, 27.5 per cent (n=91 of 331) said that there were types of work under their legal aid contract(s) where they do not routinely offer services and/or refer clients elsewhere because it is not cost effective to undertake the work, compared to 72.5% (n=240) who said that they did not experience this problem.

When asked to indicate the type of work they do not routinely offer because it is not cost effective to do so, as summarised in Table 6.5, the most common response was ‘private family law or family legal help work’ (27.1%, n=19 of 70). As one organisation made clear, organisations were discerning with the number of cases of a certain type they were able to take on: “[w]e take on a small number of private law children cases, but send the rest away. We could probably have 6 fee earners at least doing private law family full time to meet demand we turn away, but it is not economic to do so.”¹¹¹

The number of organisations indicating that they did not routinely offer services and/or they referred clients elsewhere because it was not cost effective for them to undertake the work was also higher in relation to ‘appeals’ (18.6%, n=13), housing (11.4%, n=8) and civil/non-family legal help (11.4%, n=8). A number of organisations also referenced ‘other’ work which included education, confiscation, costs, debt and financial relief (18.6%, n=13).

While responses generally focused on the problems of specific areas not being cost effective, some highlighted broader issues such that it was now “impossible to provide quality due to cost in some areas.”¹¹² Others mentioned that legal aid’s cost inefficiency means that “most legal aid work is now referred elsewhere.”¹¹³

Table 6.5 Areas where legal aid contract-holding organisations do not routinely offer services and/or refer clients elsewhere because it is not cost effective to undertake the work (n=70).¹¹⁴

	N	%
Private family law/legal help	19	27.1
Appeals	13	18.6
Other (including adjudication, confiscation, education, financial relief, debt, damages, meditation, mortgages)	13	18.6
Housing	8	11.4
Civil/non-family legal help	8	11.4
Prison law	7	10

	N	%
Exceptional case funding applications	7	10
Immigration	5	7.1
Broader criminal legal aid	4	5.7
Welfare benefits	3	4.3
All legal aid work	1	1.4

Organisations who held a contract were also asked to indicate whether they found work under that contract cost effective (Table 6.6). Quantitative coding of these 64 open-ended responses revealed that the majority reported rates of legal aid pay were simply too low (60.9%, n=39 of 64) or, similarly, that the profit margins were too low (39.1%, n=25). Others referenced the problem of administrative burdens being too high (28.1%, n=18) or being unable to claim work because it is not in scope (28.1%, n=18). Other organisations referenced issues such as the impact of the Covid-19 pandemic or problems associated with delay in the justice system (e.g. court listings, clients failing to attend, etc.).

Table 6.6 Reasons organisations provided for why legal aid contract work was not cost effective (n=64)¹¹⁵

	N	%
Rates of pay too low	39	60.9
Low profit margin/not economical	25	39.1
Administrative burdens too high	18	28.1
Some work cannot be claimed/areas not in scope	18	28.1
Court listing/defendant attending problems	6	9.4
Other (including police station/court closures, payment regime, too complicated to add extra work, used as a loss leader)	6	9.4
Travel/time out of office	5	7.8
Impact of Covid-19	5	7.8

	N	%
Must subsidise fees	3	4.7
Fees do not make sense	3	4.7

Practitioners spoke about their concerns regarding contracts: “[t]his contract is run at a loss and is subsidised by other funds but we have continued it for the benefit of the clients.”¹¹⁶ As discussed in Section 8, the impact of Covid-19 could prove a final tipping point for some organisations, considering how difficult it was to justify holding contracts already: “[p]rofit margins [are] so slim, the financial impact of Covid (and disappearance of almost all Crown Court trial work) means [that the] only way to continue is through personal debt. LAA contractual demands are burdensome and expensive.”¹¹⁷

Thus three cohorts emerge: those who have exited certain areas, those who have exited in practice but not in principle and those who are at risk of exiting. The financial inadequacy of legal aid work in its many forms - most notably relating to rates of pay, profit margins and the removal of areas from scope - alongside the excessive burdens of legal aid administration result in organisations not providing services or being at risk of exiting the sector.

6.3 Chambers

As with practitioners and organisations, chambers reported a retreat from service provision in certain areas of legal aid practice (see Table 6.7). When asked which areas of legal aid the chamber found it challenging to accept instructions for (as a result of a reduction or lack of instructions, or due to the area being removed from scope), crime was most commonly identified (39.3%, n=11 of 28) followed by private family work (32.1%, n=9) and public family work (28.6%, n=8). A quarter of chambers indicated challenges regarding housing (25.0%, n=7) and just over a fifth noted challenges relating to immigration & asylum (21.4%, n=6) and claims against public authorities (21.4%, n=6).

Table 6.7. Practice areas where chambers found it challenging to accept instructions (n=28)

	N	%		N	%
None	5	17.9	Family (private)	9	32.1
Crime	11	39.3	Clinical negligence	3	10.7
Prison law	4	14.3	Mental health	2	7.1
Claims against public authorities	6	21.4	Public law	5	17.9

	N	%		N	%
Community care	4	14.3	Welfare benefits	3	10.7
Debt	1	3.6	Court of Protection	3	10.7
Discrimination	2	7.1	Other	1	3.6
Education	4	14.3	Employment	4	14.3
Housing	7	25.0	Exceptional funding	1	3.6
Immigration & asylum	6	21.4	Inquests and public inquiries	3	10.7
Family (public)	8	28.6	Mediation	0	0.0

When asked to explain in their own words why it was particularly challenging to accept instructions in these areas, three quarters (75.0%, n=12 of 16) of chambers cited financial issues. Here, financial issues did not simply relate to income, but also pertained to chambers' ability to recruit and train junior staff. As explained by one chambers, "[t]he fees are so low that it is very difficult for us to recruit sufficient junior members to undertake the work." ¹¹⁸ Another noted that:

"The fees level for private children act work are such that only our most junior practitioners would accept it as proper remuneration...There used to be junior level work at legal aid rates for practitioners to establish an expertise in before moving onto privately paying work, but that legal aid is no longer available. That means that we cannot grow the area in the way we used to, as practitioners do not have the more junior level cases to build on." ¹¹⁹

The availability of legal aid in certain areas was identified as the cause of challenges for 43.8 per cent (n=7) of chambers. An additional 12.5 per cent (n=2) observed a reduced volume of work and/or greater competition for work, whilst 6.3 per cent (n=1) identified the pandemic as a factor.

7. Exiting the Sector

Over half of legal aid leavers left the profession for better pay, working conditions and entitlements. Other commonly cited reasons included advancing career opportunities or prospects or pursuing an easier or less stressful position. A majority of current practitioners indicated that they were likely to remain in legal aid in the next three years, however, if they were to leave legal aid it would be in order to secure better pay, working conditions or entitlements.

7.1 Former Practitioners

For those practitioners who had completely exited legal aid as opposed to simply exiting a particular area of legal aid practice ('legal aid leavers'), a broad range of justifications were given for their decision. Table 7.1 below sets out the responses given by leavers and includes both pre-defined, prompted reasons as well as unprompted reasons that emerged when respondents were given the option to elaborate by way of an open-ended question.

Leavers tended to leave for better prospects in other sectors, with over half (58.5%, n=145 of 248) of leavers identifying better pay, working conditions or entitlements as a factor when prompted. A further 39.9 per cent (n=99) left to advance career opportunities or prospects, and 31.9 per cent (n=79) left for an easier or less stressful position. This leaver summed up the position of many: "*[a]bsolutely no prospects, earning potential or work-life balance.*"¹²⁰ A range of wider reasons were also reported.¹²¹ The unprompted responses also pointed towards issues of working conditions: 11.7 per cent (n=29) were frustrated by Legal Aid Agency bureaucracy; 8.9 per cent (n=22) complained of hours and workload; 8.1 per cent (n=20) felt emotionally burnt out, and; 7.7 per cent (n=19) felt motivated by work-life balance.¹²²

It is also significant to note that a quarter (25.4%, n=63) of leavers suggested that they left because their area of practice fell out of scope for legal aid, while 8.5 per cent (n=21) left because their firm closed or lost their contract. This suggests that not all practitioners can respond to the contraction in legal aid availability by pivoting to a different practice area.

Table 7.1. Five most common reasons given as to why former legal aid practitioners left legal aid (n=248)

		N	%
Prompted reasons selected by leavers	Better pay, working conditions and entitlements	145	58.5
	To advance career opportunities or prospects	99	39.9
	I wanted an easier / less stressful position	79	31.9
	Area of practice fell out of scope for legal aid	63	25.4
	It was time to move on	45	18.1
Unprompted reasons provided by leavers	LAA bureaucracy	29	11.7
	Hours/workload required to keep firm/me solvent	22	8.9
	Firm closed/firm lost contract or funding/current firm does not have contract	21	8.5
	Emotional toll of work/burnout	20	8.1
	Work-life balance	19	7.7

7.2 Current Practitioners

Although it is clear from the preceding discussion that current practitioners face a number of challenges in their work, the majority indicated that they were likely (29.0%, n=332 of 1146) or very likely (40.7%, n=466) to remain in legal aid in the next three years, compared to 11.0 per cent (n=126) reporting that they were unlikely to remain, 7.3 per cent (n=84) who were very unlikely to remain and 12.0 per cent (n=138) indicating that they were neither likely nor unlikely to remain.

Those practitioners planning to leave legal aid practice were invited to select one or more reasons for their desire to leave from a set of fifteen pre-defined (prompted) reasons. The five most common of these reasons - along with the five most common unprompted reasons elicited from a follow-up open-ended question, are listed in Table 7.2. It should be noted that whilst these questions were directed at those who had indicated they planned to leave legal aid, the questions also attracted responses from some of those who indicated they were unlikely to leave.

When looking at all responses (including those provided by respondents who indicated they were unlikely to leave the sector) 'better pay, working conditions or entitlement' was the single most influential factor as selected by 60.7% (n=321 of 529) of practitioners. This was followed by 'the desire for an easier or less stressful position' (34.2%, n=181), and the desire 'to advance career opportunities or prospects' (25.3%, n=134).¹²³ Notably, these were the same three reasons that

were most influential among those who had left legal aid (as discussed above). The influence of these factors was explained by one practitioner as follows:

“I have been in practice for 31 years and during that time I have seen my role be increasingly unappreciated and my remuneration effectively reduced significantly. The levels of stress are increasing as the cases and clients are more complex. I feel that this is causing me more damage and I don’t really enjoy the job any more. It’s not all about money, but with current levels of remuneration I can’t take ‘breathing space’, whether to prepare cases within reasonable working hours or to have sufficient time for a reasonable work-life balance.” ¹²⁴

Of the unprompted reasons, retirement or reaching retirement age was the most commonly mentioned reason (11.3%, n=60).¹²⁵ This highlights the importance of recruitment and retention, considering a significant number of practitioners in the sector are looking towards retirement. However the unprompted reasons also reinforce that the financial situation and working conditions of the sector are a prominent concern. For example, mental health problems, exhaustion and other health reasons comprised the second most common unprompted response overall (5.7%, n=30) and legal aid not being sustainable was the third most common unprompted response (5.1%, n=27). Problematically, for some, financial issues precluded retirement, even in circumstances where continuing in the sector was presenting a clear mental health burden. As one respondent evocatively expressed it: *“I am aged 68. I feel that my mental health has collapsed but cannot leave the business at present. I only have a State Pension and the local food bank.”*¹²⁶

Table 7.2. Reasons provided by practitioner respondents as to why they would leave legal aid (n=529)

		N	%
Prompted reasons selected by practitioners	Better pay, working conditions or entitlements	321	60.7
	I want an easier or less stressful position	181	34.2
	Advance career opportunities or prospects	134	25.3
	Seek new challenges	87	16.4
	It's time to move on	70	13.2
Unprompted reasons given by practitioners	Retirement or reaching retirement age	60	11.3
	Mental health/exhaustion/health Problems	30	5.7
	LA not sustainable	27	5.1
	Work-life balance	24	4.5
	Planning to reduce the amount of LA work I take on	22	4.2

7.3 Organisations

Unlike practitioners, organisations were not asked specifically whether they intended to continue providing legal aid services. However, the responses of organisations in relation to questions relating to office and department closures provide some insight into the number who may be intending to leave the sector. When asked whether they had closed any offices or departments in the last 12 months or were planning to, a number of organisations gave open-ended responses that indicated an exit from legal aid work. Quantitative coding of responses that directly addressed the issue of office/department closures (n=73) revealed that 35 organisations (47.9%) were planning to stop offering services in certain practice areas, 24 organisations (32.9%) had or were reducing/selling or otherwise winding down areas of practice or departments, 18 organisations (24.7%) had closed offices, 13 (16.8%) reported permanent changes to size/number of offices were planned or likely and 11 organisations (15.1%) had given up legal aid contracts or were intending to refuse to undertake further legal aid work. A further 10 (13.7%) reported they had reductions in staff/members, four (5.5%) cited general overhead reductions and 4.1 per cent (n=3) indicated that the firm was likely to close.¹²⁷

Of these 73 organisations, whilst 21 (28.8%) did not attribute these changes to a specific cause, 29 organisations (39.7%) indicated that the changes were a reflection of their general financial situation, four organisations (5.4%) attributed the changes to non-payment or over auditing by the Legal Aid Agency and 12 organisations (16.4%) attributed the changes to their inability to recruit into the sector or the retirement of existing practitioners. A further seven organisations (9.6%) cited the impact of Covid-19 which is discussed in further detail in Section 8.

In addition, a question directed at assessing whether organisations could be sustained on legal aid funding alone - coupled with a follow-up, open-ended question which allowed organisations to provide further details - revealed a number of factors that could be perceived as putting organisations at risk of exiting legal aid.

Overall, the vast majority of respondents (83.0%, n=302 of 364) indicated that they did not believe their organisations would be sustainable solely on legal aid as compared to 17.0 per cent (n=62) who did. The five most common reasons given for this, as provided by organisations via a subsequent open-ended question, are provided in Table 7.3 below. Unsurprisingly given the themes raised in the data and reported on to date, most explanations pointed to the impact of fees, funding, and the bureaucracy of the legal aid process. A total of 56.8 per cent (n=151 of 266) of organisations referenced challenges with the legal aid fee regime (for instance, fees were too low or did not meet overheads, fees did not keep pace with inflation rates, or practitioners were ultimately working at a loss); 40.2 per cent (n=107) of respondents noted that legal aid work required subsidisation through other work or grant funding; and 21.1 per cent (n=56) of respondents referenced issues with the legal aid application process, contract requirements, and/or delays in funding.¹²⁸

Table 7.3 Five most common reasons organisations provided as to why it was not sustainable for them to rely solely on legal aid income (n= 266)¹²⁹

	N	%
Fees are too low/do not meet overheads/not kept up with inflation/working at a loss	151	56.8
Subsidising with other work/requires grant funding	107	40.2
Problems with legal aid application process/delays in funding/contract requirements	56	21.1
It can be sustainable	32	12.0
Needs a high volume/a lot of hard work to make it economic	31	11.7

These organisational responses indicate that there are significant concerns about the sustainability of legal aid practice, as many organisations reported working at a loss if they attempted to sustain their practice on legal aid contracts alone. These assertions echo the doubts about the sustainability of current funding structures raised by practitioners in Sections 4 and 5. The issues raised by organisations feed into a broader narrative that has emerged in the responses of legal aid leavers, current practitioners and chambers around financial concerns and onerous administration. Cumulatively, they paint a worrying picture about the sustainability of legal aid work for those who provide it.

8. The Impact of Covid-19

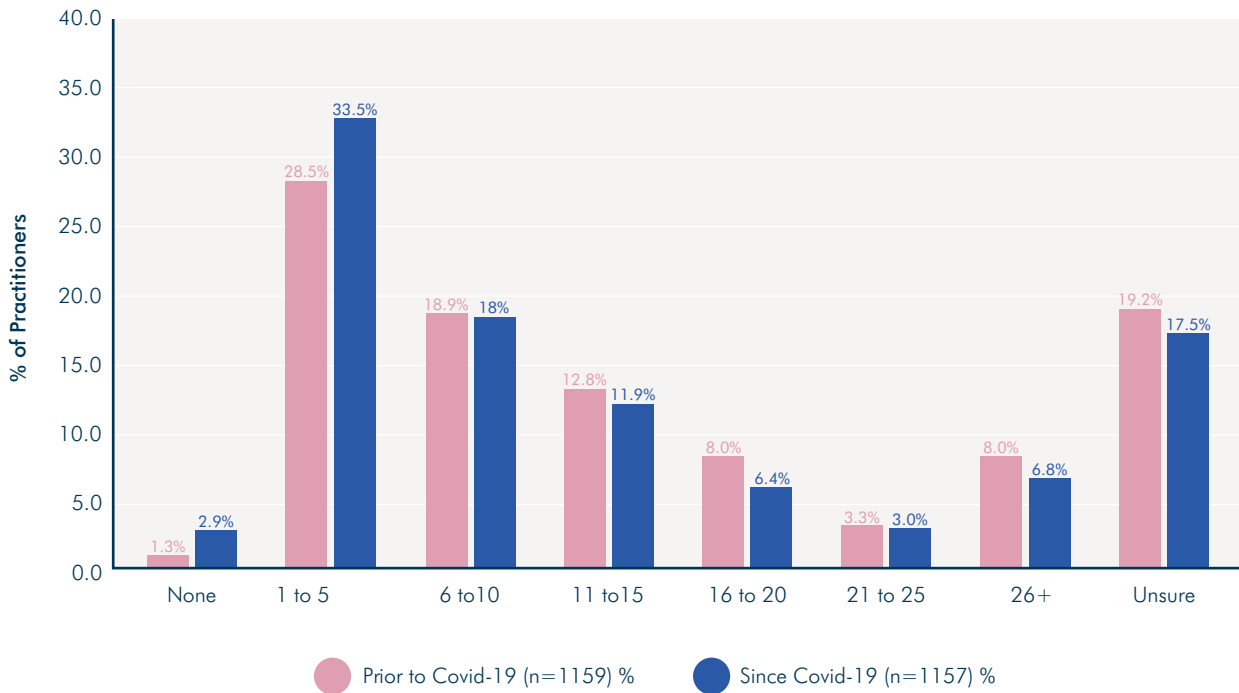
Covid-19 has had specific impacts with respect to service demand, the methods and efficacy of service delivery, and the financial sustainability of organisations and chambers. A reduction in matter-starts, coinciding with increased legal need, greater client complexity, remote working, an increase in redundancies and the furloughing of staff have seen workloads increase for remaining staff resulting in a corresponding decrease in work/life balance. These issues co-exist with concerns regarding the quality of advice and representation that it is possible to provide remotely, and the importance of keeping services afloat in order to meet legal needs.

8.1 Service Demand

In order to determine the impact of the pandemic on the work of current legal aid practitioners, the survey collected initial baseline pre-pandemic data. This baseline data took the form of how many new matters the practitioner would have opened, or how many new instructions they would have received in a typical month. This was coupled with post-March 2020 data, the date which marked the commencement of the first lockdown in England and Wales.¹³⁰

As Figure 8.1 below indicates, the most obvious impact of the Covid-19 pandemic was a decrease in the number of new matters or instructions. The pre-March 2020 data indicates that most practitioners would have taken on between one and 15 new instructions per month, with the majority taking on between one and five per month.

Figure 8.1. Number of new matters/instructions opened per month by legal aid practitioners before and after the Covid-19 pandemic

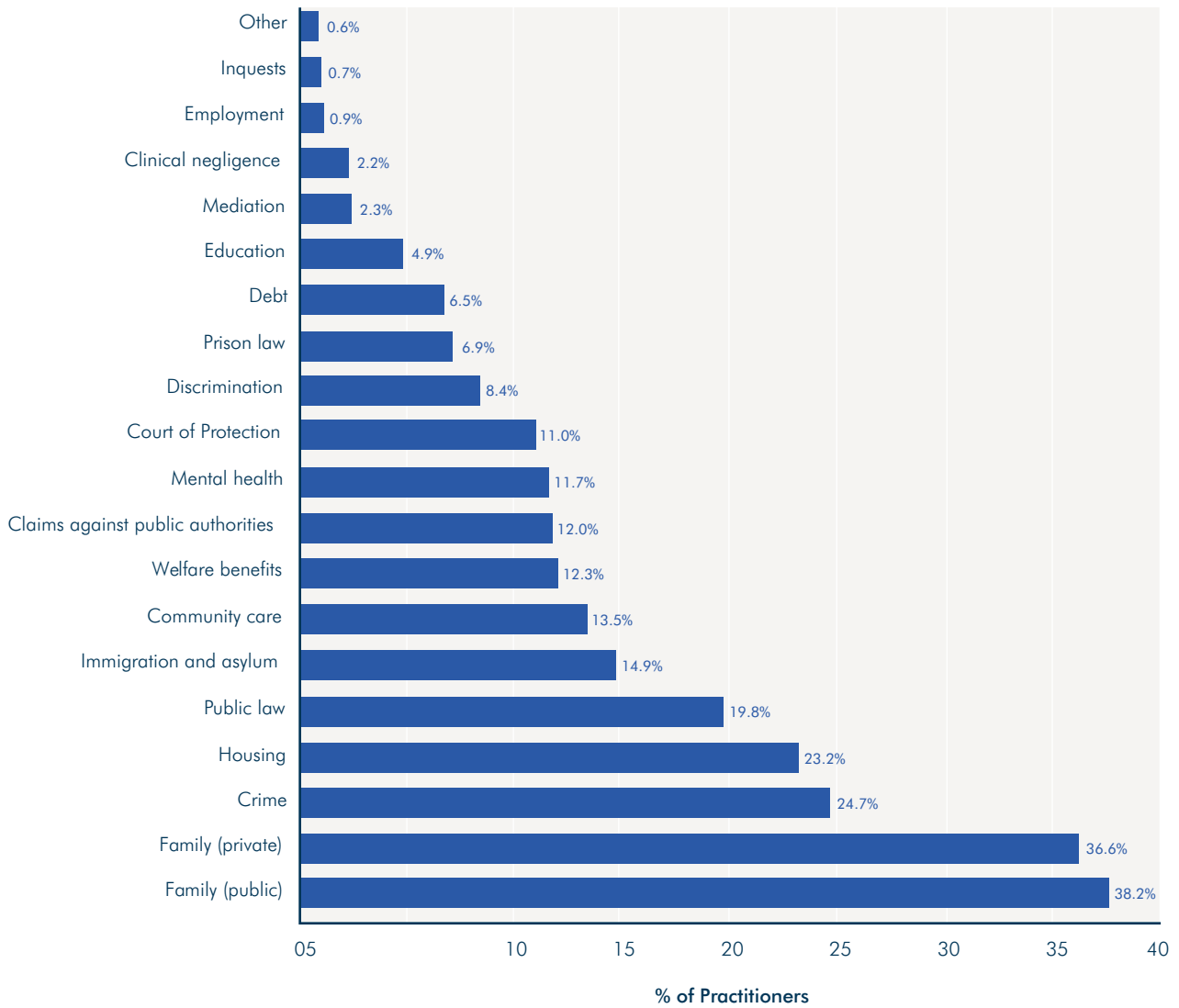


From March 2020, this distribution shifted. The number of practitioners taking on more than 6 matters per month decreased, with the most notable decrease occurring among the minority of practitioners who would have typically taken on high numbers (26+) of new matters. Additionally, the number of practitioners who reported that they would not take on any new instructions in a typical month more than doubled. On the whole, practitioners reported starting fewer matters per month than they did before the outbreak of the pandemic.

Although practitioners reported a lower number of new matter starts after the outbreak of Covid-19, there was an overwhelming consensus that actual workloads had significantly increased since the beginning of the pandemic. Practitioners reported that levels of client demand had increased significantly during the pandemic with demand for services and/or the complexity of client needs the fifth most commonly raised issue (15.5%, n=136 of 875) in respect of the impact of Covid-19 on their work.¹³¹

Nearly two thirds of practitioners (62.3%, n=706 of 1133) indicated that they were seeing an increased demand for legal aid services as compared to one third who were not (37.7%, n=427). As shown in Figure 8.2, practitioners especially emphasised increased demand for public (38.2%, n=264 of 691) and private (36.6%, n=253) family legal aid, followed by crime (24.7%, n=171) and housing (23.2%, n=160).

Figure 8.2. Increased demand for legal aid services observed by practitioners over the last 12 months by area of law (n=691)



An exploration of the responses of barristers and solicitors revealed some variability in the rate at which increased demand was perceived. For example, 67.2 per cent (n=270 of 402) of solicitors indicated that demand had increased whilst 32.8 per cent (n=132) observed that it had not. This compared to 50.6 per cent of barristers (n=190 of 376) perceiving an increase in demand and 49.4 per cent (n=186) who did not.

Insights provided by practitioners in response to open-ended questions help reconcile the seemingly incongruous finding of fewer matter starts coinciding with a perceived increase in workload. These insights suggest that although the pandemic has resulted in fewer matter starts, it has also led to an influx of people who are experiencing legal need, several of whom are seeking legal assistance for the first time. Addressing these enquiries requires a great deal of work from practitioners in terms of collecting relevant information, narrowing down issues, identifying any urgent matters,

and assessing eligibility for legal aid, all of which are rendered invisible by the apparent decrease in new matter starts. As two practitioners explained:

*“It has increased demands from clients and led to new clients coming in, while adding an extra layer of complexity to each matter given the vulnerabilities of most clients and the logistics involved with staying Covid secure. The time spent on these issues has not always been billable, meaning there is additional pressure to put more hours in on top.”*¹³²

*“There was an overwhelming burden of homelessness assistance, an entirely overwhelming burden of work around suitability of homelessness placement, a very high volume of benefits work synced to pandemic problems, a large volume of domestic violence linked immigration cases... Staff went above and beyond contractual duty but I anticipate a fallout.”*¹³³

In addition to facing an increased number of enquiries, practitioners also reported that the task of responding to these enquiries was often more complex and time-consuming than before the pandemic. This was attributed to both the shift to and limits of remote working and the changing expectations of clients and courts.

Workloads were also affected by the high rate of furloughed staff and the prevalence of staff redundancies within organisations and chambers. As one practitioner explained:

*“We had to furlough a lot of staff which left those left working under extreme pressure. There was very low morale with people working crazy hours to try and service the contract. Resentment built up between those working and those on furlough.”*¹³⁴

Overall 12.0 per cent (n=105 of 875) of practitioners indicated that they were struggling to cope with the increased level of administration and pressure that resulted from other staff members within their organisations being furloughed or made redundant.¹³⁵

8.2 Service Delivery

When asked generally about the impact of Covid-19 on their work, 27.3 per cent of practitioners (n=239 of 875) raised that a major challenge they faced during the pandemic was accessing or using technology to do their work.¹³⁶ Whilst 29.1 per cent of organisations (n=92 of 316)¹³⁷ and 23.8 per cent of chambers (n=5 of 21)¹³⁸ reported that the need to source equipment and adapt to the new role of technology had the most significant impact on their ability to manage their organisations during the pandemic.

Even once ‘work from home’ practices had been established, several practitioners still found it difficult to give effective advice without being able to meet their clients face-to-face. Practitioners frequently reported that conducting client consultations remotely made it more difficult to gain a full view of the relevant circumstances. This was compounded by the fact that practitioners could not gain an understanding of their client’s situation by looking through relevant documents or letters that would usually have been brought by their clients to meetings. Meeting clients in person, especially for the first point of contact, was perceived as important for establishing a positive

and productive ongoing client relationship, allowing for a more pragmatic approach to quickly identifying relevant information and evidence, especially when dealing with vulnerable clients.

Practitioners also raised several concerns regarding their ability to build sufficient rapport with clients, and the consequences arising from an inability to rely on non-verbal cues to determine whether a client is comfortable, holding back, or fully understanding the advice being given:

*"I can do my job on a laptop but my clients struggle with telephone calls and Zoom, sometimes you need the cup of tea and the face-to-face. I don't think the pandemic has made me a better lawyer, but I think I have become less supportive to my clients as a result of not being able to see them."*¹³⁹

The value of emotional support and 'being there' for clients was expressed by several practitioners as a casualty of the move to remote working, especially as many legal aid practitioners are used to supporting clients who are coping with legal problems that involve significant disruption to their personal lives, such as family breakdowns, housing issues, and problems with social security and benefits.

Survey responses from practitioners therefore frequently expressed concerns about how remote advice provision had impacted the effectiveness of advice for clients. This was deemed particularly relevant for certain client groups who were at risk of struggling to access services remotely because they faced barriers in securing consistent access to technology and demonstrating the capacity necessary to use it. As several practitioners explained:

*"It's really difficult with my clients who are already vulnerable due to physical and mental health problems. They have little IT skills so signing documents is hard. I have had to meet client's in the park (depending on Covid rules at the time). Clients also take out their frustration more on you as a solicitor to improve their living conditions during the pandemic."*¹⁴⁰

*"Remote working with a client base that has little money and limited access to technology or free WiFi has been a challenge. I know some clients have given up trying to fight their case purely because they did not have the technical experience or equipment to present their case or prove legal help eligibility."*¹⁴¹

Practitioners are, of course, not alone in having adapted their services and pivoting to remote working. Court services, the police, social services and relevant government departments have also shifted their working practices in response to the pandemic. For example, the initial stay on possession proceedings and varied approach to hosting court hearings for different case types in the civil and family justice systems meant that practitioners were expected to navigate procedures subject to frequent change during 2020 and 2021. This created additional challenges for practitioners in terms of signposting individuals to relevant services and providing appropriate support to those who enquired about a legal problem, especially when processes were adapted inconsistently or sporadically.

The difficulties expressed by practitioners in respect of the remote provision of advice were also echoed in (if not exacerbated by) the shift to remote court hearings. As one barrister explained:

“Initially, it had a huge impact on workload as the family court switched to remote hearings overnight, without having the infrastructure in place to facilitate the same. It has also caused difficulty with our clients, who by very virtue of being legal aid clients, tend to be on very low incomes and often may have their own vulnerabilities, such as cognitive difficulties, [which makes] the process of remote hearings difficult and stressful for all involved. The Court[s] have seemed to put an onus on solicitors to resolve issues associated with this, for example providing ‘spare’ electronic devices for clients to attend court hearings which as legal aid firms we do not have. It has also been necessary to prepare hard-copy bundles for clients who are not able to access e-bundles, more often than not because they do not have enough devices to attend the remote hearing as well as to access an e-bundle. We have also had difficulty with Courts stating in some cases that attending remotely using a phone is insufficient and the client needs a laptop or tablet, which often they do not have, nor do they have the resources to obtain such device.”¹⁴²

As well as the difficulty of representing a client remotely, practitioners reported that the onus was frequently placed on them to ensure that court services remained accessible to clients, with 22.4 per cent (n=196 of 875) indicating that this had an impact upon their work.¹⁴³ Practitioners reported that they were often required to go above and beyond their usual roles to find ‘workaround’ solutions, such as providing technology or a quiet space for clients to join hearings.

Moreover, remote working was seen to have a significant burden on the work/life balance of an already overstretched profession. As one practitioner put it:

“We are now expected to be available 24/7 and to move between hearings during the day seamlessly, whereas in the past travel time at least had to be allowed for. It is now relentless with meetings from 8am and back to back hearings during the day. There is a serious risk of burn out and exhaustion.”¹⁴⁴

The intermeshing of work and personal life coupled with the increased demands placed on practitioners by clients may go some way to explaining why 12.8 per cent (n=112 of 875) of practitioners reported difficulties with burnout and work-life balance during Covid-19.¹⁴⁵ Despite these significant challenges, remote working was not perceived negatively by all, with 15.9 per cent (n=139 of 875) of practitioners observing that remote working had increased their productivity by negating the need for commuting.¹⁴⁶ In the context of remote hearings specifically, practitioners frequently reported the benefits of being able to spend more time on preparing cases and conducting pre-hearing negotiations with the other side, instead of travelling long distances to hearings in different areas across England and Wales. These views were expressed by three respondents (all of whom were barristers) as follows:

“The volume of work has increased and I have been able to get to more cases as time is not wasted on travelling which makes legal aid work much more viable.”¹⁴⁷

“Personally, the pandemic has had a positive impact on my work practice because most court hearings are now online. I am more efficient because I am not traveling to and from court so have more hours in the day to work on cases.”¹⁴⁸

“In some respects, the pandemic has forced the system to reflect on its practice. Remote hearings in many cases are more cost effective and allow more time for advocates to prepare and work.”¹⁴⁹

The ability to attend multiple hearings in the same day was described by several practitioners as a benefit of the shift to remote hearings. The basis for this was that work can be done more efficiently, and unnecessary travel and waiting times at court can be avoided. However, the increased efficiency reported by practitioners co-existed alongside significant concerns about their ability to support and effectively represent their clients when attending hearings via phone or online. Taken together, almost half of practitioners reported strongly agreeing (13.7%, n=158 of 1157) or agreeing (32.9%, n=381) that they had ‘struggled to meet the demands of clients since the beginning of the Covid-19 pandemic in March 2020’. This compared to 22.7 per cent (n=263) who neither agreed nor disagreed, 21.4 per cent (n=248) who disagreed and 9.2 per cent (n=107) who strongly disagreed.

8.3 Financial Sustainability

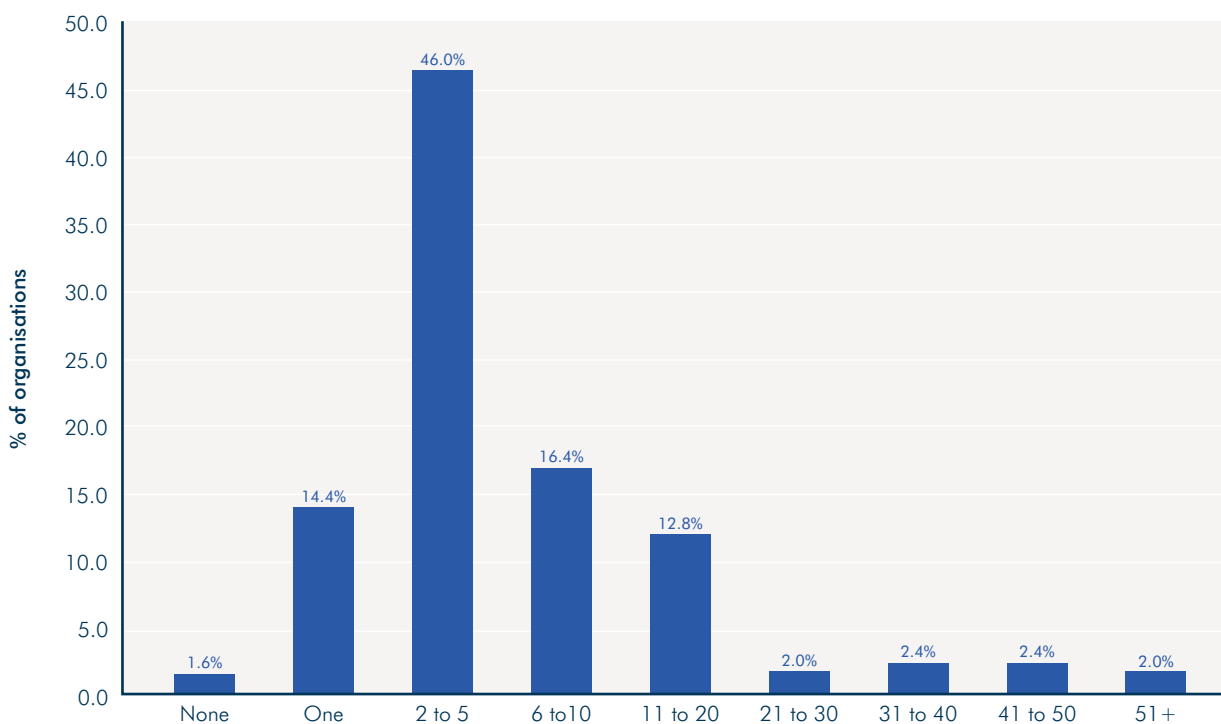
Concerns about income and cash flow were reported by 52.4 per cent (n=11 of 21) of those who responded to the survey on behalf of chambers,¹⁵⁰ and 31.0 per cent (n=98 of 316) of those who responded on behalf of organisations¹⁵¹. As shown in Table 8.1 (which includes organisations and chambers who did not express concerns about income and cash flow as well as those who did) a range of different actions were taking in response to the pandemic, including sourcing alternative interim funding, restructuring staff working hours and reducing staff pay, and deferring pupillages and training contracts. Additionally, 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.

Table 8.1 Measures taken by organisations and chambers in response to the Covid-19 pandemic

	Organisations (n=344)		Chambers (n=31)	
	N	%	N	%
Bank loan applied for	74	21.5	5	16.1
Covid-19 charitable grants	69	20.1	1	3.2
Deferred Tax/VAT payments	2	0.6	-	-
Directors/equity partners reduced income	2	0.6	-	-
Government loan applied for	128	37.2	11	35.5
Mortgage or rent holiday on premises	51	14.8	10	32.3
Other	10	2.9	1	3.2
Other grants applied for	6	1.7	-	-
Payments on account	82	23.8	3	9.7
Staff furloughed	272	79.1	29	93.5
Staff made redundant	69	20.1	7	22.6
Staff reduction in hours	59	17.2	9	29.0
Staff reduction in pay	35	10.2	9	29.0
Staff work from home (reduce running costs)	11	3.2	-	-
Training contracts/pupillages deferred	35	10.2	11	35.5
Working hours restructured	119	34.6	14	45.2

Of those organisations that reported having to place staff on furlough, most commonly between two to five staff members (46.0%, n=115), six to ten staff members (16.4%, n=41) or one staff member (14.4%, n=36) were furloughed. However just over a fifth of organisations furloughed ten or more staff members, as shown in Figure 8.3.

Figure 8.3 Number of staff organisations reported placing on furlough (n=250)



In addition to those who placed staff on furlough, 23.5 per cent of organisations (n=85 of 361) reported that they had to make some of their staff redundant between April 2020-April 2021. Whilst these redundancies were not reported as a specific response to the pandemic (unlike the data in Table 8.1) and thus may have arisen as a result of non-pandemic events, this data is valuable because it was coupled with a follow-up open-ended question which asked organisations to indicate which staff were made redundant.

Quantitative coding of these open-ended responses revealed that administration and support staff were disproportionately impacted by redundancies, with 73.7 per cent (n=28 of 38) of redundancies being of administration and support staff. This compared to 18.4 per cent (n=7) of organisations reporting having made caseworkers, advisors, and paralegals redundant, 10.5 per cent (n=4) who made solicitors/legal executives or counsel redundant and 2.6 per cent (n=1) who made other staff redundant.

Organisations were divided on whether they would need to make further redundancies in the future. While 20.4 per cent (n=74 of 363) stated they were very unlikely and 37.7 per cent (n=137) stated they were unlikely to make redundancies in the next 12 months, 17.1 per cent (n=62) of organisations expected it was likely and 9.4 per cent (n=34) expected it was very likely that they would need to make redundancies in the next year. A further 15.7 per cent (n=57) remained unsure.

As previously detailed a number of organisations indicated that they had closed or intended to close offices or departments. Of the changes listed, while most were attributed to the broader financial

instability of the legal aid sector, a small number of organisations attributed the changes directly to the impact of Covid-19.

Organisations also specified whether they had other income sources aside from legal aid or private legal work. What emerged from these responses was that most organisations did not receive any other form of funding (76.4%, n=272 of 356). A total of 21.3 per cent (n=76) received other forms of grant funding from trusts and foundations, 14.6 per cent (n=52) received local government funding and a small proportion (7.0%, n=25) received central government funding.

Of the 76 organisations who reported receiving other forms of grant funding from trusts and foundations, only a small number (7.9%, n=6) reported that the sources of funding were quite certain for the future. Most organisations reported that the funding was either quite uncertain (38.2%, n=29) or very uncertain (25.0%, n=19) with a further 28.9 per cent (n=22) indicating that they were neither certain or uncertain.

For those organisations supported by charitable grants in addition to legal aid funding, organisations listed 80 different sources from charitable trusts and foundations. The National Lottery (50.7%, n=36 of 71) funded the highest number followed by the Legal Education Foundation (40.8%, n=29). The Access to Justice Foundation (22.5%, n=16), the Community Justice Fund (22.5%, n=16), Trust for London (21.1%, n=15) and AB Charitable Trust (19.7%, n=14) also funded higher numbers of organisations. The next most commonly identified sources of funding were City Bridge Trust, the London Legal Support Trust, the charitable foundations of city law firms and the Baring Foundation.¹⁵²

The impact on staffing within chambers appeared to be much less significant than the impact on organisations, with 61.3 per cent (n=19 of 31) of chambers reporting no changes to their staffing levels within the last three years, including the initial year of the pandemic during April 2020 - April 2021. In comparison, 38.7 per cent (n=12) of chambers reported that their staffing levels had changed.

A follow-up open-ended question designed to allow chambers to explain the changes to staffing levels, found that half of chambers reported expanding their staff levels (50.0%, n=5 of 10), whilst half reported their staff levels contracting (50.0%, n=5).

In addition, 46.9 per cent (n=15 of 32) of chambers reported that they intended to change or reduce the size of their premises due to the financial impact of Covid-19, compared to 53.1 per cent (n=17) who did not. Analysis of a follow-up open-ended question designed to allow chambers to explain the reasons for reducing the size of their premises revealed that reductions in response to Covid-19 were overwhelmingly attributed to changes in working practices and a reduced need for office space.

The high rate of furloughed staff and the prevalence of staff redundancies within organisations and chambers has also had knock-on effects for employment conditions - over and above the impact of remote working. With administrative and support staff disproportionately affected by redundancies and furloughing, the work of these individuals was distributed amongst the remaining workforce. As one practitioner explained:

“We had to furlough a lot of staff which left those left working under extreme pressure. There was very low morale with people working crazy hours to try and service the contract. Resentment built up between those working and those on furlough. The way the media talk about legal aid generally really gets people down and at a time like this it made things far worse.”¹⁵³

Such concerns were not isolated. When asked about the impact of Covid-19 on their work, 12.0 per cent (n=105 of 875) of practitioners indicated that they were struggling to cope with the increased level of administration and pressure that resulted from other staff members within their organisations being furloughed or made redundant.¹⁵⁴

9. Facing the Future of Legal Aid

Findings from the census make clear that in the view of the sector, the issues that arise are a function of systemic underfunding coupled with the onerous bureaucratic requirements that currently accompany the administration of legal aid. Taking the findings as a whole, there is a view that legal aid is heavily subsidised by the goodwill of professionals, many of whom are required to contribute their time 'pro bono' in order to effectively serve each client as a result of the current fee scheme. As the challenges of training, recruitment, burnout make clear, this is not sustainable.

9.1 Challenges Faced

The findings from the Legal Aid Census and reported in the preceding sections make clear that whilst financial matters are low on the list of motivations for pursuing a career in legal aid, the financial difficulties of practising within the current fee system and the corresponding impact this has on practitioner wellbeing, work/life balance and quality of service provision quickly come to occupy an outsized influence in the lives of legal aid practitioners, and the running of legal aid organisations and chambers. The difficulties associated with the funding of legal aid and its attendant obligations (e.g. LAA administration) and ramifications (workload, wellbeing) are also plainly reflected in the responses provided by practitioners when asked for their general views on what they saw as the most significant challenges facing the legal aid profession.

As shown in Table 9.1, financial challenges are at the forefront of practitioners' minds, with practitioners most concerned with chronic austerity measures and funding cuts at 40.6 per cent (n=339 of 836) and poor remuneration (36.8%, n=308). While the top two issues identified were explicitly financial in nature, the three that followed - recruiting lawyers and staff (21.2%, n=177), lack of resources or support from the government (18.3%, n=153), and retaining lawyers (14%, n=117) - were implicitly financial. Specifically, an inability to recruit and retain practitioners may be seen as a direct consequence of the precarious financial position so many legal aid organisations find themselves in, and this raises key issues as to the sustainability of the sector as a whole.

In line with many of the motivations expressed by practitioners upon first entering into the profession, the responses detailed in Table 9.1 also reinforce the commitment of practitioners to the provision of access to justice, as reflected in the concerns regarding the emergence of advice deserts/closing down of legal aid services/cost of maintaining a legal aid practice (9.1%, n=76) and the threshold requirements imposed on clients (4.3%, n=36). The challenges identified by practitioners also pointed to concerns regarding the extent to which altruistic motivations for entering into the profession could continue to persist in the face of unsustainably large workload/‘burn out’ (10.3%, n=86) and negative public/media attitudes towards the profession (5.5%, n=46).

Table 9.1. The most significant challenges facing the legal aid profession identified by practitioners (n=836)

	N	%
Austerity measures/funding cuts	339	40.6
Poor remuneration	308	36.8
Recruiting lawyers/staff	177	21.2
Lack of resources/support from the Government	153	18.3
Retaining lawyers	117	14.0
Unsustainably large workload/‘burn out’	86	10.3
Unsustainability of legal aid practice	76	9.1
Administrative issues related to other components of the justice system (including Legal Aid Agency and HMCTS)	57	6.8
Negative public/media attitudes towards the profession	46	5.5
Remuneration not commensurate with inflation	37	4.4
The threshold requirements are too high for clients to access justice/concerns about accessibility of justice	36	4.3
Lack of diversity in the legal aid sector	23	2.8

Financial concerns were also a significant challenge facing organisations, albeit these concerns lagged behind a concern with administration. When asked to select the five main challenges facing their organisations (the ten most frequently selected of which appear in Table 9.2 below), issues pertaining to the Legal Aid Agency administration (75.8%, n=273 of 360), funding and resources

(58.3%, n=210) staff recruitment (42.2%, n=152), budgeting (27.5%, n=99), and capacity of service providers to meet community and client needs (27.2%, n=98) dominated.

Table 9.2 Ten organisational challenges most frequently selected by organisations (n=360)¹⁵⁵

	N	%
Legal Aid Agency administration	273	75.8
Funding and resources	210	58.3
Staff recruitment	152	42.2
Budgeting	99	27.5
Capacity of service to meet community/client needs	98	27.2
Staff retention	84	23.3
Managing staff health and wellbeing	81	22.5
Political environment	66	18.3
Accommodations and premises	50	13.9
Strategic planning	45	12.5

Organisations explained the factors underpinning these challenges in a follow-up open-ended question. These responses revealed that the challenges were largely attributed by organisations to funding, profitability and sustainability at 59.4 per cent (n=133 of 207), followed by legal aid contract and claim issues (39.7%, n=89) and issues with recruitment and retention (26.3%, n=59).¹⁵⁶

Financial challenges and challenges related to the administrative burden of working in legal aid were both identified as sector-wide concerns by the profession.

9.2 Addressing the Challenges Identified

It is perhaps not surprising then that when asked ‘What would make the system more effective’ and ‘What recommendations do you have to address these or to otherwise improve the sector?’ the responses provided by practitioners made clear the need for greater investment to ensure the future sustainability of legal aid. As detailed in Table 9.3 over three quarters (75.7%, n=608 of 803) of practitioner respondents suggested that “more funding/investment to allow for fairer fees/wages” would improve the legal aid system. Respondents also suggested “more flexibility/less bureaucracy

and red tape from the LAA” (18.6%, n=149), “better understanding[s] of the amount of work that is actually carried out compared to that which is remunerated for” (17.6%, n=141), and “abolish[ing] LASPO changes/expand[ing] eligibility/improv[ing] accessibility of legal aid” (17.1%, n=137). These responses point to several recurring themes: the insufficiency of the existing fee regime, challenges relating to the Legal Aid Agency, discrepancies between remuneration and work responsibilities, and the negative effects of the LASPO changes.¹⁵⁷

Table 9.3. Ten most frequent suggestions for improving the legal aid system (n=803)

	N	%
More funding/investment to allow for fairer fees/wages	608	75.7
More flexibility/less bureaucracy and red tape from the LAA	149	18.6
Better understanding of the amount of work that is actually carried out compared to that which is remunerated	141	17.6
Abolish LASPO changes/expand eligibility/improve accessibility of legal aid	137	17.1
More positive portrayal of lawyers in the media/by the government and more appreciation generally	106	13.2
Need for more good quality lawyers	55	6.8
More streamlined claiming processes/simpler fee structures	50	6.2
Better IT systems/infrastructure (e.g. improving/replacing CCMS)	46	5.7
Better training for professionals	40	5
Greater efficiency/better communication within the courts	38	4.7

A call for greater investment and funding throughout the sector to address these challenges was also reiterated by the responses of both chambers and organisations. When asked to provide any additional information about their legal aid work, the open-ended responses of chambers most often referenced the need for better funding and fees in legal aid. For example, of the eight chambers who provided an answer, four indicated that legal aid needed better funding. Relatedly, they also emphasised the risks and disadvantages that come with taking on legal aid work, with three sets of chambers suggesting that it is more difficult to receive instructions from solicitors, or that legal aid work may actually pose a risk for the future of their chambers.

A similar open-ended question that allowed organisations to offer additional commentary yielded responses from 118 organisations.¹⁵⁸ In these responses, organisations reiterated that legal aid fees were too low, with 47.5 per cent (n=56) of 118 organisations stating that the profession required better funding. Notably, 43.2 per cent (n=51) of organisations added that they were disincentivised from engaging in legal aid work in the future; specifically, they stated that they would try to avoid

legal aid work, they needed to restrict legal aid work at their organisations, legal aid work poses risks for the future, and it was hard to attract solicitors to legal aid. One practitioner asserted that “[a]t current rates and with the LAA acting as they do we do not see the firm continuing to offer criminal legal aid for very much longer, albeit there is no-one to fill the gap. Altruism only goes so far.”¹⁵⁹ Another practitioner similarly expressed concerns about the viability of renewing legal aid contracts:

“I have previously worked in law centres and believe that everyone should be able to access justice. I took on the legal aid contract to help those more vulnerable in our community. I knew that I would not have the same salary as solicitors in purely private firms but I did not expect to lose money. I did not expect my workload to be so high, the administration costs and time to be so high and the reward to be so low. If the situation with legal aid does not change then I will have to think about whether I will apply to renew the contract next time.”¹⁶⁰

The responses of organisations and chambers were therefore closely aligned with the concerns identified by practitioners, and increased funding and investment in the sector was perceived by all as the most significant possible way to address these concerns. A further 26.3 per cent (n=31) of organisations reinforced the importance of legal aid work and their commitment to social justice, notwithstanding the 22.0 per cent of organisations (n=26) who noted problems with the administration/funding of legal aid and the work of the Legal Aid Agency, the 10.2 per cent (n=12) who noted the pressures on fee earners and hard work entailed in providing legal aid services.

Whilst only 10.2 per cent (n=12) of organisations offered the (unprompted) insight that they were effectively subsidising the cost of the legal aid work they undertook, taking the findings from the census as a whole suggests that this practice is in fact one of the defining features of the current legal aid scheme. By accepting rates significantly below market level once the time taken to complete work is factored in, or by accepting only partial payment for the work they undertake, practitioners and organisations underwrite the legal aid system. This financial gap is either absorbed by the practitioner by working longer hours (in turn reducing their hourly wage) or by supplementing legal aid work with private work. This practice invariably results in some costs being passed on to private clients with implications for middle income access to justice.

When former legal aid practitioners were asked if they had anything else to add concerning their time in legal aid, 79 provided a response. Of these, 44.3 per cent (n=35) said there were too many ancillary problems that take time away from legal work, while 40.5 per cent (n=32) suggested that access to justice has diminished and a lack of funding creates more work for fewer practitioners. Around a quarter (24.1%, n=19) also reported that the remuneration was not commensurate with the effort and responsibility required. These issues all speak to fundamental problems with legal aid, not the appeal of another area or profession.

This is evident in the following quote from a respondent, which indicates that although legal aid work is satisfying, it is also very difficult to sustain:

“Legal aid work is both immensely satisfying and hugely frustrating. The legal issues which arise are complex and interconnected in a way which legal aid funding isn’t. At a first client interview, the issue which the client thinks will be the primary problem

*quite often isn't. A housing problem, for example, may be inextricably linked with both community care and welfare benefits but the funding will only address part of the whole. Often it seemed as though cases were a never-ending series of knots; there was rarely a final sense of closure; particularly where there were issues around capacity and access to support services. Many clients had numerous case files across different areas of law and funding. An awful lot of the work required expectation management."*¹⁶¹

Leaving legal aid can largely be attributed to a response to the problems that exist in the sector. These practitioners felt pushed out of legal aid rather than pulled to different work. This sentiment is reinforced by a quarter of legal aid leavers (25.3%, n=20) who offered further comments noting that they enjoyed legal aid and would go back if it was possible.

9.3 What next for Legal Aid?

This Census has provided the first comprehensive snapshot into the legal aid sector and those who comprise the legal aid workforce in England and Wales. In doing so, it has challenged several narratives which are commonly used in relation to legal professionals, such as the assumption that practitioners only come from privileged socio-economic backgrounds and circumstances, that legal professionals tend to earn significant salaries, or even that the main reason that people pursue careers in legal aid is because they are motivated to increase their own personal wealth. Findings make clear that for the vast majority a career in legal aid is a vocation, not an occupation.

The census findings reveal that the legal aid sector is characterised by significant financial insecurity, which in turn has led to crisis. Nearly every problem identified by respondents could be traced to the inadequacy of legal aid funding. This poses a critical and tangible threat 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 for the individuals and communities that rely upon legal aid services.

While it may be tempting to attribute several of the current problems to the unforeseen circumstances that came with the outbreak of the Covid-19 pandemic, many of these challenges pre-existed this crisis. The challenges facing the sector are also far from new. In fact, 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.

Although the resilience, commitment and dedication of those who make up the legal aid sector and those who intend to pursue a career in it is clear, the responses call into question how long it is before this resilience, commitment and dedication is exhausted. The recurring message from the census is the dire need for investment and a shift away from relying on the goodwill of practitioners and (in some cases) the income generated via privately funded work, to subsidise the legal aid scheme. The implicit expectation that practitioners contribute their time 'pro bono' in order to effectively serve each client denies fair remuneration and recognition for work performed. This not only deters new practitioners, and drives out existing ones, it distracts current practitioners from what should be their central focus: providing quality services to those who are (often) most likely to face disadvantage and exclusion in society.

Appendix A

Characteristics of Census Respondents

Table A.1 Key demographic characteristics of legal aid leavers

		N	%
Age (n=254)	22–25	6	2.4
	26–30	16	6.3
	31–35	23	9.1
	36–40	40	15.7
	41–50	67	26.4
	51–59	60	23.6
	60+	42	16.5
Ethnicity (n=252)	Asian or Asian British	14	5.6
	Black, African, Caribbean or Black British	5	2.0
	Mixed or multiple ethnic groups	11	4.4
	White British	203	80.6
	Other ethnic group	19	7.5

		N	%
Disability (n=253)	No	214	84.6
	Yes	39	15.4
Disability Type (n=39)	Deafness or partial hearing loss	4	10.3
	Blindness or partial sight loss	0	0.0
	Learning disability	2	5.1
	Learning difficulty or developmental disorder	1	2.6
	Physical disability	8	20.5
	Mental health condition	12	30.8
	Long term/chronic illness, disease or condition	20	51.3
	Other	3	7.7
Gender (n=255)	Male	101	39.6
	Female	147	57.6
	Non-binary/prefer to self-identify	2	0.8
	Prefer not to disclose	5	2.0
Role in Legal Aid (n=255)	Solicitor	127	49.8
	Barrister	70	27.5
	Legal executive	8	3.1
	Paralegal	27	10.6
	Other	1	0.4
	Caseworker	12	4.7
	Costs lawyer	5	2.0
	Advisor	4	1.6
	Trainee solicitor	1	0.4

		N	%
Location (n=251)	London	122	48.6
	South East England	51	20.3
	South West England	19	7.6
	English Midlands	23	9.2
	North East England	24	9.6
	North West England	38	15.1
	North Wales	1	0.4
	West Wales	1	0.4
	Mid Wales	0	0.0
	South Wales	10	4.0
Practice Areas (n=255)	Crime	88	34.5
	Prison law	14	5.5
	Claims against public authorities	16	6.3
	Community care	21	8.2
	Debt	20	7.8
	Discrimination	11	4.3
	Education	9	3.5
	Housing	58	22.7
	Mediation	2	0.8
	Inquests	7	2.7
	Actions against the police	9	3.5
	Immigration & asylum	44	17.3

		N	%
	Family (private)	80	31.4
	Family (public)	66	25.9
	Clinical negligence	13	5.1
	Mental health	10	3.9
	Welfare benefits	32	12.5
	Court of Protection	10	3.9
	Other	17	6.7
Time Spent in the Sector (n=255)	Less than year	14	5.5
	1–5 years	68	26.7
	6–10 years	59	23.1
	11–20 years	68	26.7
	21+ years	46	18.0

Table A2. Key demographic characteristics of practitioners

		N	%
Age (n=1203)	18–21	4	0.3
	22–25	77	6.4
	26–30	165	13.7
	31–35	170	14.1
	36–40	139	11.6
	41–50	273	22.7
	51–59	234	19.5
	60+	141	11.7
Gender (n=1202)	Male	460	38.3
	Female	732	60.9
	Non-binary/prefer to self-identify	2	0.2
	Prefer not to disclose	8	0.7
Ethnicity (n=1197)	Asian or Asian British	85	7.1
	Black, African, Caribbean or Black British	33	2.8
	Mixed or multiple ethnic groups	56	4.7
	White British	927	77.4
	Other ethnic group	96	8.0
Disability (n=1198)	No	1090	91.0
	Yes	108	9.0
Disability Type (n=107)	Deafness or partial hearing loss	6	5.6
	Blindness or partial sight loss	6	5.6

		N	%
	Learning disability	10	9.3
	Learning difficulty or developmental disorder	9	8.4
	Physical disability	17	15.9
	Mental health condition	26	24.3
	Long term/chronic illness, disease or condition	46	43.0
	Neurodevelopmental disorder	2	1.8
	Other	2	1.8
Location (n=1202)	London	558	46.4
	South East England	142	11.8
	South West England	114	9.5
	English Midlands	138	11.5
	North East England	134	11.1
	North West England	125	10.4
	North Wales	11	0.9
	West Wales	2	0.2
	Mid Wales	0	0.0
	South Wales	29	2.4

Table A3. Employment characteristics of practitioners

		N	%
Length of Time in Legal Aid (n=1205)	Less than 1 year	66	5.5
	1–5 years	289	24.0
	6–10 years	157	13.0
	11–20 years	293	24.3
	21+ years	400	33.2
Employment Status (n=1203)	Permanent	598	49.7
	Fixed term	64	5.3
	Ad hoc (in days or hours)	4	0.3
	I am self-employed	533	44.3
	I don't have an employment contract	13	1.1
	Unknown	10	0.8
Employer Type (n=1200)	Chambers	424	35.3
	A for-profit firm that has contracts for legal aid work	580	48.3
	A not-for-profit specialist advice provider	64	5.3
	Law centre	61	5.1
	University law clinic	2	0.2
	Sole practitioner	16	1.3
	Other	53	4.4
Provision of Non-Legal Aid Services (n=1194)	Yes	108	9.0
	Yes	1055	88.4
	No	139	11.6

		N	%
Principal Role (n=1206)	Head of department	53	4.4
	Solicitor	424	35.1
	Barrister	407	33.7
	Legal executive	24	2.0
	Trainee/pupil/legal apprentice	125	10.3
	Caseworker	43	3.6
	Clerk	2	0.2
	Practice manager	12	1.0
	Director	43	3.6
	Head of chambers	10	0.8
	Billing clerk	24	2.0
	Other	16	1.3
	Paralegal	23	1.9
Work Schedule (n= 1199)	Full-time	795	66.3
	Part-time	121	10.1
	Condensed hours	20	1.7
	Variable hours	262	21.9
	Other	1	0.1
Current Practice Areas (n=1205)	Crime	357	29.6
	Prison law	59	4.9
	Claims against public authorities	147	12.2
	Community care	139	11.5

	N	%
Debt	14	1.2
Discrimination	74	6.1
Education	33	2.7
Mediation	13	1.1
Housing	222	18.4
Immigration & asylum	123	10.2
Family (public)	384	31.9
Family (private)	349	29.0
Clinical negligence	15	1.2
Mental health	85	7.1
Public law	299	24.8
Welfare benefits	49	4.1
Court of Protection	141	11.7
Other	8	0.7
Inquest and public inquiries	18	1.5
AATP	2	0.2
Employment	3	0.2

Table A4. Educational characteristics of practitioners

		N	%
School Location (n=1192)	Outside of the UK	84	7.0
	UK	1108	93.0
School Type (n=1100)	State comprehensive	705	64.1
	Fee-paying independent school	257	23.4
	Grammar school	209	19.0
	Other	29	2.6
Attended University (n=1208)	No	75	6.2
	Yes	1133	93.8
	I am self-employed	533	44.3
Undertaking a Graduate Degree (n=1119)	No	785	70.2
	Yes – LLM	274	24.5
	Yes – A non-LLM Masters level course in a law-related subject	60	5.4
Eligible for state benefits/free school meals during education (n=1197)	No	976	81.5
	Yes	221	18.5
Parents / stepparents/carers or guardians attended University (n=1193)	No	655	54.9
	Yes	538	45.1
Legal professionals in immediate family (n=1199)	No	965	80.5
	Yes	234	19.5

		N	%
Route to Current Role (n=1189)	Training contract	381	32.0
	Pupillage	369	31.0
	Paralegal route	107	9.0
	Solicitor apprenticeship	15	1.3
	CILEx qualifications	33	2.8
	Other route	284	23.9

Table A5. Key demographic characteristics of organisations

		N	%
Organisation Type (n=369)	A for-profit firm providing only legal aid services	39	10.6
	A for-profit firm providing both private and legal aid services	250	67.8
	A not-for-profit specialist advice provider	30	8.1
	Law centre	28	7.6
	Other	22	6.0
Location (n=367)	London	116	31.6
	South East England	57	15.5
	South West England	37	10.1
	English Midlands	48	13.1
	North East England	36	9.8
	North West England	46	12.5
	North Wales	5	1.4
	West Wales	3	0.8
	Mid Wales	1	0.3

		N	%
	South Wales	18	4.9
	Headcount (n=367)	538	45.1
	0–10	152	41.4
	>10–20	79	21.5
	21–40	65	17.7
	41+	71	19.3
Fee Earners (n=364)	None	16	4.4
	>0 to 4	164	45.1
	>4 to 10	115	31.6
	>10 to 30	53	14.6
	>30 to 80	9	2.4
	>80 to 140	7	1.9
Length of Legal Aid Service Provision (n=358)	1–5 years	42	11.7
	6–10 years	19	5.3
	11–15 years	42	11.7
	16–20 years	47	13.1
	21+ years	208	58.1
Legal Aid Contract Held (n=362)	Yes	337	93.1
	No	25	6.9
Areas of Law where Contracts Held (n=337)	Crime	150	44.5
	Prison law	24	7.1
	Claims against public authorities	22	6.5

		N	%
	Community care	28	8.3
	Debt	23	6.8
	Discrimination	14	4.2
	Education	4	1.2
	Mediation	12	3.6
	Housing	89	26.4
	Immigration & asylum	47	13.9
	Family (public)	134	39.8
	Family (private)	119	35.3
	Clinical negligence	11	3.3
	Mental health	41	12.2
	Public law	44	13.1
	Welfare benefits	16	4.7
	Court of Protection	15	4.5
	Other ¹⁶²	6	1.8
Other Contracts Held (n=73)	Housing Possession Court Duty Scheme	37	50.7
	Very High Costs Crime	30	41.1
	Civil Legal Aid Discrimination Contract	7	9.6
	Civil Legal Aid Education Contract	2	2.7
	Immigration Telephone Advice Services Contract	0	0.0
	Other (including other telephone advice) ¹⁶³	5	6.8

Table A6. Key demographic characteristics of chambers

		N	%
Location (n=32)	London	15	46.9
	South East England	0	0.0
	South West England	4	12.5
	English Midlands	5	15.6
	North East England	2	6.3
	North West England	4	12.5
	North Wales	0	0.0
	West Wales	1	3.1
	Mid Wales	0	0.0
	South Wales	1	3.1
	Practice Areas (n=32)	Crime	21
Prison law		3	9.4
Claims against public authorities		9	28.1
Community care		6	18.8
Debt		2	6.3
Discrimination		7	21.9
Education		6	18.8
Mediation		6	18.8
Housing		10	31.3
Immigration & asylum		7	21.9

		N	%
	Family (public)	18	56.3
	Family (private)	18	56.3
	Clinical negligence	7	21.9
	Mental health	6	18.8
	Public law	11	34.4
	Welfare benefits	2	6.3
	Court of Protection	16	50.0
	Inquest and public inquiries	13	40.6
	Employment	1	3.1
	All of these areas	1	3.1
Number of Barristers (n=31)	1-10	0	0.0
	11-20	3	9.7
	21-40	8	25.8
	41-60	8	25.8
	61+	12	38.7
Number of QCs (n=25)	1-5	17	68.0
	6-10	2	8.0
	16-20	2	8.0
	21-25	1	4.0
	More than 26	3	12.0

Table A7. Key demographic characteristics of students

		N	%
Age (n=376)	18-21	175	46.5
	22-25	101	26.9
	26-30	39	10.4
	31-35	23	6.1
	36-40	14	3.7
	41-50	19	5.1
	51-59	5	1.3
	60+	0	0.0
Gender (n=375)	Male	90	24.0
	Female	276	73.6
	Non-binary/prefer to self-Identify	5	1.3
	Prefer not to disclose	4	1.1
Disability (n=375)	Yes	54	14.4
	No	304	81.1
	Prefer not to disclose	17	4.5
Type of Disability (n=54)	Deafness or partial hearing loss	3	5.6
	Blindness or partial sight loss	1	1.9
	Learning disability	13	24.1
	Learning difficulty or developmental disorder	8	14.8
	Physical disability	7	13.0
	Mental health condition	32	59.3

		N	%
	Long term/chronic illness, disease or condition	25	46.3
	Other	0	0.0
Ethnicity (n=376)	Asian or Asian British	55	14.6
	Black, African, Caribbean or Black British	18	4.8
	Mixed or Multiple ethnic groups	20	5.3
	White British	216	57.4
	White (not British)	47	12.5
	Other ethnic group	10	2.7
	Prefer not to disclose	11	2.9
Location (n=365)	London	93	25.5
	South East England	59	16.2
	South West England	27	7.4
	English Midlands	52	14.2
	North East England	46	12.6
	North West England	57	15.6
	North Wales	7	1.9
	West Wales	2	0.5
	Mid Wales	1	0.3
	South Wales	21	5.8

Table A8. Education characteristics of students

		N	%
School Location (n=199)	Outside UK	41	20.6
	UK	158	79.4
School Type (n=157)	State comprehensive	126	80.3
	Fee-paying independent school (without a scholarship)	10	6.4
	Fee-paying independent school (with a scholarship)	7	4.5
	Grammar school	12	7.6
	Other	2	1.3
Current Studies (n=199)	LLB	108	54.3
	GDL	14	7.0
	LLM (non-practice)	15	7.5
	Bar course (including combined LLM courses)	17	8.5
	LPC (including combined LLM courses)	34	17.1
	Other undergraduate degree	3	1.5
	Other	3	1.5
	SQE	2	1.0
	Not specified	3	1.5
Eligible for state benefits/free school meals during education (n=197)	No	139	70.6
	Yes	58	29.4
Parents / stepparents/carers or guardians attended University (n=199)	No	105	52.8
	Yes	94	47.2

Appendix B

Footnotes

1. The Westminster Commission on Legal Aid, *Inquiry into the Sustainability and Recovery of the Legal Aid Sector* (All-Party Parliamentary Group on Legal Aid, 2021).
2. The Law Society of England and Wales, *Law under lockdown: the impact of COVID-19 measures on access to justice and vulnerable people* (The Law Society, September 2020).
3. James Organ and Jennifer Sigafoos, *The impact of LASPO on routes to justice* (Equality and Human Rights Commission, 2018).
4. House of Commons Justice Committee, *The Future of Legal Aid: Third Report of Session 2021-22* (HMSO, 2021).
5. Jack Simson Caird, *Court and tribunal closures* (House of Commons Library, 21 March 2016).
6. James Thornton, 'Is Publicly Funded Criminal Defence Sustainable? Legal Aid Cuts, Morale, Recruitment and Retention in the English Criminal Law Professions' (2020) 40(2) *Legal Studies* 230.
7. Lord Carter of Coles, 'Legal Aid: A market-based approach to reform (July 2006)'; Department of Constitutional Affairs, *Legal Aid Reform: The Way Ahead* (HMSO, 2006).
8. Hilary Sommerlad, 'Reflections on the reconfiguration of access to justice' (2008) 15(3) *International Journal of the Legal Profession* 179, 179.
9. Legal Aid, Sentencing and Punishment of Offenders Act 2013, Schedule 1.
10. Amnesty International, *Cuts that hurt: the impact of legal aid cuts on access to justice in England and Wales* (Amnesty International UK, 2016).
11. Jon Robins and Daniel Newman, *Justice in a Time of Austerity: Stories from a System in Crisis* (Bristol University Press, 2021).
12. APPG on Legal Aid, *MP Casework Survey Findings* (APPG on Legal Aid, 2018) <http://www.apg-legalaid.org/sites/default/files/APPG%20on%20Legal%20Aid%20-%20MP%20casework%20survey%20findings%207%20Sept%202018.pdf>
13. Roxanna Deghani and Daniel Newman, 'The crisis in legally aided defence in Wales: bringing Wales into discussions of England and Wales' (2021) 41(2) *Legal Studies* 234.
14. Legal Services Commission (2013), "Legal Services Commission Annual Report and Accounts 2012-13" (HC337, 31.3.2013) 15 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/246661/0337.pdf

15. Alex Chalk MP (2021), 'Written Questions: Legal Aid Scheme: Contracts' (UIN 166396, 16.3.2021).
16. Otterburn Legal Consulting (2014), 'Transforming Legal Aid: Next Steps - A Report for the Law Society of England and Wales and the Ministry of Justice, February 2014,' <https://consult.justice.gov.uk/digital-communications/transforming-legal-aid-next-steps/results/otterburn-legal-consulting-a-report-for-the-law-society-and-moj.pdf>
17. Law Society of England and Wales, *Civil Legal Aid: A review of its sustainability and the challenges to its viability* (The Law Society, 2021).
18. Luke Clements, *Clustered Injustice and the Level Green* (Legal Action Group, 2020).
19. Jo Wilding, *The Legal Aid Market: Challenges for publicly funded immigration and asylum legal representation* (Policy Press, 2021).
20. Anne Barlow et al, *Mapping Paths to Family Justice: Resolving Family Disputes in Neoliberal Times* (London, Palgrave MacMillan) 2017.
21. Jess Mant, 'Placing litigants in person at the centre of the post-LASPO court process' (2020) 32(4) *Child and Family Law Quarterly* 421.
22. Lizzie Deardon, 'Government attacks on lawyers 'undermine rule of law' says Lord Chief Justice' (*The Independent*, 10th November 2020).
23. Jacqueline Kingham, *Lawyers, Networks and Progressive Social Change: Lawyers Changing Lives* (Hart, 2021) 147 167.
24. The Westminster Commission on Legal Aid, *Inquiry into the Sustainability and Recovery of the Legal Aid Sector* (All-Party Parliamentary Group on Legal Aid, 2021) 19.
25. *Ibid*, 94.
26. The Law Society of England and Wales, *Law under lockdown: the impact of COVID-19 measures on access to justice and vulnerable people* (The Law Society, September 2020).
27. For the impact of the Covid-19 on the legal profession more widely, see LawCare, *Life in the Law* (LawCare, 2021). Available at <https://www.lawcare.org.uk/life-in-the-law/>
28. House of Commons Justice Committee *The Future of Legal Aid: Third Report of Session 2021-22* (HMSO, 2021) 3 <https://committees.parliament.uk/publications/6979/documents/72829/default/>
29. *Ibid*, 38. It is notable that the report also referenced frustration at the repeated similar findings of inquiries and reviews into civil legal aid with no sign of change
30. House of Lords Select Committee on the Constitution, *Covid-19 and the courts* (HL Paper 257, 2021). 3-4
31. *Supra*, n 24.
32. Sir Christopher Bellamy, *Final Report of the Independent Review of Criminal Legal Aid* (HMSO, November 2021), 10.
33. This excludes 56 respondents who were removed from the practitioner survey as they either did not complete the survey in its entirety, or were identified as current students who responded to the practitioners survey in error.
34. Notwithstanding that it is recognised that changes to the qualifying routes for prospective solicitors are due to be enacted with the commencement of the SQE. See Ben Waters, 'The Solicitors Qualification Examination: something for all? Some challenges facing law schools in England and Wales' (2018) 52(4) *The Law Teacher* 519.
35. In instances where more than three issues were raised, researchers assessed which of those issues were the 'main' issues with reference to the order in which the issues were raised and the level of detail provided.
36. Andrew C Montgomery & Kathleen S Crittenden, *Improving Coding Reliability for Open-Ended Questions. The Public Opinion Quarterly* (1977) 41(2) 235

37. Where less than 50 responses were provided to a question 100 per cent of responses were subject to second coding. Where 50-100 responses were received, between 30-50 per cent of responses underwent second coding.
38. Other responses not listed in the table included: Sense of fulfilment or personal reward (n =653, 55.3%); Opportunity to make a fairer society (n=594, 50.3%); Opportunity to enable social change (n=532, 45.1%); Opportunity to make a difference to my community (n=497, 42.1%); Like-minded people (n=437, 37.0%); Opportunity to hold the government accountable (n=435, 36.9%); Sense of professional obligation (n=416, 35.3%); Shared values (n=362, 30.7%); Opportunity to change or make better laws (n=345, 29.2%); Sense of community or belonging (n=227, 19.2%); Opportunity to gain experience/get a training contract (n=221, 18.7%); Inclusivity of the sector (n=167, 14.2%); Flexible working conditions (n=118, 10.0%); The sector's collective voice (n=108, 9.2%); Only work available in my area of practice/interest (n=22, 1.9%); I fell into it (n=10, 0.8%); I needed an income/I was attracted to the remuneration (n=6, 0.5%); Other (n=4, 0.3%).
39. Other responses not listed in the table included: Opportunity to make a fairer society (n=36, 5.9%); Opportunity to improve access to justice (n=31, 5.1%); Opportunity to hold the government accountable (n=19, 3.1%); Opportunity to enable social change (n=16, 2.6%); Opportunity to make a difference to my community (n=16, 2.6%); Sense of professional obligation (n=15, 2.5%); Opportunity to gain experience/get a training contract (n=7, 1.1%); Only work available in my area of practice/interest (n=6, 1.0%); Opportunity to change or make better laws (n=5, 0.8%); Sense of community or belonging (n=5, 0.8%); Flexible working conditions (n=5, 0.8%); Like-minded people (n=2, 0.3%); Shared values (n=1, 0.2%); I needed an income/I was attracted to the remuneration (n=1, 0.2%); Other (n=1, 0.2%).
40. Student Respondent Number 250.
41. 18.7% when looking only at those practitioners who attended university.
42. 46.7% when looking only at those practitioners who attended university.
43. Other responses not listed in the table included: Concerns around debt (n=57, 11.0%); Costs incurred through work experience and pupillages (n=51, 9.8%); Reliant on grant, scholarship, apprenticeship or funding (n=50, 9.7%); Other (n=46, 8.9%); Accommodation costs/cost of living (n=40, 7.7%); Reliant on savings (n=28, 5.4%); Not relevant/can't answer/no answer (n=24, 4.6%); Lack of grants and affordable loans (n=23, 4.4%); Lack of family support (n=23, 4.4%); Different areas of law (n=21, 4.1%); Lack of training contracts/sponsorship (n=20, 3.9%); Things used to be easier for legal aid work (n=18, 3.5%); Transport and travel costs (n=15, 2.9%); Welfare benefits (n=10, 1.9%); Impact on family (n=8, 1.5%); Restricted choice of university (n=6, 1.2%); Lack of legal aid work (n=5, 1.0%).
44. Student Respondent Number 209.
45. Excludes four responses which indicated the question was not applicable.
46. Whilst clerks also reported having to work in their free time almost daily at higher rates than other practitioners, it should be noted that only two clerks responded to this question.
47. Other responses included: Traumatic nature of the work (including experiences of clients and colleagues etc) (n=546, 46.5%); Unrealistic client expectations (n=523, 44.5%); Insufficient resources to provide the help clients need (n=511, 43.5%); Number of incoming referrals (n=350, 29.8%); Not enough staff to meet client demand (n=323, 27.5%); Limited referral and other service options (n=255, 21.7%); None of these issues (n=36, 3.1%); Other (n=29, 2.5%).
48. Other responses included: Performance targets (n=299, 25.6%); Limited career pathways or progression (n=240, 20.6%); Tenuous job security (n=202, 17.3%); Lack of opportunity for, or access to, training and support (n=178, 15.3%); Dealing with colleagues (n=165, 14.2%); Working environment (n=149, 12.8%); Safety concerns (n=104, 8.9%); Other 'general' (n=32, 2.7%).
49. Other responses not listed in the table included: Language barriers (n=3, 5.7%); Retaining staff (n=2, 3.8%); Public opinion/government rhetoric (n=2, 3.8%); Lack of variety of work (n=1, 1.9%); Seeing how unjust society is (n=1, 1.9%); Lack of supervision (n=1, 1.9%); Gender discrimination (n=1, 1.9%).

50. Due to the similarity between 'Other Responses' in relation to the 'Other (Client) Issues' and 'Other (General) Issues' reported by practitioner respondents, 'Other Responses' were coded jointly. Although 29 respondents indicated that there were 'other (Client) stressors' and 32 indicated there were other (General) stressors, the percentages in this table are calculated with a denominator 53 rather than 61 which refers to the number of unique respondents.
51. Practitioner Respondent Number 786.
52. Practitioner Respondent Number 413.
53. Practitioner Respondent Number 307.
54. Practitioner Respondent Number 336.
55. Other responses not listed in the table included: The level of remuneration makes my life very difficult (n=70, 13.4%); Remuneration does not reflect my qualifications/experience (n=52, 9.9%); My remuneration is acceptable (n=40, 7.6%); Remuneration has not kept in line with inflation (n=37, 7.1%); The work I undertake is paid well (n=26, 5.0%); Other (n=24, 4.6%); The hours required to make a living are excessive (n=19, 3.6%); Remuneration is not sufficient to keep people in the job/ does not attract experienced lawyers (n=19, 3.6%); Compared to other legal aid practitioners I am paid fairly well (n=19, 3.6%); No benefits or work perks or flexibility no pension (n=19, 3.6%); Flexibility/work arrangement is good (n=19, 3.6%); Remuneration has decreased whilst the amount of work has increased (n=13, 2.5%); Remuneration doesn't concern me (n=13, 2.5%); Self employed and happy (n=13, 2.5%); As above explained in my previous answer (n=12, 2.3%); Unknown (n=10, 1.9%); Pay is slow or bureaucratic (n=7, 1.3%); Preparing the case takes more time and is not paid which is inverse to being in court (n=7, 1.3%); Well paid but the work is stressful due to intensity and nature (n=6, 1.1%); Compared to other legal aid practitioners I am paid less (n=4, 0.8%); I am not awarded a share or a fair share of partnership (n=3, 0.6%).
56. Practitioner Respondent Number 458.
57. Practitioner Respondent Number 205.
58. Practitioner Respondent Number 846.
59. Practitioner Respondent Number 1020.
60. Practitioner Respondent Number 1079.
61. Practitioner Respondent Number 436.
62. Practitioner Respondent Number 745.
63. Supra, n 60.
64. Practitioner Respondent Number 1155.
65. Other responses not listed in the table included: Complex client personal issues (non-law related)/difficult clients (3.9%, n=28); No/slow career progressions/upskilling (3.7%, n=27); No future in Legal Aid/Legal Aid unsustainable (3.0%, n=22).
66. 1391 responses were given by practitioners when asked to indicate the specific fixed fees they worked under, the number of hours of work the fixed fee was intended to cover and the number of hours of work that the fixed fee case actually took. Percentages are calculated excluding 1037 responses because they either provided (i) no answer to the number of hours taken and/or the number of hours paid by the LAA, (ii) responses that were unclear, (iii) indicated that each case varied and an average could not be produced or (iv) indicated that they didn't know. The total number of useable responses relied upon to produce these statistics equalled 354.
67. There were 21 responses that could not be linked to a specific practice area and are excluded from this analysis.
68. Data was not available in respect of debt, mediation, clinical negligence, claims against public authorities, and Court of Protection work.

69. When leaving outliers in (n=283), the medians for the 'Number of hours paid under the fixed fee', the 'Number of hours worked under the fixed fee' and the number of hours worked for every hour paid were 5.0, 12.5 and 2.2 respectively, the modes remained unchanged and the means were higher at 7.6 (8.9), 19.1(18.1) and 3.3(3.3) respectively.
70. Outliers were removed using the 1.5 +/- Interquartile Range (IQR) method. In addition to removing outliers, these statistics also exclude those who did not provide answers in respect of both (i) the number of hours covered by the fixed fee and the (ii) number of hours taken on average to complete that fixed fee work. 224 refers to the number of responses not the number of unique respondents (n = 163), recognising that a single practitioner may provide information in respect of more than one fixed fee.
71. Data was not available in respect of debt, mediation, clinical negligence, claims against public authorities, and Court of Protection work. 21 responses that could not be linked to a practice area were not included in this table.
72. Three practitioners answered yes and no to this question, and then qualified their response in an open-ended follow-up question by indicating that they were referring to two separate areas of law. See further Table 4.6.
73. Practitioner Respondent Number 514.
74. Practitioner Respondent Number 1037.
75. Practitioner Respondent Number 1159.
76. Practitioner Respondent Number 205.
77. Practitioner Respondent Number 123.
78. Practitioner Respondent Number 1066.
79. Practitioner Respondent Number 259.
80. Practitioner Respondent Number 51.
81. Practitioner Respondent Number 870.
82. Practitioner Respondent Number 1139.
83. Practitioner Respondent Number 249.
84. Practitioner Respondent Number 1054.
85. Practitioner Respondent Number 1066.
86. Practitioner Respondent Number 849.
87. Other responses not listed in the table included: Increase pay (n=41, 9%); Annual increases tracking inflation (n=39, 8.5%); Increase hourly rates (n=37, 8.1%); Increase rates for serious or complex cases and / or more flexibility (n=28, 6.1%); Other (e.g. change time periods, criticism of LAA, belief legal aid practice is unsustainable) (n=20, 4.4%); Review fees (3.5%, n=16); Improvements to application/payment process (3.1%, n=14); Government should invest in legal aid/change attitude towards it (2.6%, n=12); Recognise the experience of lawyers (1.7%, n=8), change rates to align with the market/commercial rates or CPS fees (1.5%, n=7); Bring back legal aid into certain areas (1.3%, n=6); Provide more pay for out of hours (0.9%, n=4); Introduce salaried lawyers/block funding of firms (0.7%, n=3).
88. Excludes three responses where the practitioner indicated that they couldn't answer or that the question was not relevant.
89. Excluding 937 respondents. Excluded respondents either provided (i) no answer to either the number of hours taken and/or the number of hours paid by the LAA, (ii) responses that were unclear, (iii) simply indicated that they could not provide an estimate as it was too hard to say, (iv) indicated that they didn't know, or (v) referred to private rates of pay, rather than hourly rates under the legal aid scheme.

90. When leaving outliers in (n=206), the medians for the 'Number of hours claimed from the LAA on the average case', the 'Number of hours worked on the average case' and the number of hours worked for every hour paid were 12.5, 20.0 and 1.5 respectively, the modes remained unchanged and the means were higher at 32.4 (53.9), 54.5(128.7) and 1.8(1.1) respectively.
91. Outliers were removed using the 1.5 +/- Interquartile Range (IQR) method. In addition to removing outliers, these statistics also exclude those who did not indicate that the number of hours worked exceeded the number of hours paid, and who did not provide answers for both (i) the number of hours claimed from the LAA on the average case and the (ii) number of hours spent on the average case.
92. Excludes the responses of 23 practitioners who responded that they could not answer the question or that it was not relevant.
93. Practitioner Respondent Number 1054.
94. Practitioner Respondent Number 723.
95. Practitioner Respondent Number 1075.
96. Other responses not listed in the table included: Legal help (n=25, 8.1%); Meetings with other practitioners/experts/conferences (n=20, 6.5%); Police station pre and post matters/client forms/telephone advice (n=19, 6.2%); Family/divorce/domestic violence (n=16, 5.2%); Specific housing/welfare benefit/debt/visa assistance (n=14, 4.5%); Travel and waiting (n=6, 1.9%); Judicial review (n=5, 1.6%); Appeals (n=3, 1%); Training/supervision (n=2, 0.6%).
97. Excludes the responses of four practitioners who responded that they couldn't not answer the question or that it was not relevant.
98. Practitioner Respondent Number 355.
99. Practitioner Respondent Number 1177.
100. Practitioner Respondent Number 169.
101. Other responses not listed in the table included: Training/supervision/supporting colleagues/managerial responsibilities (n=30, 5.9%); Travel/waiting (n=26, 5.1%); Work that does not go ahead/delayed (n=26, 5.1%); Work before and after court hearing/police station attendance (n=23, 4.5%); Other (e.g. attending forums, complaints, archiving, general tasks outside court or police station, forms for professional bodies, cases to ombudsman, being on call) (n=17, 3.3%); Dealing with families of clients (n=6, 1.2%).
102. Excludes the responses of eight practitioners who indicated that they could not answer the question or it was not relevant.
103. Other responses not listed in the table included: Childcare/family/personal needs or better work/life balance (4.8%, n=28); Personal preference (4.6%, n=27); Got sick of chasing fees from LAA/all of the unpaid aspects of the work/having to work with LAA/couldn't meet the contract requirements (4.6%, n=27); Changed area of practice following qualification/or had to switch areas as part of qualification/training (2.1%, n=12); Changing client needs (1.7%, n=10); Emotional toll/stress of work (1.5%, n=9); Social/moral/ethical reasons (0.9%, n=5); No future in Legal Aid (0.3%, n=2); Recruitment issues (0.3%, n=2).
104. Practitioner Respondent Number 723.
105. Practitioner Respondent Number 648.
106. Practitioner Respondent Number 523.
107. 46.8 per cent (n=171) said no and 3.0 per cent (n=11) did not know.
108. The percentages in this table exclude two organisations who did not indicate which area of law their contract covered.

109. Organisation Respondent Number 143.
110. Other responses not listed in the table included: Organisation changed focus away from legal aid (n=3, 1.8%); Not possible to manage caseload across different areas of practice (n=2, 1.2%); Organisation changed speciality or specialised (n=1, 0.6%).
111. Organisation Respondent Number 85.
112. Organisation Respondent Number 118.
113. Organisation Respondent Number 363.
114. Excluding three organisations who indicated that they could not answer or that the question was not relevant.
115. Excludes 20 respondents who indicated that they had no answer or that the question was not relevant.
116. Organisation Respondent Number 31.
117. Organisation Respondent Number 171.
118. Chambers Respondent Number 32.
119. Chambers Respondent Number 16.
120. Leaver Respondent Number 201.
121. Other responses not listed in the table included: I wanted to seek new challenges (n=41, 16.5%); I wanted to spend more time with family/friends (n=41, 16.5%); I was unhappy with my role (n=31, 12.5%); I did not get on with management (n=26, 10.5%); Other = [digitisation, solicitors doing more work themselves, quality of instruction from solicitors often poor, LASPO, career change, not specified) (n=19, 7.7%); I wanted to retire (n=13, 5.2%); I did not get on with colleagues (n=3, 1.2%).
122. Other responses not listed in the table included: Pressure from Firm about doing LA funded work/work targets imposed by employer (n=16, 6.5%); Inability to do the work well within current payment regime (n=15, 6%); No future in LA (n=14, 5.6%); Inability to support a family/start a family or balance work with starting a family (n=13, 5.2%); Health issues (n=11, 4.4%); Lack of respect/thanklessness of LA work (n=10, 4%); Inability to afford housing (n=7, 2.8%).
123. Other responses not listed in the table included: I am just unhappy in my role (n=55, 10.4%); To be closer to family or friends (n=54, 10.2%); Want clients who are easier to work with (n=49, 9.3%); A permanent or longer-term position (n=41, 7.8%); I don't get on with management (n=20, 3.8%); My position will end soon (n=16, 3%); No reason (n=16, 3%); I don't get on with my colleagues (n=6, 1.1%); My partner has taken or is looking for another job (n=6, 1.1%); Other (n=4, 0.8%).
124. Practitioner Respondent Number 924.
125. Other responses not listed in the table included: Would like to move on but there is no other options for me (n=14, 2.6%); Inability to afford a house/start family or no time to start family (n=11, 2.1%); Still considering whether to move on (n=11, 2.1%); Lack of Pensions (n=6, 1.1%); Lack of respect (n=6, 1.1%); Firm/dept at risk of closing (n=6, 1.1%); Having to fight the LAA (n=6, 1.1%); Want to work in other areas of law not funded by LA (n=2, 0.4%).
126. Practitioner Respondent Number 1207.
127. Percentages are calculated excluding 23 organisations who provided open-ended answers which did not directly address the issue of office/department closures.
128. Other responses not listed in the table included: Stopped legal aid/considering stopping legal aid work/concerns about the future (n=22, 8.3%); Areas out of scope/need to do pro bono (n=21, 7.9%); Hard to recruit at legal aid rates/staff leaving (n=21, 7.9%); Comparisons with pay in other areas/private work (n=14, 5.3%); Need to rely on small number of big cases (n=11, 4.1%); Legal Aid work involved a lot of risk (3.6%, n=10); the Impact of Covid-19 (3.6%, n=10); Reduced Income unrelated to COVID 19 (3.2%, n=8); Grants/Funding (2.8%, n=7)

- ; Problems with LAA (2.8%,n=7), Covid 19 impact would be felt in future years (2.8%,n=7);Grant/Other Funding Sources Restricted/Lack of Support (2.0%, n=5); Have expanded (1.6%, n=4); Chose to reduce amount of legal aid work (1.6%, n=4), and; Home Office delays (1.6%, n=4).
129. Excluding nine responses which indicated that the respondent did not know, could not provide an answer or that the question was not relevant.
 130. The number of matters taken on at any time inevitably varies by area of law and the size of a practitioner's organisation, and the picture drawn of a typical month for practitioners before the pandemic reflects this diversity.
 131. Derived from quantitative coding of responses to two open-ended questions combined: 'How would you describe the impact Covid-19 has had on your work?' and 'Is there anything else you would like to add about the impact of Covid-19 on legal aid work more generally?'
 132. Practitioner Respondent Number 864.
 133. Organisation Respondent Number 259.
 134. Organisation Respondent Number 361.
 135. Supra, n 131.
 136. Ibid.
 137. Derived from quantitative coding of the open-ended question 'What has been the most significant challenge in managing your organisation during the Covid-19 pandemic?'
 138. Derived from quantitative coding of the open-ended question 'What has been the most significant challenge in managing your set of Chambers during the Covid-19 pandemic?'
 139. Practitioner Respondent Number 760.
 140. Practitioner Respondent Number 205.
 141. Practitioner Respondent Number 285.
 142. Practitioner Respondent Number 123.
 143. Supra, n 131.
 144. Chamber Respondent Number 16.
 145. Supra, n 131.
 146. Ibid.
 147. Practitioner Respondent Number 1099.
 148. Practitioner Respondent Number 499.
 149. Practitioner Respondent Number 496.
 150. Supra, n 138.
 151. Supra, n 137.
 152. Other identified sources of funding (in order of frequency) included the Tudor Trust, Children in Need, Comic Relief, British Gas Energy Trust, Garfield Weston Foundation, Lloyds Bank Foundation, Henry Smith Foundation, Therium Access, Steve Morgan Foundation, Paul Hamlyn Foundation, Oak Foundation, Money and Pensions Service, Nationwide Foundation, Esmee Fairbairn Foundation, Matrix Chambers and the Walcott Foundation.
 153. Organisation Respondent Number 361.
 154. Supra, n 131.

155. Other responses not listed in the table included: Reporting requirements (11.7%, n=42); Client intake and triage (10.3%, n=37); Technology (e.g. suitability of hardware/software) (9.4%,n=34); Lack of referral options (9.2%,n=33); Fundraising (7.2%, n=26); Meeting service targets (6.9%, n=25); Staff performance (6.4%, n=23); Staff supervision (6.1%,n=22); Governance (4.4%,n=16); Maintaining policies (3.9%,n=14); Engaging the community (3.1%,n=11); Systemic work (2.8%,n=10); Measuring client need (2.2%,n=8); Service planning (2.2%,n=8); Engaging priority client groups (1.9%,n=7); Measuring outcomes (1.9%,n=7); Stakeholder relationships (1.9%,n=7); Volunteer recruitment (1.9%,n=7); Partnership and collaboration (1.7%,n=6); Volunteer retention (1.7%,n=6); Evaluating services (1.4%,n=5); Volunteer training (1.4%,n=5) and; Filling board or management committee positions (1.1%, n=4).
156. Excludes the responses of 17 organisations who stated that they couldn't answer the question or that it was not relevant. Other responses given included: Political Climate (19.3%, n=40); Administration/bureaucracy (10.1%, n=21); Wellbeing/pressure on staff (10.1%, n=21); Premises (8.7%, n=18); Lack of other local services/areas out of scope (8.2%, n=17); Covid-19 (5.3%, n=11); Vulnerable/Demanding clients (3.9%, n=8), Other (including police station and court closures and unpredictable case volumes) (1.0%, n=2).
157. Other responses not listed in the table included: More trust in legal professionals(4.1%, n=33); Better work-life balance (3.2%, n=26); More diversity within the sector (2.5%, n=20); Taking authority away from LAA (either giving it to neutral body or back to the profession)(2.4%, n=19); Continuation of remote hearings/working and more digitalisation (2.1%, n=17); Alternative funding models to provide security to the sector, e.g. diverse funding streams or early intervention (1.9%, n=15); I don't know/it is too late for these problems to be addressed (1.9%, n=15); Better collaboration between the sector as a whole to address problems, including campaign work (1.6%, n=13); Less delay in receiving payments for legal aid work (1.2%, n=10); Better communication/relationships between lawyers and the CPS/police (1.1%, n=9); Complete overhaul of the system/sector (1.1%, n=9);More non-financial support for professionals e.g. mental health (1.0%, n=8); Better working relationships between solicitors/barristers (0.9%, n=7); More equity internally within firms/chambers/organisations (0.7%, n=6); Doesn't need improving (0.6%, n=5); Better functioning of government bodies across society so fewer cases need to be brought in the first place (0.5%, n=4); Other (including more holistic solutions,more focus on clients, less private tenders) (0.5%, n=4); Larger cap allowed for legal aid certificates (0.4%, n=3); LAA should pay experts/interpreters directly rather than providers (0.4%, n=3); Legal aid is too accessible (0.2%, n=2).
158. Excludes 26 respondents who indicated that they couldn't answer the question or that it was not relevant.
159. Organisation Respondent Number 152.
160. Organisation Respondent Number 342.
161. Leaver Respondent Number 11.
162. Of those organisations who answered 'other' five provided no further detail, whilst one indicated the area was in international child abduction.
163. Of those organisations who answered 'other' one indicated they held a CLA Telephone contract for family law, two held CDD contracts, one held a housing contract, and one held housing, debt and welfare benefit contracts.

