



Open Innovation Team

Review of Civil Legal Aid in England and Wales

**Comparative Analysis of Legal Aid
Systems**

Open Innovation Team

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1. Executive summary

The Comparative Analysis workstream is part of the Review of Civil Legal Aid (RoCLA) in England and Wales.¹ The research has been undertaken by the HM Government Open Innovation Team (OIT).² The purpose is to provide policy learning and practical insights on civil legal aid in six other systems. The comparators are Australia, Canada, Finland, the Netherlands and the USA, and within the United Kingdom, Scotland.

Policies and initiatives in these comparators have been assessed against their potential to meet the objectives of RoCLA and inform the next stage of policy development.

The main themes explored in this report are broadly:

- **Ensuring the sustainability of the provider base.**
- **Enabling prevention and early intervention on civil issues.**
- **Supporting innovation in civil legal aid service delivery.**

The aim is to identify what works well, in what conditions, and consider how this could be applied to an English and Welsh setting. Although policy learning from other systems is helpful, we approach it with caution. Fundamental differences in civil justice systems, delivery and eligibility means it is not usually possible or desirable to copy and paste policies from one system to another.

After examining a range of policy case studies from the six comparator systems and engaging with expert contributors, the researchers identified 10 high-level principles which are associated with effective civil legal aid provision.³ These are:

1. **Build a system-wide approach with a broad provider base.**
2. **Provide long-term funding.**
3. **Invest in preventative justice and early intervention.**
4. **Target and prioritise civil legal aid resources.**
5. **Enable networks of community-based support.**

¹ [Review of Civil Legal Aid - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

² [Open Innovation Team - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

³ Further detail on the research methodology and a full list of contributors is provided in the Appendix.

6. **Sustain a diverse and high-calibre workforce.**
7. **Balance effective oversight and provider autonomy.**
8. **Exploit technological and digital tools.**
9. **Understand the risks of digital exclusion and the importance of face-to-face support in certain contexts.**
10. **Consolidate global communities of practice.**

These principles align with the Ministry of Justice's (MoJ) vision to modernise and improve the civil justice system. Some of the policy ideas included in this report are already being developed or considered by the MoJ, or already exist in England and Wales in some form.

After examining civil legal aid initiatives in the six comparators, there are four that OIT and the MoJ identified for further investigation in the next phase of policy development in RoCLA. These are:

1. **A tiered model for identifying, triaging, and prioritising cases (Netherlands)** (p.53)
2. **Build trust and autonomy between oversight bodies and providers (Netherlands)** (p.32)
3. **360-degree feedback loops for continuous improvement of legal aid (Netherlands)** (p.36)
4. **Enabling cross-government collaboration in resolving shared civil issues (USA)** (p.55)

Subsequent sections of the report provide further detail on the principles and policy ideas, as well as comparator overviews.

2. Introduction

Background to the Review of Civil Legal Aid (RoCLA)

The ability of individuals to resolve their legal issues is vital for a just society. The civil legal aid system in England and Wales provides access to publicly funded legal advice and representation where it is necessary.

The MoJ launched RoCLA on 5 January 2023. The objective of the Review is to identify evidence-based options which will improve the **sustainability of civil legal aid provision**, ensuring it delivers access to justice over the long term. In addressing the issue of sustainability, the Review also considers the **efficiency and effectiveness** of the system. This work forms part of the future of the Civil, Family and Tribunal justice system, as articulated by the Lord Chancellor and senior judiciary, which envisions a more joined-up and seamless system that will enable people experiencing legal problems to access high quality information and support at the right time and in the right way.⁴

Ultimately, the Review aims to shape a civil legal aid system that:

- **Is easy and quick to access.** All those eligible know how to access it, and issues are solved at the earliest point in the process.
- **Encourages, where appropriate, the early resolution of disputes**, providing swift access to justice through early legal advice and dispute resolution methods.
- **Is technologically adept and adaptive, simplified and flexible.** It enables civil legal aid users to engage with the legal process and provides support to meet their needs, uses digital technology where appropriate, works cohesively with non-legal aid support, and supports the smooth running of the civil justice system.
- **Has optimised and user-friendly processes.** Streamlined systems will minimise unnecessary administrative work for all parties (providers and users), enabling a more productive use of time and resources.
- **Offers a financially viable business option for legal aid providers** and is an attractive career option that attracts a high-calibre and diverse workforce.

Comparative Analysis workstream

⁴ [Vision for the future of civil and family courts and tribunals - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/vision-for-the-future-of-civil-and-family-courts-and-tribunals)

As part of RoCLA, the Comparative Analysis workstream began in May 2023. Research has been undertaken and led by the HM Government Open Innovation Team (OIT). OIT have collaborated with the MoJ during the process, in particular to aid understanding of MoJ processes, strategy and ongoing policy work.

The aim of this workstream has been to provide policy learning and practical insights on civil legal aid from six other civil legal aid systems. To achieve this, the report compares civil legal aid systems and identifies policy approaches taken in these comparators. It considers the transferability of policies, initiatives and lessons to the English and Welsh context.

The chosen comparator systems were Australia, Canada, Finland, the Netherlands and the USA, and within the United Kingdom, Scotland. These were selected based on several criteria, including:

- They are seeking to address similar challenges as England and Wales and can provide different policy perspectives.
- Wide accessibility of data and research.
- Recommendations from expert contributors to this report.⁵

To deliver the workstream, OIT reviewed expert literature⁶ and engaged with academics, practitioners, and researchers through:

- 45 interviews.
- Two online workshops to test the findings and case studies.
- Two meetings with the RoCLA stakeholder sub-group on the Comparative Analysis workstream.
- Sessions with practitioners in England and Wales and legal representative bodies (The Law Society and the National Advice Network Wales).

The workstream has researched funding systems and fee structures within the case study systems where it has been useful to do so, in particular for contextual purposes. In many cases, the wider financial systems and conditions in these comparators makes it difficult or

⁵ Before the workstream commenced in May 2023, the OIT and MoJ conducted a scoping exercise to determine the comparators.

⁶ This included over 200 publications focusing on England and Wales and the six comparator systems. There were a range of data sources, including quantitative and qualitative evidence from academic books and articles, systematic reviews, surveys, policy papers, and case studies. These were identified through desk-based research and recommendations from expert contributors and stakeholders.

impracticable for direct comparisons to be made. Therefore, a decision was made to focus less on funding systems and fee systems in this report. However, these themes are more comprehensively covered in the Review's Economic Analysis workstream.

Justice in the UK

In the UK, justice (including the provision of legal aid) is a devolved matter for Scotland and Northern Ireland, with each having their own independent justice systems.

OIT identified comparators in a collaborative process with leading experts. It was important to select a variety of different civil legal aid systems, encapsulating a broad selection of policy approaches. The report intended to primarily focus on comparisons with international systems, as opposed to those from within the UK. However, the process drew out Scotland as a useful domestic comparator from within the UK, for several reasons including: the difference in policy approaches that could be studied, population size (and associated legal aid system size) and experts who could be consulted. Northern Ireland was not selected as a domestic comparator, because their civil legal aid system bears many similarities to the system in place in England and Wales. Therefore, the scope to transfer novel learnings may have been limited.

Scope and definition

In England and Wales, civil legal aid means publicly funded legal services for addressing civil issues. In this report, this includes legal advice, assistance, mediation and/or representation. A more expansive definition has been taken for this research as comparator systems adopt wide-ranging approaches and expert contributors have stressed that civil legal issues should be viewed through a holistic lens.

There are differences in the scope and nature of civil issues and how civil legal aid is provided around the world. This workstream has considered a broad range of categories across, for example, housing, consumer rights, welfare, family disputes, divorce, domestic violence, immigration, asylum, debt and financial issues, and child protection.

Limitations and benefits of comparisons

It is important to approach policy learning from comparators with caution. Legal systems around the world have many differences, for example:⁷

Types of legal system

- Common law

⁷ Differences are explored further in the comparator overview section.

Common law systems are uncodified systems based on judicial precedent and case law. Under such systems, the role of a judge is to make rulings, set precedent and moderate between parties.

Adversarial: Common law countries typically use an adversarial system to determine facts in the adjudication process. In civil cases, the claimant and defendant investigate, present their evidence and argue their case before the judge, a neutral adjudicator, who upholds fairness and ensures that legal rules and procedures are followed.

- Civil law

Civil law systems are codified systems based on legislation. The role of a judge is to establish the facts of a case and apply the provisions of the applicable legislation.

Inquisitorial: The inquisitorial system is associated with civil law legal systems. The court plays an active role in interrogation of the evidence and witnesses to establish the facts of a case. Their decision is based on the result of their own investigation. The inquisitorial process can be described as an official inquiry to ascertain the truth, whereas the adversarial system uses a competitive process between claimant and defence to determine the facts. The inquisitorial process grants more power to the judge who oversees the process, whereas the judge in the adversarial system serves more as an arbiter between claims of the prosecution and defence.⁸

Types of political and administrative systems

- Unitary: a political arrangement where executive, legislative and judicial powers are at the discretion of the central state.⁹
- Federal: a political arrangement that includes the central government, states, and municipalities who each have different tasks and responsibilities.¹⁰

Model of delivery¹¹

- Contract services: contracting of providers which is funded by the state, alongside the use of wider civil society.

⁸ [Organized Crime Module 9 Key Issues: Adversarial versus Inquisitorial Legal Systems \(unodc.org\)](#)

⁹ Ram Manikkalingam, *A Unitary State, A Federal State or Two Separate States?*, Colombo: Social Scientists' Association, 2003, p. 5.

¹⁰ Ibid. p.6.

¹¹ UN Office for Drugs and Crime, *Global Study on Legal Aid*, 2016, p. 51

- Public lawyers: salaried lawyers employed by the state or an independent authority to deliver legal aid services.
- Judicare: the assignment of cases to private legal practitioners on either a systematic or ad hoc basis, funded by the state.
- Mixed: a 'mixed model' of delivery uses a combination of staff and private lawyers, and in some cases community and not-for-profit organisations, to provide legal services.

Scope and eligibility

- Systems have differences in the categories of law covered by civil legal aid and the criteria for assessing who can receive it.

Types of providers

- Private lawyers (solicitors employed by law firms, including for-profit and not-for-profit, who are funded by the state to provide legal aid, and barristers who are instructed by these solicitors).
- Public lawyers (solicitors and barristers directly salaried by government agencies or statutory bodies).
- Paralegals (typically involves preparation of legal documents, research and drafting, but not fully qualified as a lawyer).
- Law students (volunteers who provide free legal assistance in student-run law clinics).
- Wider civil society (for example, the Citizens Advice or community law clinics).
- Other professionals (for example, healthcare professionals in Health-Justice Partnerships).

Funding

- There are different levels of public funding between comparators and different types of mechanism for providing it, such as directly through central government departments or national or state funds.
- In some comparator systems, there are additional sources of funding that do not originate from government. One of the more widespread approaches is the use of Interest on Lawyer Trust Accounts (IOLTA). IOLTA schemes fund civil services

through the interest earned on lawyer trust accounts. Such schemes exist in Australia, Canada and the USA, where the revenue generated is used as a supplementary funding stream.

Fees

- Fee structures can include fixed fees, fees based on the type of case, block fees, hourly fees, or publicly funded salaries for civil legal aid lawyers.

Where costs and financial figures are presented throughout this report it is important to be mindful of their contextual basis. There are a variety of economic and fiscal differences between comparators, key among these are the major cost of living differences when compared to England and Wales. Wages, taxation, inflation and cost of goods all form a part of the wider financial context and should be considered when reviewing these international costs.

There are also wider historical, political, social, and economic contexts that have influenced the design and evolution of comparator's legal systems.

This workstream is comparing 'apples and oranges'¹² in many ways, but comparators can also have benefits in highlighting how others have approached similar challenges and opportunities, provide practical policy insights to England and Wales, and lessons learned. The aim is not to mirror how other comparators provide civil legal aid, but to draw valuable policy learning.

Whilst this report identifies learning, practical insights and policy ideas for further investigation during the next phase of RoCLA, there are limits to how much these have been tested for transferability to England and Wales. It will be for the next phase of RoCLA to utilise these lessons to form the basis of policy development on the civil legal aid system and wider access to justice.

Links to other policy work in MoJ

The remit of this report overlaps with ongoing work across the MoJ on the vision for the future of the Civil, Family, and Tribunal justice system. This vision aims to: ensure that the justice system supports people from the earliest point they begin to experience a legal problem; enable people to resolve their problems earlier and at less cost, for example through mediation or online dispute resolution; provide them with the right information and support to understand all their options; and empower them to resolve their problems in a

¹² Pascoe Pleasence, Nigel J Balmer, Rebecca L Sandefur, *Apples and Oranges: An International Comparison of the Public's Experience of Justiciable Problems and the Methodological Issues Affecting Comparative Study*, Journal of Empirical Legal Studies, 2016

way that meets their needs and is proportionate to the matter in dispute. RoCLA sits within the wider context of this work.

Many of this report's findings underscore the importance of this vision and contribute to the evidence base of ongoing work to achieve it. The below offers some (non-exhaustive) insights into the ongoing work across MoJ:

Legal Aid:

In addition to RoCLA, the MoJ has continued to implement changes to the civil legal aid system. This includes:

- Legislative amendments to the provision of family legal aid. This includes expanding legal aid's scope to cover applications for Special Guardianship Orders within private family law proceedings and broadening the evidence requirements for victims of domestic abuse (these changes were implemented in 2023). Legal aid is also being made available for domestic abuse victims who are seeking a Domestic Abuse Protection Order (these orders are due to be piloted in 2024).
- The Housing Loss Prevention Advice Service was launched in August 2023, entitling anyone at risk of losing their home to free early legal advice and representation in court.
- The MoJ has also recently undertaken a review of the legal aid means tests, consulting on a set of ambitious reforms. Reforms include a significant increase in income and capital thresholds alongside other improvements. The first phase of changes came into force in August and September 2023 and included removal of the means test for all types of civil representation, criminal advice and advocacy assistance for applicants aged under 18, and for representation for parents whose children are facing withdrawal of life-saving treatment. When fully implemented, the reforms will mean that over 2.5 million more people in England and Wales will be eligible for civil legal aid.

Legal Support:

- The Legal Support Action Plan, published in 2019, set out a range of actions to test and evaluate the effectiveness of early intervention to help people identify and resolve their legal problems before they cluster and escalate, including the provision of health justice partnerships and co-located hubs. Various evaluations of the legal support projects were published in November 2023 and this growing evidence base will inform the development of policy options for the advice sector and the wider Civil, Family and Tribunal justice system.

Legal Service Innovation:

- MoJ believes that industry-led innovation has an important role to play in increasing accessibility and affordability to meet legal needs among individuals and SMEs. Since 2019 the MoJ have supported the lawtech¹³ sector in the UK through funding the industry-led LawtechUK programme. LawtechUK's objectives include increasing innovation and the adoption of technology in the delivery of legal services and supporting the growth of the UK lawtech sector. The activities have included running mentoring and education programmes for lawtech businesses, and convening regulators, lawtechs and other sector participants to identify and tackle barriers to innovation.

Dispute Resolution:

- In July 2023, Ministers announced the MoJ would be introducing integrated mediation into the civil court process for small claims in County Courts. Parties to small claims, generally those valued under £10,000, will be required to attend a free one-hour telephone mediation appointment with HMCTS' Small Claims Mediation Service. This will be introduced in 2024 for money claims, which make up around 80% of all small claims, and around 180,000 individuals and businesses will be helped to resolve their disputes through mediation and avoid the time, cost and stress of litigation. Integrated mediation will be extended to damages claims allocated to the small claims track at a later date.

Awareness of this wider work, beyond legal aid alone, is beneficial as many of the learnings this report takes from comparators are broader than civil legal aid and often relate to the wider Civil, Family and Tribunals systems.

The next section sets out the high-level principles associated with effective civil legal aid provision, informed by the best practices in England and Wales and the six comparator systems.

¹³ Lawtech refers to technologies which aim to support, supplement, or replace traditional methods for the delivery of legal services or legal transactions. Lawtech encompasses everything from legal tools, software and systems that help legal and advice professionals work more effectively, to tech solutions that consumers can use directly to help resolve their legal needs.

3. Best practice principles for civil legal aid provision

The researchers have tested and refined¹⁴ a set of high-level principles informed by effective civil legal aid provision in England and Wales and the six comparator systems. These principles were reached through engagement with 45 experts and through testing in expert, stakeholder and practitioner workshops. It should be noted that not all these principles are practiced by every comparator, rather the list represents collated learnings from the workstream's engagement. The principles are listed below.

Build a system-wide approach with a broad provider base

- a. **Users seeking legal services often have multifaceted problems:** they are not necessarily a single *legal* issue but intersect with other areas. Individuals may struggle to recognise their issue is a legal one. The most common types of problems for which legal aid services are sought relate to consumer rights, government benefits, housing, employment issues, land and property disputes, family issues, conflicts with neighbours, and debt relief.¹⁵
- b. **Many partners have a stake in resolving these shared problems:** it is important to enable collaboration, inside and outside government, on identifying, developing, and implementing policy initiatives to address civil issues, such as the Legal Aid Interagency Roundtable in the USA (this initiative and others cited in this section are explored further in the report).
- c. **Increased access to justice and legal aid has benefits for the individual, the community, the justice sector, as well as the economy and society:** the benefits of legal aid and related services can outweigh their costs. Effective access to justice can reduce public spending in other areas (e.g. employment insurance, social assistance, and healthcare costs).¹⁶
- d. **There needs to be a wide ecosystem of publicly funded civil legal services:** users require various forms of support in resolving civil issues: a listening ear, signposting, referring, advising, and representing. Civil legal aid, alongside other

¹⁴ See Appendix B for methodology.

¹⁵ Pascoe Pleasence, Nigel J Balmer, Rebecca L Sandefur, *Paths to Justice: A Past, Present and Future Roadmap*, UCL Centre for Empirical Legal Studies, 2013

¹⁶ World Bank, *A Tool For Justice: The Cost Benefit Analysis of Legal Aid*, 2019; PwC Australia, *The benefits of providing access to justice*, National Legal Aid Australia, 2023

services, provides support along this spectrum. A diverse and collaborative provider base increases accessibility for users and harnesses different capabilities across professions.

Provide long-term core funding

- e. **To design, innovate, and scale effective civil legal aid solutions, there needs to be a presumption of long-term core funding for initiatives:** this ensures that providers have greater financial certainty to plan their services, while users can be assured that services will be available and accessible over the longer-term.

Invest in preventative justice and early intervention

- f. **Working across the system to prevent and resolve issues at the earliest stage:** the aim is to provide effective support to the user before issues become more harmful and to increase efficiencies by diverting cases away from the courts. There are a range of options that aim to deliver this, such as legal and non-legal partnerships, community outreach initiatives, and the use of technological solutions (e.g., self-help websites, early legal support and advice and mediation).

Target and prioritise civil legal aid

- g. **If issues escalate and require civil legal aid, resources should be focused on where they can be most effective for the user:** The Netherlands has developed tiered mechanisms for identifying, triaging, and prioritising cases to help ensure that civil legal aid resources are directed where they are needed most.

Enable networks of community-based support

- h. **Develop a system that is rooted in and harnesses the community:** enable practitioners to understand and address local issues and improve geographical spread. Some countries, particularly Australia and Canada, have established functioning networks of publicly funded community legal clinic services and locally based services.

Sustain a diverse and high-calibre workforce

- i. **Train, attract and retain a strong pipeline of practitioners and support providers by reducing burdens to effective service delivery:** provide opportunities for law students to gain experience of legal aid work, champion the work and its status in society, incentivise retention, and prioritise efforts to support existing staff by reducing bureaucracy and enabling spaces for innovation.

Balance effective oversight and provider autonomy

- j. **A clear role for national legal aid authorities is in producing data-driven insights and research:** ensure that data is rigorously collected, synthesised, and analysed on user and provider needs and experiences. Data on civil legal aid should be accessible, timely, and widely available.¹⁷ It is important to build feedback loops for continuous system improvement, as recently trialled by the Dutch Legal Aid Board¹⁸. Also, many comparators are developing platforms for the co-design of solutions between policymakers, users, and providers, such as the innovation hubs developed in the USA.
- k. **Robust quality assurance and oversight as well as a principle of mutual trust with providers:** this includes periodic peer review mechanisms and scrutiny of provider performance but also autonomy and delegation to trusted providers in civil legal aid activities.

Exploit technological and digital tools

- i. **Technology and digitalisation are tools to enable improved legal services for the users and providers:** in the short-term, technology helps to optimise legal processes, synthesise vast swathes of information, increase accessibility of information and services, and provide remote accessibility for some users. In the longer-term, advancements like the rise of Generative AI, machine intelligence and smart data solutions will have more transformative impacts for the entire sector, such as in the use of alternative dispute resolution and helping to enable prevention and early resolution.¹⁹

Understand the risks of digital exclusion and the importance of face-to-face support in certain contexts

- m. **Technological and digital exclusion remains a limiting factor to accessing civil legal aid for some users and providers:** in the UK in 2021, an estimated 1.7 million households had no broadband or mobile internet access²⁰ and 2.4 million adults are unable to complete a single basic task to get online, such as opening an internet browser.²¹ ²² Furthermore, in many cases, technological and digital legal

¹⁷ [The 8 Principles of Open Government Data \(OpenGovData.org\)](https://open.gov.uk/data-principles)

¹⁸ See case study pg.34

¹⁹ Richard Susskind, *Tomorrow's Lawyers*, Oxford University Press, 2023; see also, Alison Hook, *The Use and Regulation of Technology in the Legal Sector beyond England and Wales*, Legal Services Board, 2019

²⁰ Ofcom, *Connected Nations*, 2022

²¹ Ofcom, *Adults' Media Use and Attitudes report*, 2022

²² See also, House of Lords Communications and Digital Committee, *Digital Exclusion*, 2023

services are not the most appropriate or effective way to provide support to users where more empathetic and face-to-face forms of justice are required.

Consolidate global communities of practice

- n. **Close engagement with practitioners and experts around the world is key to sharing knowledge and testing solutions:** there are several common issues that different legal aid systems are grappling with. This includes public awareness and legal education, ensuring wide geographical access, the sustainability of the provider base, partnerships between lawyers and wider civil society, levels of public funding, attracting and retaining legal aid lawyers, quality assurance and oversight, and evaluation and monitoring mechanisms. Engaging with international counterparts can help draw lessons and insights for policy development. International roundtables such as those facilitated by the International Legal Aid Group (ILAG) and Organisation for Economic Co-operation and Development (OECD) can represent a useful format for such knowledge sharing.

4. Comparator overviews

This section contains an overview of the legal systems in England and Wales and the six comparators: The comparators are Australia, Canada, Finland, the Netherlands and the USA, and within the United Kingdom, Scotland.²³ It provides a summary on the main features, including:

- Type of legal system (i.e., adversarial or inquisitorial, common law or civil law)
- Funding for civil legal aid provision
- Types of services and providers
- Fee structures
- Eligibility criteria
- Quality assurance and oversight mechanisms

Further detail and references are provided in Appendix A.

The purpose of these overviews is to contextualise the findings and policy options included in this report. It is because different systems offer different conditions that can impact the success of a policy. For example (not exhaustive):

- Long-term certainty over the levels of core funding and how this is distributed can help provide confidence and improve sustainability for providers.
- The impact and prevalence of community legal clinics and advice centres may be supported by effective governance, funding models and strong networks of local leadership.
- Whether it is an adversarial or inquisitorial system, or applies common or civil law, can determine the level of court involvement and the role of different professionals in the legal system.

²³ The comparator overviews have been informed by several data sources, including government resources, expert literature (for example the Country Reports of the International Legal Aid Group (ILAG) in 2023) and interviews with academics and practitioners in those systems.

- The regulatory environment in the country can dictate the extent to which non-legal advocacy and support is practised.
- The approach to contracting and registering lawyers (i.e. a mixture of staff and private lawyers, the 'Judicare' model, or applying for contracts with legal aid bodies) can influence initiatives aimed at broadening the provider base.
- A sparsely populated or geographically vast country may prioritise efforts to increase accessibility and community outreach initiatives.
- A wide scope and eligibility criteria can increase access to justice but also increase demand and pressures on the legal system.
- The historical, cultural, economic, social, and political context of a country is a crucial context for understanding its legal system.

Understanding the systems in other comparators can help ensure that the right lessons are drawn when applied to England and Wales.

Box 1. Table of comparators

	England and Wales (UK)	Australia	Canada	Finland	Netherlands	Scotland (UK)	USA
Type of Government							
Unitary	✓			✓	✓	✓ (UK Government is unitary)	
Federal		✓	✓				✓
Legal System							
Common	✓	✓	✓ (except for Quebec – Civil law)			✓ (hybrid)	✓ (except for Louisiana – Civil law)
Civil				✓	✓		
Adversarial	✓	✓	✓	✓	✓	✓	✓
Inquisitorial							
Civil Legal Aid Funding							
Primary source of funding	Funded by the MoJ	A mix of federal and state government funding	A mix of federal, provincial government, and representative body funding	Funded by the MoJ	Funded by the Ministry of Justice and Security	The government provides funding to the Scottish Legal Aid Board	No national legal aid budget. Legal Services Corporation is the largest single funder, but there are a variety of other funding sources that contribute to overall legal aid provision
Eligibility Criteria							
Means testing	✓	✓	✓	✓	✓	✓	✓
Merit testing	✓	✓	✓	✓		✓	
Civil Legal Aid Provider Model							
Contract services							
Public lawyers							
Judicare	✓					✓	✓
'Mixed'		✓	✓	✓	✓		
Oversight							
Legal aid board (national)	✓	Legal Aid Commissions are state-based statutory bodies	Legal Aid Plans are independent statutory bodies in each state and territory	(overseen by MoJ)	✓	✓	

4.1 England and Wales

Summary

- England and Wales operate a common law system.
- The Legal Aid Agency (LAA) is a public-funded, executive agency of the Ministry of Justice (MoJ) which is responsible for commissioning and administering legal aid in line with the legal aid legislation.
- Civil legal aid services are delivered directly to users by solicitors and barristers. Solicitors are employed in law firms which are contracted by the LAA and barristers are instructed by these solicitors.
- Legal aid is provided under the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (LASPO 2012). Schedule 1 of LASPO 2012 sets out the civil legal services which are in scope of legal aid.
- Exceptional Case Funding (ECF) provides a route for people to apply for legal aid in ‘cases that do not fall within the scope of civil and family legal aid but where the failure to do so would be a breach of the individual’s enforceable rights to legal aid under the European Convention on Human Rights or a retained enforceable right under European Union law’.
- Civil Legal Aid is funded by the MoJ. In 2022-2023, the government spent around £2 billion on legal aid, of which £1 billion was spent on civil and family legal aid.
- To receive legal aid, applicants must generally meet eligibility criteria covering means and merits, although there are exceptions to these rules. Means and merit tests are used to determine an applicant’s eligibility.
- Work conducted by providers in the civil legal aid system is categorised either as Controlled work, where responsibility for determining financial eligibility is delegated to providers (see below), or Licensed work, where the LAA assesses eligibility and authorises representation by granting a certificate to the provider.
- Fees vary across categories of law and can depend on the nature of support a provider is giving. There are a range of standard and graduated fixed fees, but also hourly rates for controlled and licenced work.
- Advice is available via the Civil Legal Advice (CLA) Helpline. The CLA offers free advice on a range of civil legal issues to eligible individuals and can direct others towards alternative sources of assistance if they do not qualify for the service.
- There is a broader network of legal support and advice available. This is provided through government initiatives such as the Detained Duty Advice Scheme and Housing Loss Prevention Advice Service, but also through a network of not-for-profits, community organisations and charities, such as Citizens Advice.

4.2 Scotland

Summary

- Unlike England and Wales, Scotland is a hybrid system of common and civil law.
- The Scottish Legal Aid Board (SLAB) is a public-funded, non-departmental body of the Scottish government which administers and funds legal aid. There is a demand-led legal aid budget. SLAB has a statutory duty to ensure legal aid and advice are available in accordance with the Legal Aid (Scotland) Act 1986.
- Scotland has a 'Judicare' model whereby private solicitors that are registered to SLAB, or barristers appointed by SLAB, can take on cases. Judicare is designed on a case-by-case funding model for services provided by solicitors and others instructed by them, such as advocates and experts.
- Law centres, legal clinics, and wider civil society also provide legal support. Law centres offer cheap or free legal help to people who might find it difficult to get legal advice, while legal clinics allow students to volunteer, develop their skills and gain in-depth involvement in cases.
- The Scottish Government allocates a publicly funded budget to SLAB. Scotland has a separate Scottish Legal Aid Fund which is also funded by the government.
- There are separate fee structure forms for different types of legal work. In most cases this is billed hourly but there are also block fees.
- Scotland has a relatively expansive eligibility criteria and approximately 70% of the Scottish population qualify for legal aid.
- Legal services are generally overseen by the Law Society of Scotland, the professional body for Scottish solicitors.
- Scotland can offer insights into developing future legal aid lawyers and system evaluation. The case studies for Scotland explore student law clinics and mechanisms for quality assurance and peer review.

4.3 Australia

Summary

- The Australian system is federal. It applies common law across all states.²⁴

²⁴ National Legal Aid Australia, *Country Report: Australia*, International Legal Aid Group, 2023

- A mix of federal and state government funds are provided annually to state-based statutory bodies, Legal Aid Commissions (LACs), Aboriginal and Torres Strait Islander Legal Services (ATSILS), and Community Legal Centres (CLCs). The LACs and CLCs have operational autonomy over accessibility, eligibility, and policy decisions on which legal services to fund. The broad network of services offered by these bodies, including legal aid, are described as legal assistance services.
- Funding to legal services is delivered via the National Legal Assistance Partnership (NLAP).²⁵ The NLAP is a collaborative agreement between the government and all states and territories, committing funding and setting strategic priorities and core principles of service. Through this mechanism, the government funds services delivered by LACs, CLCs and ATSILS, with the individual states and territories having responsibility for the allocation of funds. The NLAP sets out a clear aim of providing access to justice to the vulnerable, establishing governance structures, frameworks for cooperation and performance monitoring whilst allowing individual states and territories to take a more tailored approach.
- Australia operates a mixed model of provision. The mixed model involves a variety of legal assistance service providers (legal aid and legal centres for example) catering to different communities and areas of law. This includes government-salaried staff delivering legal services and private practitioners.²⁶
- The main provider of civil legal services are LACs, receiving the majority of government funding. LACs are statutory independent bodies with a focus on providing legal assistance services to the most vulnerable and disadvantaged in society. There are a total of eight individual state and territory LACs which cover Australia. LACs allocate a majority of their funding to private practitioners (77% in 2021-22), providing only 23% of their grant funding to in-house practitioners.²⁷
- CLCs are independent, community-managed non-profit providers of civil legal advice to disadvantaged communities.²⁸ CLCs extend the services provided by LACs and the private profession and often include legal/non-legal partnerships in their provision to encourage early resolution and holistic support.
- Fee structures vary between states and territories in the federal system. Payment to private practitioners is generally by hourly rate for the work undertaken and/or fixed fees determined by the types or stages of work.

²⁵ [National Legal Assistance Partnership \(NLAP\) | Federal Financial Relations](#)

²⁶ Mary Anne Noone and Stephen Tomson, *Lawyers in Conflict: Australian Lawyers and Legal Aid*, Federation Press, 2006

²⁷ National Legal Aid Australia, *Country Report: Australia*, International Legal Aid Group, 2023, p. 5

²⁸ [What makes a community legal centre? – CLCs Australia](#)

- Eligibility criteria for users varies by state or territory.
- Oversight is undertaken by the regulator of the legal profession and each individual LAC through their statutory obligations in each of the states and territories in Australia. The NLAP sets the targets and monitoring and reporting requirements across the legal assistance sector in Australia.
- Australia was chosen as a comparator country because it offers insights on community-based provision, efforts to increase accessibility in rural and remote areas, building health-justice partnerships, and encouraging early resolution.

4.4 Canada

Summary

- Canada is a federal system. It applies common law in all provinces except Quebec.
- Canada is comprised of 13 administrative divisions (10 provinces and three territories). There are various forms of funding, including the federal government, provincial governments, and representative bodies. The provincial governments provide the largest proportion of funding.
- There are 13 recognised legal aid ‘plans’ in Canada²⁹. These are statutory bodies of their province or territory and are responsible for providing legal aid services and work independently of each other. Administration of legal aid services falls under the responsibility of the provincial governments.
- The three Canadian territories receive federal civil legal aid funding via the Access to Justice Services Agreements (AJA). The AJA are funding arrangements between the government and the three territories Yukon, the Northwest Territories, and Nunavut. Jurisdictions can also fund civil legal aid from the Canada Social Transfer (CST). This is a federal block transfer from the Department of Finance that is intended to support social programmes.
- Private and public lawyers provide the services in the ‘plans’. Legal aid plans also employ a variety of non-lawyers to support the delivery of legal aid services. Nationally, as of March 2022, 87% of the lawyers providing legal aid services were private bar and 13% were staff lawyers.³⁰
- Canada has operated Community Legal Aid Clinics since the 1970s which provide a broad range of services, such as referrals, legal education, and casework, providing

²⁹ List of legal aid plans: [Member Plans \(alap-araj.ca\)](https://www.alap-araj.ca/)

³⁰ [Legal Aid in Canada 2021-22 \(justice.gc.ca\)](https://www.justice.gc.ca/)

a more holistic service to disadvantaged communities and boosting opportunities for early resolution.

- Fee structures vary widely across Canada. The lowest hourly rates are generally paid to private lawyers with less than five years' experience, and the rates may increase with experience and for complex case matters.
- Eligibility criteria differs across the different divisions. Generally, eligibility is based on the applicant's income and assets, and some provinces also consider factors like family size and liabilities.
- The legal profession is overseen by self-regulatory law societies. On a national level, the Canadian Bar Association represents the legal profession (including lawyers, judges, notaries, law teachers and law students).
- Canada was chosen as a comparator country because of the lessons it provides on community-based provision, outreach initiatives, and the use of technology to enable Online Dispute Resolution.

4.5 Finland

Summary

- Finland is a unitary state which includes a national government and self-governing municipalities and applies civil law.
- The Finnish legal aid system is governed by the Legal Aid Act ('Oikeusapulaki') which sets out the eligibility, coverage, and organisation of legal aid.
- The Ministry of Justice funds and administers civil legal aid but has no direct role in deciding who receives civil legal aid.
- Finland has a mixed model, with the provision of civil legal aid services delivered by a combination of private and public lawyers in the 23 Public Legal Aid (PLA) offices. In 2022, 41,585 cases were dealt with by PLAs and 22,038 by private lawyers.³¹ The 23 PLA offices provide a range of holistic legal services from legal counselling to court duties.
- All public lawyers get a monthly salary paid by the state from the legal aid budget and private lawyers are paid an hourly remuneration per case. A private lawyer's fee is also paid from the legal aid budget by a decision of a state legal aid office or a court.

³¹ Ministry of Justice Finland, *Country Report: Finland*, International Legal Aid Group, 2023, p. 5

- It has been estimated that 52.3% of the population are within scope of legal aid. However, around 90% of Finnish citizens have legal expenses insurance (LEI) which is managed by private companies and is the primary means for covering legal costs. If their LEI covers the legal issue then they are not eligible for legal aid in most cases. LEI does, however, incorporate restrictions which mean it can only be used for certain legal issues (for example out-of-court proceedings are excluded, as are most family & inheritance and employment matters).
- Eligibility criteria includes means and merit tests for users. The means test calculates net monthly income after tax and expenditure. Unlike most countries, merits testing in Finland does not include any measure on the likelihood of success.
- Private lawyers in Finland are members of the Finnish Bar Association and, like public lawyers, their activities are supervised by the Bar and the Chancellor of Justice.
- Finland differs from England and Wales in several aspects (such as the application of civil law and the prevalence of legal expenses insurance), but it offers insights on the use of technology and digital to increase accessibility and the integration of wider public services with legal aid support.

4.6 The Netherlands

Summary

- The Netherlands is a unitary government system which includes a national government, 12 provinces and 355 municipalities and applies civil law. The right to legal aid is constitutionally guaranteed. The Dutch legal aid system is governed by the Legal Aid Act which has been in force since 1994.
- The Ministry of Justice and Security funds legal aid via the Legal Aid Fund and approximately half of Dutch households have legal aid insurance which contributes to their legal support.
- The Dutch 'Raad voor Rechtsbijstand' or Legal Aid Board (LAB) handles all matters concerning the administration, supervision, expenditure, and implementation of legal aid. The Legal Aid Act established the LAB as an independent governing body. However, the Ministry of Justice retains authority over some aspects of the system such as legal aid criteria, fees for providers and personal contribution levels.
- There is a three-tiered legal aid model. This includes:

- Online self-help support, called the ‘Rechtwijzer’ (Roadmap to Justice).
 - Clarification of legal matters with free information and advice from 30 offices and 24 service points, called the ‘Juridisch Loket’ (Legal Services Counters).³²
 - Private lawyers and mediators who provide legal aid and representation for cases that are more time-consuming and complicated in nature.
- There are means test eligibility criteria for users who require legal aid under the third tier. The LAB assesses applications for a certificate based on the client’s income, the client’s assets, and the (financial) significance of their legal problem. LAB will assess the applicant’s income two years prior to the year of the application (this is the reference year). Legal Aid costs are not totally covered by the LAB. Users typically pay a personal contribution based on annual income.
 - The LAB pays the lawyers’ fee which is generally a fixed fee according to the type of case (with fixed surcharges if applicable), although exceptions can be made for more time-consuming cases. The Ministry of Justice and Security determines the hourly rate every year following an annual price index. In 2023, the hourly rate was €120.20.
 - The Netherlands Bar Association (the NOvA) is the professional body for all legal professionals in the Netherlands. The NOvA’s main responsibility is to oversee the quality of the legal profession by setting rules and regulations.
 - The case studies for the Netherlands offer insights on the tiered model, the ‘High Trust’ method of oversight for providers, outreach initiatives, and mechanisms for continuous system improvement.

4.7 The USA

Summary

- In the USA, federal and state courts are mostly common law, but some states have civil law.
- There are c.700 providers of legal aid and the funding and administration of these varies widely between states. At the federal level, the Legal Services Corporation (LSC), a non-profit organisation, funds around 25% of these.

³² <https://www.juridischloket.nl>

- Other providers include pro bono delivery, voluntary organisations, and self-help centres. Moreover, law school clinics and legal incubators provide free legal services to clients of low and modest means, including cases analogous to civil legal aid.
- There are c.900 pro bono programmes, which exist in every state. They are either components of bar associations, units of legal aid staff programmes, or independent non-profit entities that refer cases to lawyers on the pro bono panels.
- There is no national legal aid budget. At the federal level, LSC funds part of the state-based civil legal aid system and at the state level, the 705 legal aid service providers are funded by a variety of sources.
- LSC-funded programmes may only use LSC funds to provide legal assistance to clients who meet specific financial eligibility guidelines. Around one in five Americans qualify for this support. Non-LSC funded programmes set their own criteria.
- Fee structures and funding sources vary widely depending on state.
- The American Bar Association (ABA) oversees and regulates legal practices in the USA and the Department for Justice provides legislative backing.
- Whilst the US legal aid system is significantly different to England and Wales, it provides a number of case studies to learn from. The case studies for the USA include legal innovation hubs, regulatory 'sandboxes', medical-legal partnerships, self-help centres, and cross-government collaboration on civil legal issues.

Box 2. Table of funding for civil legal aid (please see footnotes for details)

	England and Wales (UK)	Australia	Canada	Finland	Netherlands	Scotland (UK)	USA
Total funding for civil legal aid annually ³³	2022-23: £952M ³⁴	2022-23: AUD \$267M (£140M) ³⁵	2021-22: CAD \$445M (£262M) ³⁶	2021-22: EUR €95M (£82M) ³⁷	2022-23: EUR €174M (£150M) ³⁸	2022-23: GBP £47.5M ³⁹	2022-23: USD \$560M (£447M) ⁴⁰
Total Population (and Adult Population) ⁴¹	59,641,829 49,311,208	26,638,544 21,854,763	40,097,761 33,906,265	5,563,970 4,723,642	17,811,291 14,060,833	5,436,600 4,604,400	333,287,562 273,938,835

³³ These figures are provided by the country reports presented at the International Legal Aid Conference in June 2023. These figures are not directly comparable, however they provide an indication of spend for each comparator.

³⁴ [Legal aid statistics quarterly: July to September 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-july-to-september-2023)

³⁵ National Legal Aid, '*The Benefits of Providing Access to Justice*', p. 3. This funding only includes Commonwealth funding, which is generally used for Commonwealth law matters (family law, Commonwealth criminal law and welfare law).

³⁶ Department of Justice Canada, 'Legal Aid in Canada 2021-22', p. 4

³⁷ Ministry of Justice Finland, 'Country Report: Finland', p. 3. This funding includes both civil and criminal legal aid funding.

³⁸ Susanne Peters et al, 'Country Report: Netherlands', p. 11

³⁹ Scottish Legal Aid Board, 'Annual Report and Accounts', p. 23

⁴⁰ Legal Services Corporation, '2022 Annual Report', p. 11. This funding only includes federal funding for the Legal Services Corporation.

⁴¹ England and Wales [Estimates of the population for England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-population/population); Australia [National, state and territory population, June 2023 | Australian Bureau of Statistics \(abs.gov.au\)](https://abs.gov.au); Canada [Table 17-10-0005-01 Population estimates on July 1, by age and gender](https://www150.com/statistics/17-10-0005-01); Finland [Population and society | Statistics Finland](https://www.stat.fi); Netherlands [Population; households and population dynamics; from 1899 | CBS](https://www.cbs.nl/en-gb/themes/population); Scotland [Scotland's Census 2022 - Rounded population estimates | Scotland's Census \(scotlandscensus.gov.uk\)](https://scotlandscensus.gov.uk); USA [S0101: Age and Sex - Census Bureau Table](https://www.census.gov)

Percentage of population eligible for legal aid⁴²	18% - 23% ⁴³	5%	21% - 88% ⁴⁴	52%	36%	70%	20% ⁴⁵

⁴² Australia [National Legal Aid](#); Canada [Department of Justice](#); Finland [Ministry of Justice Finland](#); Netherlands [Legal Aid Board](#); Scotland [Scottish Government](#); USA [Department of Justice](#)

⁴³ *This percentage range does not correspond with the total population figure above. The percentage range represents those who are in scope of legal aid and eligible from the total adult population. The range is calculated from the Means Test Review [Impact assessment: Civil \(publishing.service.gov.uk\)](#) which uses population data from the DWP Family Resources Survey 2019-2020 [Family Resources Survey: financial year 2019 to 2020 - GOV.UK \(www.gov.uk\)](#). The range covers those currently eligible for non-contributory civil legal aid in England and Wales.

⁴⁴ There is wide variation between jurisdictions in Canada and it is challenging to provide an aggregate figure.

⁴⁵ This relates to eligibility for Legal Services Corporation programmes on civil legal aid, which amounts to around 25% of the overall provision.

5. Challenges for civil legal aid in England and Wales

The challenges facing the civil legal aid system in England and Wales have been the lens for looking outwards to the comparator systems, who are grappling with many of the same issues.⁴⁶ Some of the findings from this research will therefore be useful in supporting the policy development that comes out of the Review of Civil Legal Aid.

A key overarching principle in England and Wales is **ensuring the sustainability of the provider base**, so that access to justice for users can be maintained over time. Recently published research as part of RoCLA, a [Provider Survey Report](#), points to six key issues which may push providers to leave the civil legal aid market, hindering this sustainability: fees being too low; providers spending a large amount of time which they are unable to bill the LAA for; the rigidity of fee systems, high administration requirements imposed by LAA fee systems; difficulty attracting junior lawyers into the civil legal aid profession; and the unbillable time needed to manage and support often vulnerable service users.

Enabling prevention and early intervention can be a challenge. There are many different initiatives aimed at supporting this in England and Wales, such as legal and non-legal partnerships, improving the accessibility of information, and community outreach initiatives. Many expert contributors and stakeholders stressed the importance of holistic, society-wide services that bring together different partners to help prevent and resolve shared civil problems. However, there are challenges in ensuring effective join-up, coordination, signposting, and referrals. There are also questions over the appropriate use of digitisation and technology to enable this, without excluding vulnerable individuals and groups with limited or no access.

Thirdly, it is useful to consider **innovation in service delivery**. There are some examples of this in England and Wales, some with clear evidence of demonstrable outcomes in improving the civil legal aid system. This includes better prioritisation and triaging of cases, co-design of solutions with providers and users, alternative dispute resolution (e.g. mediation) and other technologically based solutions. However, many expert contributors

⁴⁶ This workstream engaged with experts and practitioners in England and Wales on the challenges. See also, The Bar Council, *Running on Empty: Civil Legal Aid*, January 2021; House of Commons Justice Committee, *The Future of Legal Aid*, July 2021; The Law Society, *Civil legal aid: A review of its sustainability and the challenges to its viability*, September 2021; The Westminster Commission on Legal Aid, *Inquiry into the Sustainability and Recovery of the Legal Aid Sector*, October 2021; Catrina Denvir et al, *We Are Legal Aid: Findings from the 2021 Legal Aid Census*, March 2022; The Bar Council, *Access Denied: The state of the justice system in England and Wales in 2022*, November 2022; Jo Wilding, *The Legal Aid Market: Challenges for Publicly Funded Immigration and Asylum Legal Representation*, Bristol University Press, March 2023; The Law Society, *Proposals for a 21st Century Justice system*, October 2023

and stakeholders emphasised barriers that hinder civil legal aid providers from being able to innovate, in particular, the limited capacity of providers (many of whom are experiencing high levels of demand for their services), the comprehensive administration requirements that are imposed on them by LAA processes, and the impact that low fee levels may have on provider behaviours.

Additionally, while researching, stakeholders and practitioners stressed the importance of considering several different factors when developing policy for England and Wales. These include how policy ideas should be tailored to different categories of law, geographic coverage of provision, the capacity of providers to implement any changes in the system, low levels of institutional trust among some potential users, and the need for sustained core funding of initiatives over the long-term.

The case studies in the subsequent section look at policy approaches to addressing these challenges.

6. Case studies overview

These case studies provide a selection of policy initiatives from the comparator systems, aimed at improving the sustainability, effectiveness, and efficiency of civil legal aid.

Each case study provides background on the initiative and its objectives, how it works, a summary of the lessons learned, and demonstrable outcomes where known.

The full list of case studies is:

Sustainability of the provider base

1. The Netherlands: 'High Trust' method of oversight for providers
2. The Netherlands: 360-degree feedback loops for continuous improvement
3. Scotland: Periodic peer review to improve service quality
4. The USA: Building coalitions with stakeholders in the civil justice community
5. The USA: Regulatory 'sandboxes' for experimentation
6. Scotland: Opportunities for law students in legal clinics
7. USA: Self-help centres for litigants-in-person

Early intervention

8. Finland: Different channels to provide free advice to all citizens
9. Canada: Mobile drop-in legal centres in rural and remote areas
10. Australia: Early advice for parents and primary carers in child protection cases
11. Australia: Health-Justice Partnerships
12. Finland: Integrating counselling services into legal aid offices

Innovation in service delivery

13. The Netherlands: Tiered model for prioritisation, referral, and triage of cases

14. The USA: Cross-government efforts on access to justice
15. The USA: Legal innovation labs and communities of practice
16. Australia: Publicly salaried legal provision
17. Canada: Online Dispute Resolution mechanisms
18. Canada: Understanding the risks of digital exclusion

7. Case studies

7.1 Sustainability of the provider base

The case studies in this section are focused on themes relating to:

- Oversight and quality assurance of providers
- Range of providers and geographical spread
- Attracting and retaining staff
- Support for self-representation

Oversight and quality assurance of providers

The Netherlands: a ‘High Trust’ method for legal aid applications between the Legal Aid Board (LAB) and legal providers, based on mutual trust and reduced bureaucracy

Background

Concerns were raised by Dutch lawyers and mediators about the time-consuming, burdensome, and bureaucratic processes when applying for a certificate to deal with a legal aid case. In response, the LAB introduced a High Trust method for accepting applications for certificates for legal aid.⁴⁷ There are different types of certificates issued based on the legal support provided.

The first pilot was trialled in 2009 by the LAB and since 2011 the High Trust method has been implemented across the Netherlands in phases. It is based on the principles of greater mutual trust and compliance between oversight bodies and providers.

How it works

To provide services for legal aid cases, lawyers and mediators must be registered with the LAB.⁴⁸ Lawyers or mediators can then submit an online application on behalf of their proposed client to the LAB and once the LAB has assessed the application, legal aid is granted. A certificate is then issued which allows the lawyer or mediator to deal with the case.

⁴⁷ The Raad voor Rechtsbijstand, ‘Legal Aid in the Netherlands’, p. 16

⁴⁸ The Raad voor Rechtsbijstand, ‘Legal Aid in the Netherlands’, p. 23

For trusted providers, the High Trust method has streamlined the requirements to demonstrate that an application for a certificate has met the ‘merit’ requirement and it takes less time to receive verification from the LAB. Lawyers operating under the High Trust method are required to demonstrate greater compliance by operating in accordance with administrative procedures and rules. In return, the LAB makes it easier for these lawyers to apply for certificates by eliminating the requirement to send documents along with their application (e.g. financial statements) and expedites the process for verification. Applications for providers operating under the High Trust method are accepted automatically. This is positive for legal aid clients as they swiftly receive certainty regarding legal aid provision. Furthermore, information and instruction meetings are offered free of charge for lawyers and mediators working under the High Trust method.

When it comes to making claims for payment, firms operate under one of two High Trust variants depending on the number of legal aid applications they make in a year. Those who make up to 50 applications a year operate on the ‘Case by case’ variant. When requesting payment, these firms must provide supporting documentation for each case, which is then checked by the LAB. Firms that submit more than 50 applications in a year operate under the ‘Sample’ variant. Here both the application and request for payment are automatically approved. Firms keep detailed files on cases and the LAB audits a random sample of these. In early 2024, 2,575 firms participated in the High Trust method, with 44% operating under ‘Case by case’ variant and 56% under the ‘Sample’ variant.

Box 3. How samples work

Amount of applications per year	Audit frequency	High Trust Variant
≤50	Case by case	Case by case
51-100	Once a year	Sample
101-399	Twice a year	
≥400	Four times a year	

**The audit sample size consists of 10-15% of a provider’s cases, and a minimum of 20 case files and 2 files per lawyer.*

There are consequences for non-compliance with the regulations. If, during the audit process, a provider is found to have made a wrongful application, then the LAB withdraws payment for the case. The LAB may also increase the frequency and scale of auditing for a period or place a provider on ‘Case by case’ auditing for a time. However, the LAB aim to work collaboratively with providers to improve compliance and understand errors which have been made. This may include training and help with difficulties providers have experienced.

Outcomes and insights

At the end of 2020, more than three-quarters of the certificates issued for legal aid were part of this method.⁴⁹

This research does not include a comprehensive review of the High Trust method. However, data from the LAB suggests that it has increased efficiencies in the system. For example, the average turnaround time for legal aid applications is seven weeks, but for trusted providers it is seven to ten working days, assuming all the information has been included.⁵⁰ It is also important to consider the error rate associated with applications under the High Trust method when reviewing the system and considering the transferability of the policy. Data from the LAB suggests that error rates from samples have remained fairly consistent over the past nine years.

Box 4 shows that of 1,731 samples undertaken 2021, 89% had an error rate of less than 5%, 8% of participating providers had an error rate between 5 and 10%, and 4% had an error rate over 10%. When monitoring errors, the DLAB includes (not an exhaustive list): no legal aid granted; incorrect code; incorrect payment; requesting a separate certificate when work should have been done on an existing certificate; incorrect fee application (too high, incorrect travel time, incorrect distance); and undeclared connections to other payments.

Box 4. Annual error rate results from samples

Year	Total number of samples provided	Error Rate		
		<5%	5-10%	>10%
2013	1262	88%	9%	3%
2014	1861	86%	10%	4%
2015	2198	87%	9%	3%
2016	2237	87%	9%	4%
2017	2282	88%	8%	4%
2018	2266	88%	8%	4%
2019	2556	88%	8%	4%

⁴⁹ The Raad voor Rechtsbijstand, 'Legal Aid in the Netherlands', p. 16

⁵⁰ [High Trust Sample Terms and Conditions - rvr.org](https://www.rvr.org)

2020 ⁵¹	2202	88%	8%	4%
2021 ⁵²	1731	89%	7%	4%
Average	2066	88%	8%	4%

The LAB found that implementing the High Trust method in phases was a sensible approach. They started with a smaller scale pilot in 2009 using reputable firms that had an appetite for experimentation. Over the preceding years the method was refined and scaled up, allowing policy makers to iterate the method and incorporate lessons they learned along the way.

When assessing the transferability of this approach to England and Wales, it's worth noting that in the current civil legal aid system, there are different levels of administration in place for clients and providers depending on the type of legal aid required.

In particular, providers in England and Wales have the power to determine some applications for legal aid themselves. In these cases, they would decide the means and merits of an application instead of the LAA. This applies to all Controlled Work cases, which covers initial advice and assistance and representation (in mental health and immigration tribunals). It also applies to some Licensed Work applications, which covers representation in a court, such as certain applications for emergency representation.

For Controlled Work, providers are able to claim costs for a case without generally needing to have individual bills assessed on every occasion. Instead, the LAA takes a risk-based approach to ensuring compliance with the Controlled Work scheme through sampled-based auditing and assessment of certain cases, such as those higher-cost claims where the case has “escaped” the relevant fixed or graduated fee and is paid via hourly rates. However, Controlled Work gross irregularity (incorrect claims) does run at a higher rate than claims made under different parts of legal aid.

Despite the existence of some ‘trust mechanisms’ in England and Wales’ civil legal aid system, several practitioners engaged with internationally and in England and Wales highlight the importance of maintaining an oversight environment that is underpinned by trust and transparency between providers and the relevant bodies, to increase efficiencies and reduce burdens on providers. Given its perceived importance from practitioners, and given that stakeholders in England and Wales frequently report experiencing an excessive administration burden, there may be scope for the civil legal aid system in England and Wales to take further lessons from the Netherlands’ High Trust method.

⁵¹ The number of random samples carried out in 2020 is lower than 2019 due to the impact of COVID19 regulations. The DLAB adjusted its operational processes to shift samples online and allow for as many online samples as possible.

⁵² The number of random samples carried out in 2021 is lower than 2020 due to the impact of COVID19 regulations.

As the legal aid system is funded by public money there are regulations set by the National Audit Office (NAO) and Treasury which exist to ensure oversight of public spending. These regulations mean a certain level of evidential and administrative detail is required from providers when undertaking legal aid work.

The LAA offers guidance and support to providers via a training website called Legal Aid Learning that is directed at helping providers through the application and billing process across the digital systems they use. The site offers course modules for each step of the application / billing process, trainer led online modules and pre-recorded webinars.

Oversight and quality assurance of providers

The Netherlands: a 360-degree feedback loop to embed continuous improvement in the Dutch legal aid system

Background

The Knowledge Centre at the Dutch Legal Aid Board (LAB) has developed a pilot feedback loop for the legal aid system, with a focus on the LAB's services to users and the services of lawyers.⁵³ This is to address perennial issues with data collection and analysis:

How well does the legal system perform for citizens, professionals and society? ... Little is known about how citizens, professionals in the system, and lawyers experience legal aid services, how they experience the support during the process (often in the midst of a crisis in the lives of citizens), and how the outcome supports citizens to continue in their lives.⁵⁴

The key areas for feedback are user and provider experiences, the outcomes the system generates and their impacts, the time spent by lawyers on a case, and the compensation that they receive.

The objective of the feedback loop is to support learning, via monitoring and evaluating, and to avoid a potential bottleneck situation. By better assessing the functioning of the civil legal aid system, it aims to support more informed policy development.

How it works

The feedback loop has been designed for the 'Regeling Adviestoevoeging Zelfredzaamheid', (Ratz) which is an arrangement that allows users to receive legal advice. It is collected on an ongoing basis across the full range of services delivered.

⁵³ Jin Ho Verdonschot et al, *Steps towards an evidence-based legal aid system*, International Legal Aid Group, 2023

⁵⁴ *Ibid.*, p. 1

Feedback is collected from users, lawyers and professionals in the legal aid system, which is then combined with data about legal issue types, lead times, and geography.

The combination of feedback and data then acts as the basis of the 360-degree feedback loop. This is combined with data from the LAB, assembled into a report and then shared with an advice committee that advises the LAB, the Dutch Bar Association, and the Legal Services Counter.

There are various methods for acquiring and analysing this data. For data on users' and lawyers' experiences, it is a mixture of telephone and online surveys. To better understand the different types of problems people are approaching with, the qualitative data in diagnostic forms that are used in legal consultations are analysed and then categorised according to the subsidy code of the case (an indication of the type of legal issue).⁵⁵

This is a good example in meeting the principles underpinning the International Open Data Charter (ODC) that states that data sets are at their most valuable and equitable for informing policy development when they are compared, combined, and linked to different data sets.⁵⁶

Outcomes and insights

In this mechanism, the LAB has taken an active role in developing research and data-led insights on the legal aid system. It helps to develop 'a richer and quantitative picture of people, their problems, and their paths to justice.'⁵⁷ For example, data on who is requesting legal aid, what their problems are, what support is provided, what the experience is of lawyers providing the support, and what impact did the support have.

In Australia they also recognise the importance of capturing rich data from the legal aid system. The National Legal Aid Partnership agreement formalises the role data and system monitoring play. Feedback from users, lawyers and professionals in the legal aid system is used at a higher level to determine strategy, allocation of funds and priority areas.

This type of role for the Legal Aid Agency was considered desirable by many English and Welsh practitioners who were engaged with as part of this workstream.

Understanding legal needs helps identify gaps and bottlenecks that exist among users trying to access justice and can inform the development of solutions. It can help target specific demographics, or geographical areas, or types of legal issue in a more data-led way.

⁵⁵ Ibid., pp. 7-9

⁵⁶ [Principles – International Open Data Charter](#)

⁵⁷ Jin Ho Verdonschot et al, 'Evidence-based legal aid system', p. 7

Oversight and quality assurance of providers

Scotland: periodic peer review of legal aid providers to improve service quality

Background

Since 2003, The Law Society of Scotland has been responsible for an objective quality assurance system of the performance and outcomes achieved by legal aid-funded solicitors based on peer reviews of their files.⁵⁸ The design and development of this system mirrors the system of peer review used in England and Wales.

How it works

All civil legal aid firms must join a central register maintained by the Scottish Legal Aid Board. The firms are subject to peer review in six-yearly cycles by peer reviewers who are solicitors in practice. They are trained as reviewers on behalf of the Law Society of Scotland.

They examine a sample of the firm's files and assess the quality of the work done by the firm according to published criteria.

The peer reviewers report to the Quality Assurance Committee of the Law Society of Scotland. The committee works to maintain and improve the quality of service and legal work provided by solicitors using legal aid and has powers to remove firms from the register if necessary.

Outcomes and insights

In the cycle of reviews completed in November 2017, 91% of firms passed, with 9% of firms being required to improve procedures prior to further review before passing.⁵⁹

Scotland is one of a dozen or so jurisdictions globally, including England and Wales, that has a robust quality assurance system of the performance and outcomes achieved by legal aid-funded solicitors based on peer review of their files.⁶⁰ This system has informed the design of quality assurance mechanisms in other systems, including Ontario and Finland.⁶¹

⁵⁸ [Civil Quality Assurance - Law Society of Scotland](#)

⁵⁹ Ibid.

⁶⁰ Alan Paterson, Avrom Sherr, *Peer Review and Cultural Change: Quality Assurance, Legal Aid and the Legal Profession*, International Legal Aid Group, 2017

⁶¹ Evans, 'Rethinking Legal Aid', p. 33

This type of peer-review mechanism was considered important by expert contributors and stakeholders that were engaged in this workstream. Many people made the point that the legal sector and justice system benefits from periodic peer review and could learn lessons from the well-established practices developed in other sectors too, such as medicine and pharmaceuticals.

Range of providers and geographical spread

The USA: building coalitions with different stakeholders in the civil justice community

Background

The USA has a highly fragmented provider base for legal services. The Justice for All Initiative, housed in the National Center for State Courts and in partnership with the Self-Represented Litigation Network, offers a framework for engaging with a wide range of stakeholders to systematically expand access to justice. It currently operates across 14 states in the USA. The concept is that:

Anyone—with or without a lawyer’s help—can access often-needed components of the system at their local library, school, domestic violence shelter or other social service agency, or even from their own smartphone or computer. And once across the initial threshold, users will encounter a continuum of services from self-help materials to alternative dispute resolution to limited scope or full legal representation.⁶²

How it works

Bids are made for public grants to fund different initiatives aimed at increasing access to civil justice in the USA.

There have been several examples across the 14 states, including:

- Georgia: established strong partnerships in public and law libraries to serve traditionally underserved communities in rural and suburban communities. They launched the Southwest Georgia Legal Self-Help Center.⁶³
- Minnesota: the initiative identified inefficiencies in the way that the state courts, bar association, and civil legal aid services each maintained their own legal information

⁶² [Justice for All Initiative - National Center for State Courts](#)

⁶³ [A Roadmap to 100% Civil Access to Justice - National Center for State Courts](#)

web pages and referral lists. Each site linked to each other, but they did not share user data nor automatically update each other with any new resources. In response, they built an online portal where a user simply answers some directed questions about their legal issue, receives self-help results (e.g., factsheets, articles, links-to and info on the appropriate free or low-cost services available), and can apply for a lawyer (if the user qualifies and one is available) online.⁶⁴

- New Mexico: it was noted how court closures and the fast move to online court and legal services ran the risk of shutting out people from the court process because of digital exclusion. Working with legal services providers and courts, the Justice for All Initiative supported telephone legal clinics to increase the number of users who received legal information. They also launched a project to identify and publicise Wi-Fi hotspots to enable court users without internet access or adequate data to benefit from the court and community resources that are easier to find and use online.⁶⁵

Outcomes and insights

There is widespread support among legal and non-legal practitioners for building strong and enduring partnerships in delivering civil legal services.⁶⁶ The challenge is enabling join-up, coordination, and efficiency across a range of providers and systems. Internal evaluation by the Justice for All Initiative identified findings across the different projects⁶⁷ aimed at addressing these challenges and maximising the benefits, including:

- Convening a diverse set of participants can create opportunities for change and enable early detection, diagnosis, and intervention to empower people to solve their problems before they find themselves in the legal system.
- Providing comprehensive legal needs assessments to clearly identify barriers to justice and help inform the design of solutions.
- Technology has a multiplier effect on human efforts, but it is important to address the issues of digital exclusion.
- Strong governance is key to coordinating and unifying different stakeholders.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ This is demonstrated by the volume of expert literature on this topic across the comparator systems and several contributors to this workstream highlighted this.

⁶⁷ [Justice for All State Planning Documents - National Center for State Courts](#)

- Effective mechanisms are needed for ensuring straightforward information and knowledge-sharing between providers.

The Justice for All Initiative offers some insights into different initiatives to address access to justice issues and ways to ‘create a continuum of linked, meaningful, and appropriate services’.⁶⁸

Range of providers and geographical spread

The USA: regulatory ‘sandboxes’ to provide spaces for innovation and experimentation on legal services

Background

Some states in the USA are introducing regulatory ‘sandboxes’, first pioneered in Utah in recent years. Sandboxes are regulatory spaces that allow for innovation and experimentation with providers, products, and services that otherwise would not be authorized under existing rules of professional conduct. The new models that operate in the sandbox do so within the confines of a risk-based and data-driven environment.

How it works

Many examples in the USA have focused on experimentation around who can provide legal services and the organisational structures in which providers can deliver those services.

The Alaska Bar Rule 43.5 provides a waiver to engage in the limited practice of law for professionals who are not attorneys (‘Community Justice Workers’) but who are trained and supervised by the Alaska Legal Services Corporation. This partnership is the first of its kind in the USA.^{69 70} This model has been expanded into other states in the USA.⁷¹

Similar proposals have been considered in North Carolina and in Delaware where they permit tenants to be represented by providers who are not lawyers, under the close supervision of legal aid agencies. These are experiments with innovative providers with the aim of widening coverage for users.⁷²

⁶⁸ [5-year-report.pdf \(ncsc.org\)](#)

⁶⁹ [Alaska Legal Services Corporation - Alaska Bar 43.5](#)

⁷⁰ [Alaska Legal Services Corporation - Community Justice Worker Program](#)

⁷¹ [Frontline Justice](#)

⁷² [Innovation Labs Provide Space for Access to Justice Solutions | IAALS \(du.edu\)](#)

Outcomes and insights

In the USA there has been some evaluation of this approach, the success factors, and benefits. Stanford Law School published a comprehensive study of the legal innovations emerging in Utah and Arizona after those states implemented significant reforms to the regulation of legal practice.⁷³ The study made several findings, including:

- Lawyers remain central to the development and delivery of innovations, even those that aim to widen the non-lawyer provider base.
- Most providers are using technology and other innovations to deliver services.
- User satisfaction is good, and these reforms have not resulted in a substantial rise in user complaints.

As discussed in Chapter 5, civil legal aid providers in England and Wales may experience several factors which hinder their ability to innovate in their service provision. Given this, there could be merit in the trial of a similar regulatory sandbox approach.

Attracting and retaining staff

Scotland: law clinics providing opportunities for potential future legal aid lawyers

Background

Student law clinics can form a key part of the broad ecosystem of advice for users. These clinics offer relatively cheap or free legal help to people. In Scotland, most law clinics Scotland obtain funding in the form of grants from local and central government and other sources.⁷⁴

The purposes of law clinics can be several-fold and involve choices on how they run and what they do. For example:

- Whether clinics emphasise social justice or social learning.
- Whether participation is mandatory or voluntary.
- Whether the clinics are run by staff or students.

In terms of activities, clinics can:

⁷³ David Freeman Engstrom et al, *Legal Innovation After Reform: Evidence from Regulatory Change*, Stanford Law School, 2022

⁷⁴ Alan Paterson, 'Lawyers and the Public Good'

- Be generalist or specialist.
- Exclusively offer legal or wider support services.
- Employ legal professionals as well as students.
- Be in communities or university campuses.
- Remedy existing problems or provide public legal education.⁷⁵

How it works

One example of a student law clinic model is at The University of Strathclyde, which runs in parallel with the Scottish Legal Aid Board and offers a partnership with the legal profession and ‘a mechanism to encourage students into the legal aid profession’.⁷⁶ The focus is on housing, employment, immigration, and consumer cases. They provide legal advice and assistance, public legal education, and partner with other relevant agencies.⁷⁷

The operation of the law clinic is by the student directors and an Executive Committee of student volunteers, which is overseen by a Supervisory Committee made up of members of the University, legal profession, and the Glasgow community to provide guidance.

Outcomes and insights

Depending on the model chosen, student law clinics can serve different purposes, for example, allowing students to volunteer, develop their skills, and get in-depth involvement in the cases which may inspire them.

Other workstreams within RoCLA, particularly the Economic Analysis, identify challenges in attracting junior lawyers into the civil legal aid profession. This may be due to a number of factors, such as the lack of structures and avenues to support student lawyers into the professions (for example, internships and sponsored training contracts), the lack of information on careers in civil legal aid, a culture observed in higher education of encouraging students towards commercial law, and perceived low returns (compared to commercial law). While student law clinics do exist across England and Wales, there may be merit in considering ways to further incentivise their usage, and ensure their effectiveness and availability in order to improve the pipeline of future legal aid lawyers.

However, it is important to note the practical barriers that may hinder the scaling up of student law clinics. Students may lack all the skills and experience for many civil legal aid cases, particularly complex cases involving vulnerable individuals and groups. Additionally, there may be issues ensuring enough supervisors to oversee the work.

⁷⁵ Donald Nicolson, “Our roots began in (South) Africa”: Modelling law clinics to maximise social justice ends, *International Journal of Clinical Legal Education*, 2016.

⁷⁶ <https://www.lawclinic.org.uk/about>

⁷⁷ Ibid.

Support for self-representation

The USA: self-help centres provide legal information and advice to litigants-in-person

Background

Every court in California has a self-help centre that assists people who lack legal representation to navigate the system of the courts for free.⁷⁸ Each centre, of which there are 135 across California, must have a lawyer who works for the court and other legal professionals who can provide information and assistance to self-represented citizens and manage cases.

A key objective of the self-help centres is to ensure equal access to courts for citizens. The centres aim to identify what the citizen needs and who can best support them, serving as a triage function.⁷⁹

How it works

The centres offer bilingual staff to assist those who have limited English proficiency and have recently expanded their support to cover other types of legal cases such as landlord-tenant disputes, consumer debt and guardianship.

During the Covid-19 pandemic, the centres improved their technology infrastructure which allowed them to continue providing services remotely to citizens who needed legal assistance. This, coupled with the walk-in nature of the centres, aims to maximise accessibility.

The centres also work closely with social services, the bar and justice partners to provide the most effective services to citizens. The centres tailor and develop the services which they offer based on the needs of the community which they are serving. The centres can tell citizens about their cases, help them with forms and documentation and explain legal options. However, staff at the centres cannot give legal advice or go to court for citizens.

Outcomes and insights

⁷⁸ The Judicial Council of California, *Impact of Self-Help Center Expansion in California Courts*, 2021

⁷⁹ [Court-based self-help services - Judicial Council of California](#)

Across the USA, three-quarters of state civil courts are ‘lawyerless’ i.e., with litigants representing themselves in cases.⁸⁰ This has brought many challenges for the legal profession and users. As set out in a recent study:

There is a massive disconnect between what courts were designed to do—solve legal disputes through lawyer-driven, adversarial litigation—and what these courts are asked to do today—help people without lawyers navigate complex social, economic and interpersonal challenges, most of which are deeply tied to structural inequality. As one judge we observed told a courtroom full of litigants, “This courtroom is like the emergency room.”⁸¹

Self-help centres are one way of mitigating some of these challenges by equipping self-represented citizens with better knowledge, understanding of their legal rights, and legal support. Whilst this initiative aims to provide support to self-representing citizens, it has some limitations. Chief among these is the presumption that citizens will approach the self-help centres and can identify in the first instance that they have a legal problem. Advice may also not always provide the level of support as people may present with multiple, cascading and intersecting legal problems.

In England and Wales, the number of self-representing citizens has increased in recent years. Therefore, there may be a case for the transferability of this USA-based initiative. Some work has begun in the MoJ to address the growing trend of self-representation, having run the Litigants in Person Grant programme, for example.⁸²

7.2 Early intervention

Early intervention refers to delivering legal services for users at the earliest possible stage, with the aims of resolving disputes before they escalate and cause more harm, increasing efficiencies, and reducing pressure on other parts of the legal system. This includes:

- Easy and straightforward access to legal aid provision
- Outreach
- Non-legal advocacy and support
- Legal and non-legal partnerships

Easy and straightforward access to legal aid provision

⁸⁰ Anna Enisa Carpenter et al, *Judges in Lawyerless Courts*, GEO L J 509, 2022

⁸¹ Ibid.

⁸² [Legal Support for Litigants in Person Grant \(LSLIP\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Finland: different channels to provide free advice to all citizens

Background

Finnish citizens shall have easy access to legal counselling services through various channels. These channels include different forms of online counselling, electronic services, remote services, telephone services, and personal consultations⁸³.

How it works

A well-established example of this is the telephone counselling service rolled out by the state Public Legal Aid (PLA) offices.⁸⁴ The service was piloted in 2005 and then rolled out nationwide in 2009 in three languages, Finnish, Swedish and English.⁸⁵

Telephone advice is a free service for all Finnish citizens. However, before the advice is provided, a disqualification review is conducted. The legal aid office assesses whether the advice can be given or if the client should be directed to make an appointment with the legal aid office.⁸⁶ The aim is to tackle simple legal problems at an early stage and to reduce the possibility of escalation. This also increases accessibility for remote Finnish communities, such as in eastern Finland, where citizens may find it difficult to access a state PLA office.⁸⁷

Another example is Romeo. This is a case management system for legal aid cases and is the national information system used by legal aid offices and courts. Romeo also includes e-services, called Rosa, where clients and attorneys can make a preliminary calculation of whether a person is entitled to legal aid and apply for legal aid. Attorneys and defence counsels can also submit claims for fees and expenses paid from state funds and interpreters and translators can draw up an itemised invoices and submit it to the court or legal aid office. The aim of the reform was to develop e-services into a more customer-oriented service that is easier to use.⁸⁸

Outcomes and insights

Given the universally available nature of the service, telephone counselling has allowed PLA offices to move towards acting as a legal triage service, offering the first steps in a legal diagnosis. After the initial contact on the telephone, the PLA office provides a preliminary or comprehensive legal diagnosis together with a referral to someone who can provide a fuller service. A challenge raised by PLA lawyers is that the telephone service is

⁸³ Ministry of Justice Finland, 'Country Report: Finland', p. 9

⁸⁴ Rissanen, 'Legal Aid in Finland', p. 84

⁸⁵ Sonal Makhija et al, 'Access to Justice in Finland', p. 39

⁸⁶ [Telephone service - Helsingin oikeusaputoimisto](#)

⁸⁷ Sonal Makhija et al, 'Access to Justice in Finland', p. 39

⁸⁸ Ministry of Justice Finland, 'Country Report: Finland', p. 13

mainly valuable for simple cases and most cases will ultimately require face-to-face support.

The case management system, Romeo, was identified as the 'Most innovative project 2021-2022' in the Finnish national report at the International Legal Aid Group conference in June 2023.⁸⁹

The civil legal aid system in England and Wales does similarly utilise multiple channels to provide legal advice and information on access to justice. For example, the Civil Legal Advice (CLA) helpline offers free advice on a range of civil legal issues and can direct individuals towards other sources of assistance if they do not qualify for the service. Members of the public can access the service by calling the CLA Helpline directly or using the "Check if you can get legal aid" online tool⁹⁰. Unlike the Finnish service legal advice though, the CLA helpline is means and merits tested. If the CLA cannot help, they will instead suggest alternative sources of advice and support. Online tools are also available for users and providers. The aforementioned "Check if you can get legal aid" portal asks individuals (users) questions about their legal issue and financial situation, with a view to telling them if they're eligible for legal aid and signposting them to advice.

Given that multiple legal advice and awareness channels do exist in England and Wales, it may be that the focus of policy development should focus more on raising awareness, and enhancing the effectiveness, of these channels, rather than creating more.

Outreach

Canada: mobile drop-in legal centres to increase accessibility and community outreach

Background

In Ontario, there are state-funded programmes dedicated to providing drop-in legal services in mobile vans, especially in rural and remote areas, run by volunteer solicitors and paralegals.⁹¹

The Rural Mobile Law Van project has expanded legal services to underserved communities and 'is developing an approach that is addressing a big problem that has for a long time been a feature of legal aid ... the rationing of services to too few people.'⁹²

⁸⁹ Ibid.

⁹⁰ See [Check if you can get legal aid - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁹¹ Ab Currie, *From serving the needs of the few to serving the needs of the many*, Canadian Forum on Civil Justice, 2023

⁹² Ibid., p. 4

How it works

These services provide people-centred support that is aimed at increasing the provision of face-to-face legal services. The Law Van represents a proactive offer of service made available in a way that maximises accessibility. It does this by reaching out to the small rural communities in highly visible locations.⁹³ In the winter, this service is located to fixed locations in libraries and community centres. The focus is on harnessing the resources of the community as a whole and widening access to justice.

Outcomes and insights

The Law Van project is unable to meet all the needs of those approaching it. This is why a network of access to justice services has been developed, including two community legal clinics, to which referrals can be made. This is the result of most interactions with the project.⁹⁴ This type of formal join-up and strong working relationships can help ensure more effective referrals and mitigate the impacts of ‘referral fatigue’ for users.⁹⁵

A key lesson learned is that these services are more effective when they are highly visible in a local area (e.g. in the centre of town), are rigorously promoted through different communication channels (e.g. social media), and use the platforms and engagement opportunities provided by existing local organisations. This type of initiative could support efforts to expand geographical provision, which stakeholders argue is a challenge in parts of England and Wales, particularly non-urban locations.

Non-legal advocacy and support

Australia: diverting parents and primary carers away from the courts in the early stages of the child protection system and increasing efficiencies

Background

The Independent Family Advocacy Service (IFAS) is a service that provides non-legal advocacy and support to parents and primary carers who are involved in the investigation stage of the child protection system.

⁹³ Ibid., p. 5

⁹⁴ Ibid., p.8

⁹⁵ Ibid., p. 9

The aim is to divert families away from the child protection system and courts and harness the preventative power of early access to civil legal assistance to reduce the likelihood of social issues escalating.⁹⁶

How it works

IFAS is not a legal service but can refer users to legal advice. IFAS provides information and support on rights and responsibilities, advice on options, liaises with legal professionals on the users' behalf, and refers people to helpful and culturally safe services.⁹⁷ IFAS is confidential, free, and voluntary.

Outcomes and insights

IFAS was independently evaluated from early 2019 to mid-2021. The three main priority groups at this time were Aboriginal and Torres Strait Islander families, families where one or both parents have a special educational need and/or disability, and culturally and linguistically diverse families.⁹⁸

The overall findings were 'very positive'. The evaluation team recommended that IFAS is made available to all parents and primary caregivers in Victoria who require support or assistance to reach decisions or take actions in response to child protection investigations.

Parents and primary caregivers trusted IFAS to help them navigate the child protection system. Parents told the evaluation team that IFAS builds the capacity of parents to self-advocate, helps calm their reactions, and increases accountability of child protection practitioners.

Child protection practitioners gave mixed feedback. For some practitioners, IFAS enabled communication through mediation and allowed them to work more effectively with families. Others though, found it counterproductive, confusing, or frustrating. This sentiment occurred largely where there was either a lack of understanding of the IFAS model, or a perception that the representational advocacy approach was not helpful. The evaluation concluded that many negative experiences could have been avoided if the model were better understood.

In 2021, a cost-benefit analysis of the service estimated that IFAS diverts 20% of clients away from court, resulting in an estimated saving of \$3.52 (£1.85) to the Victorian government for every dollar invested in IFAS.⁹⁹ This is an interesting example showcasing downstream benefits of access to justice, and in this instance, early intervention in legal issues.

⁹⁶ [Final Evaluation of Independent Family Advocacy and Support \(IFAS\) pilot \(figshare.com\)](#)

⁹⁷ [Independent Family Advocacy and Support | Victoria Legal Aid](#)

⁹⁸ [Final Evaluation of Independent Family Advocacy and Support \(IFAS\) pilot \(figshare.com\)](#)

⁹⁹ [Final Evaluation of Independent Family Advocacy and Support \(IFAS\) pilot \(figshare.com\)](#)

Legal and non-legal partnerships

Australia: health-justice partnerships to foster collaboration on shared issues and support early resolution

Background

Australia has approximately 105 health-justice partnerships that bring together legal practitioners and healthcare professionals to provide support on shared civil issues.¹⁰⁰

How it works

There are initiatives in Australia employing this model:

- Technology systems used by mental health practitioners and legal aid providers have been joined-up to proactively reach out to people receiving mental health treatment and offers support to coach people to understand their legal rights and provide guidance on accessing legal services. This initiative acts as a vehicle for delivering more preventative justice and early intervention and also provides a direct pathway for people who need legal representation. It was co-designed with users of the service.
- There are also several examples of practitioner-led initiatives which co-locate community lawyers in hospitals and community health settings. They collaborate with healthcare services and professionals to address legal problems that are harming the health of individuals, such as poor quality housing, family violence, and mental ill-health. This helps raise user awareness of their legal rights and services before these issues reach crisis point.

Outcomes and insights

Health Justice Australia is a grant-funded organisation that provides services (including practitioners and advocates) and research and analysis on the impacts of health-justice partnerships and related services.¹⁰¹ As their research shows, it is estimated that one in five Australians experience three or more legal problems each year and that these problems tend to cluster, for example, as families breakdown or as citizens experience

¹⁰⁰ [Partnerships for better health and justice outcomes - Health Justice Australia](#)

¹⁰¹ [Partnerships for better health and justice outcomes - Health Justice Australia](#)

financial issues. Research also suggests that when individuals do seek advice, they are more likely to ask a non-legal adviser, such as a health professional, than a lawyer.¹⁰²

These types of partnership are a common feature of the provider ecosystems for legal services around the world, including in England and Wales.¹⁰³ Levels of legal capability in the general population tend to be low¹⁰⁴ and individuals are not always aware that their problems are legal in nature, or that there is a legal solution to their issues.¹⁰⁵ Therefore, embedding advice in locations where individuals approach non-legal advisers and other trusted figures can be an effective strategy. Research suggests that working in partnerships can bring its challenges though. Bringing together the approaches of healthcare and legal assistance requires navigating different professional approaches. For example, a person seeking help for family violence might encounter very different responses from a healthcare professional, trained to view the problem in terms of health and safety, compared with a lawyer.¹⁰⁶¹⁰⁷

To be effective, partnerships need clear and accessible shared platforms, strong and trusting working relationships, robust planning, and collectively agreed frameworks for collaboration.

Legal and non-legal partnerships

Finland: integrated counselling services within legal aid offices to provide early advice and outreach

Background

Since early 2019, financial and debt advisers have been integrated in the Public Legal Aid (PLA) offices and offer financial and debt counselling services to private individuals, entrepreneurs, and self-employed individuals engaged in small-scale business activities, free of charge.¹⁰⁸ This initiative adopts a holistic approach to tackling legal problems and provides individuals with the opportunity to discuss everyday financial matters, receive advice, and go through different options with an expert.

¹⁰² [Partnerships for better health and justice outcomes - Health Justice Australia](#)

¹⁰³ Elizabeth Tobin-Tyler et al, *Health Justice Partnerships: An International Comparison of Approaches to Employing Law to Promote Prevention and Health Equity*, Cambridge: Cambridge University Press, 2023

¹⁰⁴ [Legal needs of individuals in England and Wales report | The Law Society](#)

¹⁰⁵ Hazel Genn, *Paths to justice: what people do and think about going to law*, 1999

¹⁰⁷ Ibid.

¹⁰⁸ [Organisation - Oikeusapu](#)

By co-operating with the National Enforcement Authority and running financial advice clinics, the counselling service aims to prevent over-indebtedness and combat the resulting harm. The clinics' main objectives are to strengthen cross-administrative cooperation through digital solutions, improve their active communications and campaigns, improve the financial literacy of citizens and their ability to manage their own finances, and facilitate access to help for those in debt.

How it works

The financial and debt counselling services, in co-operation with the National Enforcement Authority, run financial advice clinics where citizens can meet experts in different fields without pre-booking an appointment. In early 2022, the Jodel campaign, targeted specifically at young people, was implemented. The campaign offers financial counselling on enforcement services and indebtedness and allows young people to ask questions anonymously via a mobile application.¹⁰⁹

Customers can access the financial and debt counselling services in person at the PLA offices, remotely via the telephone, or through chat service functions. Any counselling provided is confidential.

Outcomes and insights

Since its inception, this service has become firmly embedded into the practices of PLAs. With proactive financial advice, this can help prevent financial problems from occurring or from escalating into more serious matters. It also provides information on the enforcement procedure to citizens and companies if issues do escalate.

There have been benefits in promoting financial literacy throughout Finland and the number of customers using the financial and debt counselling service has increased year on year.¹¹⁰

The Finnish Government report, *Towards High Quality Legal Aid Services* (2019), recorded good customer satisfaction with the counselling services. The expertise of the counsellors was welcomed in many respects. However, the long queuing time, a sense of urgency in the encounters between customers and counsellors, and fluctuations in the quality of the counsellors' expertise were identified as areas for improvement.¹¹¹

¹⁰⁹ [Financial advice clinic - Talous- ja velkaneuvonta \(oikeus.fi\)](https://oikeus.fi/en/financial-advice-clinic-talous-ja-velkaneuvonta)

¹¹⁰ Ministry of Justice Finland, *Government report on administration of justice*, 2023, p. 53

¹¹¹ Ministry of Justice Finland, 'Country Report: Finland', p. 8

7.3 Innovation in service delivery

Across the world there are different models, approaches, and systems for delivering civil legal aid. The twin challenges of high demand and resourcing pressures, and the growth of new technologies, provides an impetus to a wide range of innovative initiatives aimed at improving the sustainability, efficiency, and effectiveness of civil legal aid. These include:

- Prioritisation and triaging of cases
- Better join-up and coordination
- Innovative co-design of solutions
- Alternative dispute resolution
- Risks of digital exclusion

Prioritisation and triaging of cases

The Netherlands: a tiered system to provide effective points of contact, triage, and prioritisation of service delivery

Background

The Netherlands operates a threefold, tiered legal aid model:

- The first tier is public provision on the Roadmap to Justice ('Rechtwijzer') website, which was set up by the Legal Aid Board (LAB) in 2007 and updated in 2012. This offers online self-help, information, and support.¹¹²
- The second tier is the Legal Services Counters where citizens clarify legal matters with legal advisers and paralegals via face to face, telephone, or email support from 30 offices and 24 service points spread evenly around the country.¹¹³
- The third tier is private lawyers and mediators who provide legal aid and representation for cases that are more time-consuming and complicated in nature. Users may be referred by the Counters to a private lawyer or mediator, or they can approach the private lawyer or mediator directly for legal aid if they wish.¹¹⁴

How it works

¹¹² [Home - Rechtwijzer](#)

¹¹³ [Free Legal Advice | The Legal Desk \(juridischloket.nl\)](#)

¹¹⁴ Ibid.

In the first tier, the Roadmap to Justice website is an online-based dispute resolution platform and self-help website. It enables users to better understand and assess their legal situations with interactive decision trees that provide accessible information and guidance to resolve certain types of disputes without the help of a lawyer.

The website is accessible to all and does not require meeting any eligibility criteria. The website aims to empower Dutch citizens to solve their own problems or be referred to the most effective support at a time and pace that is convenient to them and at no cost.

In the second tier, the Counters provide physical premises where clients can receive up to one hour of legal consultation free of charge and without meeting eligibility criteria. In general, each office is staffed with legal advisers. Since the services of the current Counters do not include extensive legal aid and representation in court, paralegals can also be employed. The Dutch education system developed a bachelor course to train students for these services. Staff at the Counters are not allowed to represent users in any way.¹¹⁵

The Counters are geographically evenly spread across the Netherlands (i.e., no more than one hour away by transport).¹¹⁶ The small size of the country, relatively low population and effective public transport system all facilitate this coverage. The offices themselves are uniform and recognisable and have been designed to look inviting to users. It is also possible for users to access these services through a telephone call or sending an email explaining their legal problem. There is also a mobile application to assist users in preparation for their consultation. The Counters aim to tackle disputes and legal issues at an early stage, and in doing so, have an important screening function. This can help to avoid further escalation of issues to the courts.¹¹⁷

The third tier is private lawyers and mediators who provide legal aid and representation for cases that are more time-consuming and complicated in nature. To accept legal aid cases, lawyers and mediators must be registered with the LAB.¹¹⁸ Lawyers or mediators can then submit an online application on behalf of their client to the LAB. Once the LAB has assessed the application, a certificate is then issued which allows the lawyer or mediator to deal with the case.¹¹⁹

Outcomes and insights

¹¹⁵ Susanne Peters et al, 'Country Report: The Netherlands', p. 6

¹¹⁶ Ibid., p. 5

¹¹⁷ Quirine Eijkman et al, *Focus on client needs: a study on frontline legal aid in the Netherlands*, European Journal of Social Work, 2021

¹¹⁸ The Raad voor Rechtsbijstand, 'Legal Aid in the Netherlands', p. 23

¹¹⁹ Susanne Peters et al, 'Country Report: The Netherlands'

In 2022, the Roadmap to Justice website registered more than 712,000 unique visitors.¹²⁰ It is being continuously developed and improved through feedback from users and service providers. The new application 'Rechtwijzer EHBO' provides a quick scan for multi-faceted problems and maps out users' legal and psychosocial problems. It was developed in close cooperation with the national social services organization, Mind Korrelatie.¹²¹

In 2022, the total number of 'client-related activities' performed by the Counters amounted to 423,450, or 2% of the Dutch population. These activities include identifying whether a user has a legal problem, and if so, what services are most suitable to ensure resolution.¹²²

This tiered approach from the Dutch legal aid system was consistently highlighted in the research and by expert contributors to this report as an effective example of civil legal aid provision. However, expert contributors highlighted some challenges with this approach. The first tier needs to be complemented with a proactive national effort to increase public awareness of their people's legal rights, services, and the availability of online legal advice and awareness tools. Furthermore, as previously stated, civil legal issues are complex and multifaceted, and online tools may not always be able to diagnose this effectively. This is where a network of professional support is also required for the user.

In the counters, there needs to be a strong pipeline of staff and a sustainable workforce. In the Netherlands, there are a decreasing number of legal aid lawyers (although this varies geographically) due to factors such as financial compensation, a lack of marketing and promotion of a legal aid career, a sub-optimal image of legal aid lawyers in the profession, and a lack of innovation in service delivery. Similar challenges would likely be faced in England and Wales.

Better join-up and coordination

The USA: cross-government efforts to collaborate on delivering increased access to justice

Background

The Legal Aid Interagency Roundtable convenes 28 federal agencies to improve coordination among programmes aimed at increasing the availability of meaningful access

¹²⁰ Ibid., p. 4

¹²¹ Ibid.

¹²² Ibid. p. 6

to justice.¹²³ The Roundtable is co-chaired by the Attorney General and the Counsel to the President and staffed by the Department of Justice's Office for Access to Justice.

How it works

Through interagency collaboration and stakeholder engagement, the Roundtable develops policy recommendations that improve access to justice in federal, state, local, tribal, and international jurisdictions, and advance relevant evidence-based research, data collection, and analysis of civil legal and indigent defence, and promulgate best practices.

In 2022, the focus was on the optimisation of forms and processes.¹²⁴ The Roundtable surveyed 72 state and local legal aid and advocacy organisations about potential improvements in the delivery of service. The feedback from the survey formed the basis of their recommendations.

In 2021, the Roundtable focussed on innovations and the use of technology to ameliorate the impacts of the Covid-19 pandemic on access to justice.¹²⁵

Outcomes and insights

There are several examples of federal programmes that have sought to increase access to legal services for users.

Optimisation of forms and processes:

- The Department of Labor (DoL) met with legal service organisations to identify barriers and develop solutions for legal aid claimants. DoL created a glossary that provides plain language definitions of legal terminology and issued guidance. A team of experts was also created that included legal aid providers to work with two pilot states to make their processes easier to access. As a result, these experts will generate solutions for other states and advise technical assistance teams on how to improve benefit delivery in more than 30 states.¹²⁶
- The Department of Homeland Security and the Department of Justice's Civil Rights Division have been implementing plain language policies to help the public understand their rights. Digitisation methods, such as online submission of forms and digital signatures, are used to implement this.¹²⁷

Government convening partners:

¹²³ [Office for Access to Justice | Legal Aid Interagency Roundtable | United States Department of Justice](#)

¹²⁴ Legal Aid Interagency Roundtable, *Access to Justice through Simplification*, 2022

¹²⁵ Legal Aid Interagency Roundtable, *Access to Justice in the Age of COVID-19*, 2021

¹²⁶ Roundtable, 'Access to Justice through Simplification', p. 15

¹²⁷ *Ibid.*, p. 30

- The White House, in collaboration with the American Bar Association, the Legal Services Corporation, and the National Conference of Bar Presidents, convened local government, judicial, legal, and community leaders from 46 cities to develop community-specific eviction diversion programs. Recognizing that preventing evictions requires local strategies to encourage alternatives to evictions, this convening worked on solutions to provide vulnerable families with access to counsel, divert evictions away from court, and connect renters and landlords to available resources.¹²⁸

Legal needs assessments:

- The Legal Services Corporation conducted a national study about unmet legal needs relating to evictions. The congressionally-directed study investigated legal practices related to eviction and the extent of the country's unmet legal needs. The study included a survey of legal aid providers that will inform ongoing reform efforts by cataloguing novel eviction prevention programs, interventions, and practices being implemented by practitioners, courts, and policymakers.¹²⁹

Public legal education:

- The Consumer Financial Protection Bureau developed and disseminated consumer education materials that have been widely used by legal aid and community organizations to help secure benefits.¹³⁰

Training for providers:

- The DoL Civil Rights Center provided training to civil legal aid providers on the legal requirements for providing services and information to individuals with limited English proficiency applying for unemployment insurance.¹³¹

The annual reports by the Roundtable are a useful resource for highlighting different initiatives across federal government and identifying where there are gaps. It also has guidance for different programmes, for example, on expanding access to their justice programmes and services through simplification¹³²:

- Understand the Problem: agencies should meaningfully engage with the communities served and impacted by government programmes to understand the barriers to access. Engagement efforts should prioritise underserved and marginalised communities.

¹²⁸ Roundtable, 'Access to Justice in the Age of COVID-19', p. 24

¹²⁹ [The Effect of State & Local Laws on Evictions | LSC - Legal Services Corporation: America's Partner for Equal Justice](#)

¹³⁰ Roundtable, 'Access to Justice in the Age of COVID-19', p. 33

¹³¹ Ibid., p. 34

¹³² Roundtable, 'Access to Justice through Simplification', p. 11

- **Implement Strategies:** agencies should incorporate feedback from that engagement to simplify their forms and processes, eliminate unnecessary requirements, use plain language and a people-centred approach to engagement.
- **Evaluate Outcomes:** agencies should evaluate the impact of the simplification efforts to determine whether they have meaningfully expanded access, or if further improvements are possible.

Convening such a large group of agencies and stakeholders to deliver tangible results is not straightforward. Securing the buy-in of relevant agencies and organisations, coordinating such multi-faceted projects, establishing effective governance and obtaining funding are all hurdles to overcome. The Roundtable has managed in several instances to achieve this and deliver concrete outcomes. Focusing on particular issues (as the Roundtable did in 2021 with the impact of Covid-19 and with processes in 2022), adopting a systems-thinking approach to policy and prompting agencies to examine their individual roles in justice matters has allowed the Roundtable to work through some of the challenges associated with an initiative like this. Ultimately, the Roundtable serves as an effective example of bringing together government agencies to further access to justice.

It helps provide ‘an approach to integrating legal aid into the work of agencies, especially in cross-cutting areas of responsibility, such that it could be helpful in fulfilling agencies’ missions ... The Roundtable has an opportunity to break down silos between different agencies and departments responsible for tackling discrete elements of a problem and work toward identifying collaborative solutions.’¹³³

Such cross-government collaboration would be beneficial for all justice systems. As has been trailed throughout this report, legal issues, by nature, often involve an interaction and intersection between multiple government systems and infrastructures, including education, health, debt, and more. In England and Wales, initiatives inspired by the USA’s Roundtable could further bring together departments across the Civil Service as well as encouraging greater justice-specific collaboration between the Ministry of Justice and Welsh Government.

Innovative co-design of solutions

The USA: universities and other partners building legal innovation labs and communities of practice

Background

¹³³ Roundtable, ‘Access to Justice in the Age of COVID-19’, pp. 45-46

Innovation labs aim to bring together different practitioners and users to co-design evidence-led and best practice initiatives to improve legal services and provide preventative civil justice problem-solving.

The Innovation for Justice (I4j), set up in 2018, is a social justice-focused legal innovation lab based in the University of Arizona and the University of Utah.¹³⁴ It is the USA's first cross-discipline, cross-institution and cross-jurisdiction legal innovation lab and tests disruptive solutions to the justice gap. The purpose is to support regulatory reform and a non-legal professional operations model, to improve justice-sector technologies through digital transformation, and to build technology tools for policy advocacy.

How it works

I4j has partnered on several initiatives, including:

- I4j co-designed with community groups a certification programme to create Housing Stability Legal Advocates. These are community members from the non-profit social service sector who obtain certification to provide limited-scope legal advice. The aim is to embed trauma-informed, user-centric legal advice related to housing issues.¹³⁵
- As part of a regulatory sandbox, the Medical Debt Legal Advocate Initiative empowers community healthcare workers to give limited-scope legal advice to community members who are at risk of medical debt collection. The initiative also trains financial coaches to give this advice to individuals who have received a 10-day notice of a medical debt collection lawsuit.¹³⁶
- In partnership with the Arizona Supreme Courts, the Licensed Legal Advocate (LLA) Initiative trains non-lawyer advocates to provide trauma-informed, limited-scope legal advice to domestic violence survivors. LLAs help survivors navigate the legal system to obtain child support, spousal maintenance, and fair and equitable property and debt divisions.
- I4j supported the design of a user-centred Online Dispute Resolution platform in Utah. To test this, workshops were conducted with low-income community members to test the usability of the new design and encouraged ideas for co-creation. At least 75% of the participants could use the Online Dispute Resolution platform without needing assistance.

¹³⁴ [Innovation for Justice \(i4J\) \(innovation4justice.org\)](https://innovation4justice.org)

¹³⁵ [Innovation for Justice \(i4J\) \(innovation4justice.org\)](https://innovation4justice.org)

¹³⁶ [Innovation for Justice \(i4J\) \(innovation4justice.org\)](https://innovation4justice.org)

Outcomes and insights

Many of these initiatives will continue to be tested, developed, and innovated but progress has been made on the proof of concept and delivering results for users. For example, the Housing Stability Legal Advocate programme:

- Received a regulatory waiver from the state courts to allow their development and widen the legal provider base and improve service delivery.¹³⁷ As seen in the examples of regulatory sandboxes in this report, the level of unmet legal needs and the design of innovative solutions is providing momentum behind regulatory changes in the USA to support these initiatives.
- Has had an evaluation conducted on the outcomes. Feedback from tenants involved in the programme suggests that they respond positively to support from trusted, non-legal advocates, especially in negotiations and completing forms. Furthermore, technology can be leveraged in the regulatory reform landscape but people experiencing housing instability reported still wanting face-to-face support.¹³⁸

These types of legal innovation labs exist in England and Wales too.¹³⁹ They can provide opportunities for multidisciplinary design of new solutions or help incubate and scale-up initiatives that can help support the provision of civil legal aid, depending on the chosen priorities and objectives.

Publicly salaried legal provision

Australia: publicly salaried legal staff delivering services

Background

The Legal Aid Commissions (LACs) in Australia operate a mixed model of service delivery. This involves LACs providing a range of legal services through: directly salaried lawyers within the commissions; referral out to private practitioners; and funding of community legal centres (CLCs).

LACs are independent statutory bodies that receive federal and state government funding which they allocate according to their individual strategies. LACs vary in size, levels of funding and approaches, with each utilising salaried in-house legal staff as part of their service delivery.

¹³⁷ [2023-19_1.pdf \(azcourts.gov\)](#)

¹³⁸ [Our Work — Innovation for Justice \(i4J\) \(innovation4justice.org\)](#)

¹³⁹ For example, [Legal Innovation Lab Wales - Swansea University](#)

How it works

Salaried lawyers provide advice and representation in family and civil (and criminal) matters. Lawyers often build up particular specialties and are skilled at assisting users with complex needs. They may also undertake larger strategic litigation cases.

Input from in-house lawyers and staff can be used to design and operate LAC's information, call taking and triage services. LACs will often be the first port of call for people seeking legal help, so there is often benefit to having legal expertise in-house.

Victoria Legal Aid is an interesting LAC to take as an example. They have their own specialist group of in-house lawyers practicing as the Victoria Legal Aid Chambers.¹⁴⁰ The group is comprised of criminal law public defenders, family and children's law advocates and civil law advocates, with many of the advocates practicing in more than one area of law. They represent and appear for legally aided clients in state and federal courts and tribunals across Victoria and undertake strategic litigation intended to benefit the broader community. They provide advice, legal education and mentoring across Victoria Legal Aid's civil justice, criminal law and family, youth and children's law teams. In 2022-2023, they appeared in 1,760 court and tribunal matters, provided formal advice 290 times and provided formal staff training 109 times.¹⁴¹

Outcomes and insights

In-house salaried lawyers develop a high degree of expertise in handling the types of cases covered by legal aid and in dealing with vulnerable individuals with complex needs. This expertise in turn proves invaluable to LACs, not just in the handling of case work but in their wider activities. Having in-house legal expertise can help LACs act as something of a one-stop-shop for those experiencing legal issues.

However, it is important to note that under a mixed model of service delivery salaried lawyers are just a part of the wider picture. Across Australia, LACs use salaried in-house lawyers in combination with funded services from private practitioners and CLCs. The majority of legal aid grants are assigned to private practitioners. Looking again at the example of Victoria Legal Aid in 2022-23, most services were delivered by private practitioners (83%), while 15% came from in-house lawyers and 2% CLCs.¹⁴² This is reflected nationally as 23% of legal aid grants (33,792 for representation) were in-house, while 77% (116,113) were assigned to private practitioners in 2021-22. It is the holistic, multi-faceted approach taken by Australia's mixed model which gives the system capacity and enables legal services provision.

¹⁴⁰ [Victoria Legal Aid Chambers | Victoria Legal Aid](#)

¹⁴¹ [Annual Report 2022-23 | Victoria Legal Aid](#)

¹⁴² *ibid*

Other comparator countries also utilise salaried in-house legal staff. The situation in Canada has similarities with Australia. Each of the 13 legal aid plans in Canada have responsibility for providing legal aid services to those who cannot afford a lawyer. Therefore, provinces and territories adopt different approaches according to the needs of their populations and their individual policies and procedures. This means that staff lawyers are a feature of the Canadian system, with different legal aid plans employing them. Though, similarly as in Australia, private practitioners are used more frequently.¹⁴³ In Finland, public legal aid lawyers work out of the Public Legal Aid (PLA) offices, providing advice to eligible member of the public.¹⁴⁴ This service is again combined with provision by private practitioners who are remunerated for their work from the legal aid budget. The tiered approach in the Netherlands sees the use of salaried legal staff at the Legal Services Counters (LSCs). LSC staff cannot represent clients, but they can offer information on legislation and legal procedures, as well as giving advice. Representation and more complex advice are then delivered by private practice lawyers.

The use of in-house legal staff represents a different model of provision from the approach taken in England and Wales, which contracts external providers of civil legal aid (often organisations). This research has not undertaken or found an evaluation of the effectiveness of in-house salaried legal staff. Comparator countries that use in-house legal staff do so as part of a mixed model of provision.

Alternative dispute resolution

Canada: pioneering mechanisms for Online Dispute Resolution

Background

The Civil Resolution Tribunal (CRT) is Canada's first online tribunal established in 2016. The CRT operates as part of the British Columbia public justice system.¹⁴⁵

The purpose of the CRT is to offer citizens an accessible and affordable way to resolve civil law disputes without the need for a lawyer or court involvement. The CRT also encourages a more collaborative approach between parties when resolving disputes.

How it works

There are 4 main steps in the CRT process.

¹⁴³ [Legal Aid in Canada 2021-22 \(justice.gc.ca\)](https://www.justice.gc.ca)

¹⁴⁴ [Public legal aid attorney - Oikeusapu](#)

¹⁴⁵ [Home » BC Civil Resolution Tribunal \(civilresolutionbc.ca\)](https://www.civilresolutionbc.ca)

- The first step is the CRT's online platform which provides free legal information and self-help tools for an individual to use and assess their situation. Once the individual has consulted the platform, they make a claim against someone or respond to a claim that someone has made against them.
- The second step is a secure and confidential negotiation platform where the two parties can talk through their issues in the claim and attempt to reach an agreement.
- The third step involves a CRT case manager supporting the parties in reaching an agreement in the instance that a solution to the claim has not been found. If the parties are unable to reach an agreement with the help of a CRT case manager, an independent legal expert, known as a tribunal member, gets involved.
- The fourth step is the tribunal member reviewing the evidence and arguments put forward by both parties and deciding on the claim.

The CRT differs from a traditional courtroom model as they provide detailed legal information and self-help tools to resolve claims by agreement and offer an online dispute resolution process that can be accessed anytime to help resolve claims as early as possible.¹⁴⁶

The CRT aim to ensure their services are accessible to everyone regardless of background or circumstances. To achieve this, the CRT's services are accessible 24 hours a day and seven days a week either by email, mail, telephone, video conference or in-person.

Outcomes and insights

From a participant satisfaction survey conducted in 2022/23 78% of participants would recommend the CRT to others for resolving civil law disputes.

Between April 2022 and March 2023, 24% of the uses of the Solution Explorer resulted in a claim being made which suggests that the online platform may help participants to resolve their disputes at an early stage.

In the CRT's first 2.5 years of operating, it received 8,810 applications, of which 6,779 disputes had a final resolution in one manner or another. Notably, only 994 (almost 15%) of the latter were resolved through adjudication, meaning that in all of the other cases (out

¹⁴⁶ Civil Resolution Tribunal, *2022/2023 Annual Report*, 2023

of the 8,810 total), the parties agreed to a resolution (on their own or through the facilitation process), withdrew their claim, or obtained a default decision.¹⁴⁷

Something that needs to be considered during the design of any dispute resolution service such as the CRT is the power imbalance which can be a factor in civil disputes. Services must ensure that the process is fair and that potentially vulnerable and disadvantaged users don't struggle because of a lack of resource or knowledge.

The CRT has scaled a considerable amount since its establishment. In each year of its existence, the CRT has gained a new area of jurisdiction and added staff where necessary. The uptake of CRT has in part been enabled through its user-centred design and efforts to educate citizens on the process and options available to them (through things such as outreach and an informative YouTube channel).

Risks of digital exclusion

Canada: understanding the technological and digital barriers for some users

Background

Legal Aid British Columbia's Achieving Digital Equity (ADE) project researched and documented barriers to accessing digital legal resources faced by residents of the province.¹⁴⁸

How it works

The ADE project found that low-income households have a lower level of access to digital devices with internet connectivity.

The ADE project found that that 44% of people in lower income households – and 53% of people in very low-income households – face one or more barriers to using the Internet, compared with only 18% of people in moderate to high-income households.

Common barriers to using the internet include access to technology, costs, digital skill and comfort level, and trust and privacy concerns. Special educational needs, disabilities and language barriers also pose access issues.

The ADE project survey of British Columbia residents found that, across all income groups, the majority agreed that even if they searched for legal help online, they would still want one-to-one assistance from a person or advisor.

¹⁴⁷ University of Cambridge, 2019 [Microsoft Word - CPBP Report - FINAL v2.docx \(internationallegalaidgroup.org\)](#)

¹⁴⁸ Kate M Murray, *Achieving Digital Equity in Access to Justice*, Legal Aid BC, 2021

Further, in the ADE interviews with community workers “one-to-one assistance from someone with legal knowledge” stood out as the most highly ranked type of support – with 87% of participants characterising this as very important in supporting their clients to benefit from digital legal resources. “One-to-one help from someone with digital skills” was also seen as very important by 75% of workers surveyed.

One-to-one help was often described by the community workers interviewed for the ADE study as the most effective means of addressing widespread barriers relating to legal complexity and lack of technology access and comfort.

Outcomes and insights

The ADE project demonstrated that there are still significant barriers to digital equity particularly facing lower-income groups. Despite this, digital legal technology and information can be valuable for clients in a blended approach alongside one-to-one legal and digital assistance, where appropriate.

Legal Aid British Columbia have taken steps to respond to the barriers of digital exclusion.¹⁴⁹ For example, Parents’ Legal Centres (PLCs) are community-based legal aid offices that provide advice to parents with child protection issues. The offices provide a local private space and computer access for parents to connect with a lawyer or advocate about their legal issues.

There are parallels in England and Wales, where many people do not have the technological resources, knowledge or capability to self-help online. They can sometimes do more if they have access to a trusted intermediary to assist them. Online legal self-help is often available to those who have the capacity and capability. Policy design needs remain conscious of this dynamic to ensure that advice is available in the most appropriate and accessible formats for users.

¹⁴⁹ Kate M Murray, *Achieving Digital Equity in Access to Justice*, Legal Aid BC, 2021

8. Conclusion

8.1 Supporting the evidence base for wider MoJ policy work

The research into comparator systems has identified some high-level principles for sustainable, efficient, and effective civil legal aid provision and different policy ideas for delivering these.

Many of these have links with wider MoJ policy work and reinforce the evidence base behind the MoJ vision for the future of the Civil, Family and Tribunal justice system:

- The importance of a holistic approach to civil issues has been consistently highlighted during this workstream. A wide range of publicly funded legal assistance is important for ensuring an accessible and effective service for users.
- Prevention and early intervention can have significant benefits by helping to ensure that legal issues do not escalate further to the point where formal legal intervention is required. This intervention can come in a variety of forms including legal/non-legal partnerships, community outreach, and technological solutions such as self-help websites.
- Research shows the clear value of community-based solutions. These can help ensure access and advice to users in their locality and based on local knowledge of their problems.
- The research emphasises that technology will play an integral role. The MoJ is investigating how technology can best be implemented in a modern and effective justice system. There is capacity for technology to play a role in streamlining processes and increasing accessibility of information and services for those with digital access. However, technology is not a panacea when it comes to legal aid. There are factors which need to be considered when implementing it, most notably the risks of digital and technological exclusion. Additionally, more complex cases are often better handled face-to-face, especially for cases with particular sensitivities.

Some of the initiatives included in this report are being considered by the MoJ and in instances have been implemented already. These include pilot projects delivered through the [Legal Support for Litigants in Person Grant](#), online dispute resolution trials, the [Housing Disrepair Online Signposting Tool](#), the [Housing Loss Prevention Advice Service](#) and pilot projects looking into [health-justice partnerships](#). The findings of this report will

feed into ongoing MoJ work by deepening the understanding of how other systems approached these policies and applying lessons learned.

8.2 Next phase of policy development in RoCLA

This report spotlights several policy ideas. These ideas are not recommendations on policies that should be implemented. Based on the feedback from stakeholders and experts who input into this workstream, they are initiatives which merit further investigation and testing during RoCLA's second phase – the policy development that will come out of the evidence gathering that has taken place thus far. These initiatives have shown promise in the comparator systems and have potential to address some of the challenges seen in England and Wales.

It is, however, important to acknowledge that experts and stakeholders highlighted that many of the policy ideas included in this report are not necessarily novel to England and Wales. Therefore, policy development may focus more on what is needed to scale up these initiatives and the factors that may hinder this.

Overall, the aim is to diffuse policy learning from comparators to help address challenges and opportunities in England and Wales. Any policies will be assessed against whether they are viable and relevant, and most importantly, appropriate for the civil legal aid system in England and Wales considering the specific challenges faced and cultural and demographic contexts. This research does not recommend that any policy ideas should be directly transferred as they are to the system in England and Wales.

The policy ideas, identified by the researchers in collaboration with the MoJ, for further investigation are:

A tiered model for identifying, triaging, and prioritising cases (Netherlands) (p.53)

- There are examples of this approach across the world and in England and Wales, but the Dutch model was consistently identified as an exemplar.
- It can help to signpost users to legal and related support services using self-help websites and other technological tools.¹⁵⁰ During this research, both experts and stakeholders stressed the important role that effective signposting plays in helping users to understand their problem and receive appropriate support.
- Better triaging and referral mechanisms can ensure that users are guided to the most appropriate service to resolve their problem.

¹⁵⁰ A similar type of 'Solutions Explorer' was recommended by The Law Society in 2023, in TLS, '21st century justice system'.

- It can improve efficiencies by better prioritising the cases that require lawyer support or, if needed, court representation.
- The tiered approach could help enable the MoJ's vision for a justice system that supports people from the earliest point they begin to experience a legal problem and to target legal aid resources effectively.
- Work on this theme has already begun. The 2020-21 Early Legal Support and Advice Programme considered this approach and took steps to improve the accessibility of relevant information on Gov.uk as a first step. This work has since evolved into a revised programme that seeks to improve access to justice across the civil, family and tribunals system more widely.
- However, there are risks. Self-help websites are not always intuitive enough to diagnose a complex multifaceted problem for a user and there is a risk of referral fatigue as users are potentially handed off from one provider to another.
- Smart use of technology and clear join-up and coordination will be critical between providers and with the LAA.

Build trust and autonomy between oversight bodies and providers (Netherlands)

(p.32)

- There are different models for ensuring oversight and quality assurance of civil legal aid providers and the levels of scrutiny can vary.
- Many stakeholders in England and Wales emphasised the continued need for robust oversight and clear mechanisms for quality assurance (such as peer review).
- Lessons from the Netherlands' High Trust method may be particularly applicable to challenges faced in England and Wales. Stakeholders indicated that existing levels of auditing and administrative burdens can excessively take providers away from critical billable time and inhibit innovation in service delivery. This was identified as a contributing factor in the year-on-year decline in the civil legal aid provider base.
- Any policy changes in this space need to be carefully balanced with the need for sufficient oversight and compliance with wider regulation concerning spending of public funds. Requirements should be calibrated to proportionally mitigate risks of error, fraud and poor-quality service.

360-degree feedback loops for continuous improvement of legal aid (Netherlands)

(p.36)

- Many expert contributors in the comparator systems identified the challenge of ensuring good quality user and provider data to support policy development on civil legal aid.
- Research and several different policy initiatives are being developed to address this gap. One interesting example is the 360-degree feedback loops piloted by the Dutch Legal Aid Board.
- Building iterative feedback loops can help put the design and development of policy on a more proactive, sustainable, and adaptive footing to the changing experiences and needs of users and providers. However, any mechanisms for inputting data should be mindful of not creating too many requirements on providers, in particular.
- There are instances in which England and Wales' civil legal aid system does proactively undertake this data and information gathering. For example, the LAA regularly engages with stakeholders in order to learn from their experiences and is making increased use of user research in the development of new digital tools.

Enabling cross-government collaboration to improve access to justice (USA) (p.55)

- A wide coalition is needed to help ensure the prevention and resolution of shared civil issues. The reason someone might approach providers for legal support is complex and intersects with several different systems, for example, housing, health, employment, and education.
- Several global and domestic studies indicate that targeted investment in increasing access to justice can help to better address users' clustered needs and save money for these different parts of the system by reducing the cascading costs to public services in the longer term.
- This level of integration and coordination is challenging to achieve, due to factors such as securing collective and cross-departmental buy-in, coordination, establishing effective governance, and funding. However, there are efforts around the world to develop platforms to support this ambition, such as in the US federal government, which have had demonstratable success.
- Resolving these issues requires a joint effort, inside and outside government, to deliver a lasting positive impact for citizens and to help alleviate the pressures on the civil legal aid provider base.

This research also identified ten principles that underpin sustainable, effective, and efficient civil legal aid provision and may enable the operationalisation of these policy ideas. These are:

1. **Building a system-wide approach with a broad provider base.**
2. **Providing long-term funding.**
3. **Investing in preventative justice and early intervention.**
4. **Targeting and prioritising civil legal aid resources.**
5. **Enabling networks of community-based support.**
6. **Sustaining a diverse and high-calibre workforce.**
7. **Balancing effective oversight and provider autonomy.**
8. **Utilising technological and digital tools.**
9. **Understanding the risks of digital exclusion and the importance of face-to-face support in certain contexts.**
10. **Consolidating global communities of practice.**

This report, in conjunction with the findings of RoCLA's other workstreams, will be used as an evidence base to develop a range of policy proposals. MoJ aims to consult on potential policy options aimed at improving the civil legal aid system later in 2024.

Appendix A

Comparator Overviews

England & Wales

Type of system

England and Wales has a common law system in which a key principle is access to justice. The Lord Chancellor has a statutory duty under LASPO to ensure that legal aid is made available in accordance with its terms, and to ensure access to justice in accordance with the common law. Legal Aid is therefore funded by the state and administered by the LAA. LASPO 2012 and associated secondary legislation sets out the general rules for the provision of civil legal aid.

Funding for civil legal aid provision

Civil Legal Aid is funded by the MoJ. In 2022-2023, the government spent around £2 billion on legal aid, of which £1 billion was spent on civil and family legal aid.

Under the Access to Justice Act 1999, a legal matter was within scope and qualified for legal aid funding, unless it was specifically excluded by the Act. LASPO 2012 reversed this position, instead listing those matters in scope of legal aid in Schedule 1 of Part 1 of LASPO. This change was made with the aim of targeting limited resources at the most vulnerable.

Types of services and providers

In England and Wales, civil legal aid is provided by solicitors, barristers and the not-for-profit sector. Providers apply for a contract to deliver legal aid via specific procurement exercises run by the LAA. Providers may offer legal advice, assistance, representation and mediation (all of which fall under legal aid).

The LAA administers legal aid via contracts with legal aid providers. [The Standard civil contract 2018](#) currently governs the provision of legal advice – it contains the rules that providers must follow when delivering legal aid, including the quality standards that they must maintain. The specifications for 11 categories of law sit under the contract and set the rules in each individual category of law.

Work conducted by providers in the market is categorised either as Controlled work – where responsibility for determining financial eligibility is delegated to providers – or Licensed work – where the LAA assesses eligibility and authorises representation by granting a certificate to the provider. The two categories of work include the following services:

Controlled work:

- legal help (for example, early advice and assistance before court proceedings and help at court)
- family help (lower court)
- family mediation (to help separating couples reach money, property and childcare agreements without going to court)
- controlled legal representation (legal advice and support from a solicitor in preparing a case plus representation from a barrister at tribunal for certain specified immigration and mental health matters).

Licensed (or Certificated) work:

- family help (higher court)
- legal representation (for preparing the case and representing the applicant at court or tribunal)
- other legal services (exceptional cases)

Providers have delegated functions to determine whether or not a client qualifies for Controlled Work, subject to the rules in the legal aid legislation and the LAA contracts. Generally speaking, an application must be made to the LAA for a determination that a client qualifies for Licensed Work, though some of these decisions are also delegated to providers.

Alongside the provision of these services, the LAA also operates a Civil Legal Advice (CLA) service. This is a telephone service that provides those eligible with assistance for various civil legal issues or signposts those who are ineligible to other assistance.

In some areas, the LAA also runs specific schemes to help facilitate the provision of legal advice to clients facing specific legal issues. This includes the:

1. Detained Duty Advice Scheme: This scheme provides free legal advice surgeries in immigration removal centres (IRCs). Individuals who are detained are entitled to receive up to 30 minutes of advice regardless of their financial eligibility.
2. Housing Loss Prevention Advice Service: This service enables anyone at risk of losing their home or facing possession proceedings to get free legal advice regardless of their financial circumstances. This includes an in-court duty scheme providing on the day emergency advice and advocacy.

Fee structures

[Legal aid fees](#) vary across categories of law and depend upon the nature of support being provided. There are a range of standard and graduated fixed fees, but also hourly rates for controlled and licenced work.

Eligibility criteria

In order to be eligible for legal aid, applicants must *generally*: have a legal issue that is in scope; meet any relevant merits test and meet any relevant means criteria.

Eligibility for civil legal aid is determined via means and merits tests. The means test includes income and capital tests. Some services are exempt from means testing and these are set out in [Regulation 5](#) made under LASPO 2012. The merits test is used to ensure that legal aid funding is spent on those cases where it is most needed. The merits test is set out in the [Civil Legal Aid \(Merits Criteria\) Regulations](#). The exact test varies between cases but looks at factors including: the benefit to the individual of receiving advice; the chance of success of the case; a cost/benefit analysis; whether alternative sources of funding outside of legal aid are available and reasonableness.

The Exceptional Case Funding (ECF) scheme provides a route for people to apply for legal aid in cases that do not fall within the scope of civil and family legal aid but only where the failure to do so would be a breach of the individual's enforceable rights to legal aid under the European Convention on Human Rights or a retained enforceable right under European Union law. ECF may also be provided in inquest cases where there is wider public interest in funding advocacy at that inquest. ECF cases are also means and merits tested.

Whilst the eligibility (scope, means and merits) for legal aid is set by the Lord Chancellor, decisions on legal aid funding in individual cases are entirely independent of Ministers and are taken by the Director of Legal Casework (DLAC).

The MoJ has recently undertaken a review of the legal aid means tests, consulting on a set of ambitious reforms. When fully implemented, the reforms will mean that over 2.5 million more people in England and Wales will be eligible for civil legal aid. Modelling done as part of the Means Test Review Impact Assessment indicates that 21% of the population will be eligible for non-contributory civil legal aid and 7% eligible for contributory civil legal aid.¹⁵¹

Quality assurance and oversight mechanisms

The Lord Chancellor is also Secretary of State for Justice and in that role, as ministerial head of the MoJ, he is accountable to Parliament for all matters concerning the provision of civil legal aid.

In order to deliver legal aid providers must have a contract with the LAA. This contract includes minimum quality requirements that firms need to meet, such as holding an organisation-level accreditation under The Law Society's Lexcel scheme or the LAA's own Specialist Quality Mark. Other quality provisions in the contract include rules on supervision, and, in some areas, requirement to hold individual-level accreditation.

Every legal aid organisation will have access to a Contract Manager, employed by the LAA, who is available to contract holders to discuss any current issues or queries they have in relation to the running of their contract. Contract Managers will also carry out a review of the organisation at least once a year, as well as other checks, to make sure firms are carrying out work in line with the contract and legal aid legislation.

¹⁵¹ [Impact assessment: Civil \(publishing.service.gov.uk\)](#)

The LAA also has a system of peer review, which involves the assessment by a panel of independent experienced legal practitioners of the standard of work performed by legal aid providers under the Standard Legal Aid Contracts. Providers are chosen for Peer Review either as part of a random risk-based sample or as a targeted assessment. This peer review helps to ensure quality standards are met and enhances the standard of legal work carried out under public funding.

The LAA convene a number of forums where providers and representative bodies (organisations representing the solicitors, barristers and advocates who deliver legal aid) are able to feedback issues to the LAA and work with them to improve services.

Scotland

Type of system

Scotland is a hybrid system of common and civil law. The Scottish Legal Aid Board (SLAB) is the administrator and funder of legal aid in Scotland. SLAB is a public-funded, non-departmental body of the Scottish government.¹⁵²

The Scotland Act in 1998 devolved the power to legislate on justice issues to the Scottish Parliament, including legal aid provision.

Scotland has a 'Judicare' model whereby private solicitors that are registered to SLAB, or barristers appointed by SLAB, can take on cases. Judicare is designed on a case-by-case funding model for services provided by solicitors and others instructed by them, such as advocates and experts. It ensures a demand-led legal aid budget.¹⁵³ There have been no reductions in civil legal aid scope over recent years and eligibility limits have been increased.

There are several different types of civil legal services, including:

- Civil Advice and Assistance (available for advice from a solicitor, but not representation in court, on any matter of Scots law).¹⁵⁴
- Civil Assistance by Way of Representation (allows for representation from a solicitor in specified civil legal forums, such as certain tribunals).¹⁵⁵

¹⁵² [What we do - Scottish Legal Aid Board \(slab.org.uk\)](https://slab.org.uk)

¹⁵³ Scottish Legal Aid Board, *Response to the Legal Aid Reform in Scotland Consultation*, Edinburgh: Scottish Legal Aid Board, 2019, pp. 6 -7.

¹⁵⁴ [Legal aid - how it works | Scottish Parliament](#)

¹⁵⁵ *Ibid.*

- Civil Legal Aid - covers representation in court for most civil court actions.¹⁵⁶

As the SLAB CEO summarises:

*Legal aid is just one part of a rich but complex, and at times inconsistent, pattern of provision. There is no mechanism for connecting need, demand and supply, or of targeting resources at priority issues, or securing a consistent level of services in any given place or for a particular type of problem. Legal aid should be a means to resolve problems and not a specialist subject in itself.*¹⁵⁷

Funding for Civil Legal Aid Provision

The Scottish Government allocates a publicly funded budget to SLAB. Scotland has a separate Scottish Legal Aid Fund which is also funded by the government, although there are small contributions made by the Law Society of Scotland. SLAB administers grant funding programmes on behalf of the Scottish Government who provide ring fenced funding.

The 2018 Independent Strategic Review of Legal Aid in Scotland identified a trend in decreasing expenditure of legal aid since 2011, as demand for legal aid has fallen.¹⁵⁸ It suggested that this was due to the success of early dispute resolution methods by diverting cases out of court, and wider societal changes to the justice system.

Funding grants have facilitated a gradual increase in fees over recent years.¹⁵⁹ Also, there are significantly more grants for civil legal advice and assistance (akin to legal help work in England and Wales) rather than legal aid representation.

Types of services and providers

There are advocates registered to SLAB. Most civil legal aid is provided by solicitors who are registered to SLAB. SLAB can also appoint barristers for more complex cases.

Law centres offer cheap or free legal help to people who might find it difficult to get legal advice. Most law centres in Scotland obtain funding in the form of grants from local and central government and other sources, as well as employing solicitors who are registered to carry out legal aid work.

Legal clinics allow students to volunteer, develop their skills and gain in-depth involvement in cases. They also improve access to justice for low-income people. Legal clinics are

¹⁵⁶ Ibid.

¹⁵⁷ Scottish Legal Aid Board, *Annual Report and Accounts, 2023*, p. 9

¹⁵⁸ Martyn Evans, *Rethinking Legal Aid: An Independent Strategic Review*, Scottish Government, 2018, p. 15

¹⁵⁹ [Legal Aid £11m package agreed - gov.scot \(www.gov.scot\)](https://www.gov.scot/news/legal-aid-11m-package-agreed/)

funded through universities, law firms, and government grants. They also promote legal aid as a profession for law students.

Scotland also has a wide range of alternative support systems for people seeking legal aid.¹⁶⁰ These include Citizens Advice Scotland, Shelter Scotland (for housing issues), Money Advice Centre, and law centres that offer free legal advice. Citizens Advice Scotland, the Extra Help Unit and associated bureaux together form Scotland's largest independent advice network.¹⁶¹

Fee structures

Most civil legal aid is provided by solicitors who are registered to SLAB. The structure is by separate fee structure forms for different types of legal work. In most cases this is billed hourly but there are also block fees.¹⁶² Hourly rates for most types of civil work have gradually increased in recent years, broadly in line with inflation, with the Scottish government also recently implementing a review mechanism for legal aid fees.

Eligibility criteria and subject matter coverage

Around 70% of the Scottish population financially qualify for civil legal aid.¹⁶³ SLAB also assesses merit and reasonableness for each case. In some cases, the user may be required to pay towards their legal costs in the following circumstances:

- Their income, savings, and other capital (items of value that they own) are above a certain level (this is called a 'contribution').
- They keep or gain money or property at the end of the case (this is called 'clawback').
- They lose the case (they might have to pay the opponent's costs).

Quality assurance and oversight mechanisms

The SLAB CEO is accountable to the Scottish Parliament. A Legal Aid Committee operates to negotiate on criminal legal aid issues, but there is no such committee for civil legal aid at present.

There is no single regulator for all providers of legal services in Scotland. The responsibility for the regulation of advocates, solicitors and commercial attorneys in Scotland lies with their respective professional bodies, the Faculty of Advocates, the Law

¹⁶⁰ [Alternatives to legal aid - mygov.scot](https://mygov.scot)

¹⁶¹ [About us | Citizens Advice Scotland \(cas.org.uk\)](https://cas.org.uk)

¹⁶² [Legal aid fees - Scottish Legal Aid Board \(slab.org.uk\)](https://slab.org.uk)

¹⁶³ Evans, 'Rethinking Legal Aid', p. 19

Society of Scotland, and the Association of Commercial Attorneys.¹⁶⁴ However the Lord President of the Court of Session, the most senior civil judge in Scotland and the head of the Scottish judiciary, has the ultimate responsibility for regulation of the legal professions.

As part of its regulatory duties, the Law Society sets and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's legal profession.

Australia

Type of system

Australia is a federal system, and it applies common law across all federal states and territories. States are self-governing and autonomous, with their own constitutions, legislatures, and certain civil authorities (e.g., judiciary and law enforcement) that administer and deliver most public policies and programmes. Territories are constitutionally and financially subordinate to the federal government, but in practice can be autonomous much like the states.

Funding for civil legal aid provision

A mix of federal and state government funds are provided annually to state-based statutory bodies, Legal Aid Commissions (LACs) and Community Legal Centres (CLCs).¹⁶⁵ The LACs and CLCs have operational autonomy over accessibility, eligibility, and policy decisions on which legal services to fund.

Funding to legal services is delivered via the National Legal Assistance Partnership (NLAP). The NLAP is a collaborative agreement, between the government and all states and territories, committing funding and setting strategic priorities and core principles of service. Through this mechanism the government funds services delivered by LACs, CLCs and ATSILS, with the individual states and territories having responsibility for the allocation of funds. The NLAP sets out a clear aim of providing access to justice to the vulnerable, establishing governance structures, frameworks for cooperation and performance monitoring whilst allowing individual states and territories to take a more tailored approach.

Types of services and providers

¹⁶⁴ [Judiciary of Scotland](#)

¹⁶⁵ [Legal aid and legal assistance services – Parliament of Australia \(aph.gov.au\)](#)

In Australia, civil legal aid is provided through a mixed model encompassing a range of public and private service providers including:

- LACs; state and territory statutory agencies.
- CLCs; independent, non-profit, non-government organisations.
- Family Violence Prevention Legal Services (FVPLSs).
- Indigenous legal services; independent, non-profit, non-government bodies known as Aboriginal and Torres Strait Islander Legal Services (ATSILS).
- Private legal profession; lawyers acting through pro bono work or funded by LACs.

CLCs are a key component of Australia's civil legal aid provision. They are independent, community-managed, non-profit providers of civil legal advice to disadvantaged communities. CLCs are regulated, with many receiving government funding to enable their services. CLCs extend the services provided by LACs and the private profession, and often include legal/non-legal partnerships in their provision to encourage early resolution and holistic support. There are many CLCs which recognise the importance of specialisation, focussing on areas such as women's issues, disabilities, employment law, environmental justice, immigration and refugee law.

ATSILS are Aboriginal Community-Controlled Organisations. ATSILS deliver free legal services to Aboriginal and Torres Strait Islander people, including advice, representation, information, and referrals. There is an ATSILS provider in each state and territory.

Fee structures

Fee structures vary between states and territories in the federal system. Payment to private practitioners is generally by hourly rate for the work undertaken and/or fixed fees for particular types or stages of work.¹⁶⁶

For example, in New South Wales there are different fee scales for criminal, family, and civil legal aid, and for different courts and specific services i.e., preparation, court attendance. In addition, there are separate fee scales for state and federal funding.

Court attendance is paid at a maximum 5 hours per day. A solicitor in New South Wales contracted to provide services for a civil legal aid client in the District Court would receive AU\$195 (£102.58)¹⁶⁷ per hour for preparation and court appearances, and AU\$293

¹⁶⁶ National Legal Aid Australia, *Country Report: Australia*, International Legal Aid Group, 2023

¹⁶⁷ Conversion rates in this section as of 9 December 2023.

(£154.14) for appearing as an advocate at a hearing for all civil legal aid cases.¹⁶⁸ Fee structures are decided by Legal Aid New South Wales, an independent government agency.

Eligibility criteria

Eligibility criteria for civil legal aid is set by LACs and varies across the states and territories. In all jurisdictions, to be eligible for legal aid, applicants must satisfy a means and merit test set by LACs. In 2021 approximately 5% of the Australian population are eligible for legal aid.¹⁶⁹

For example, in Queensland there are three sets of criteria to determine if legal aid will be granted. These are the Legal Aid Queensland means test, funding guidelines, and in most cases, a legal merits test.¹⁷⁰ The means test assesses income and assets. The funding guidelines specify the types of cases that Legal Aid Queensland can fund based on the priorities set by the government. The merit test considers the legal and factual merits of the case, for example if the benefit the applicant will receive from having a lawyer justifies spending limited public funds on their case.

Grants of legal aid to a LAC lawyer or the private profession are generally subject to a contribution payable by the applicant. LACs can place charges over a person's property to cover the cost of a contribution. The amount can then be recovered if and when the client sells their property. Other LAC services do not rely on a grant of legal aid first being made and are generally provided free of charge.¹⁷¹

While governments control the amount of funding received, the LACs and CLCs have operational autonomy over accessibility, eligibility, and policy decisions over which legal services to fund. Legal information, including telephone advice and online chat functions, is usually free.

Quality assurance and oversight mechanisms

The directors of the eight LACs combine at a national level to form National Legal Aid (NLA). NLA acts as a central contact point and advocate for issues that are of interest to all the LACs. It also:

- Sponsors research into the law and legal need in the community¹⁷².

¹⁶⁸ [Legal Aid New South Wales](#)

¹⁶⁹ National Legal Aid, 2023 – 24 Pre-Budget Submission Summary: Submission to The Treasury, 2022

¹⁷⁰ [Legal Aid Queensland](#)

¹⁷¹ NLA, 'Country Report: Australia', p.4

¹⁷² [Legal Australia-wide survey - National Legal Aid](#)

- Provides a framework for information exchange and learning opportunities between LACs.
- Promotes the development of best practice in legal aid commission business nationally.

Community Legal Centres Australia (CLCA) is the national representative body for CLCs. CLCA are an independent, non-profit organisation that supports CLCs to provide free and accessible legal services.

Canada

Type of system

Canada has a common law system in all provinces except Quebec, which has a civil law system. Canada has a federal system composing a national federal government and 13 administrative divisions. Of the 13 administrative divisions there are 10 provinces and three territories. The difference between the provinces and the territories concerns their governance. The territories have delegated powers under the authority of the Parliament of Canada and are ruled by the federal government. However, the provinces exercise constitutional powers.¹⁷³

Of the 13 administrative divisions, 11 are legal aid programmes established by legislation. Six of these are non-profit societies or corporations (B.C., Manitoba, Northwest Territories, Nunavut, Ontario, Yukon); four are independent commissions (Newfoundland-Labrador, Nova Scotia, Quebec, Saskatchewan); and one is a programme of the Law Society (New Brunswick). In Alberta, the legal aid programme is provided through a publicly funded, non-profit organization. In Prince Edward Island, legal aid is run as a government programme through the Department of Justice and Public Safety.¹⁷⁴

Funding for civil legal aid provision

The federal government, provincial governments, and representative bodies provide funding for civil legal aid.

Jurisdictions can fund civil legal aid from the Canada Social Transfer (CST). It is a federal block transfer from the Department of Finance that is intended to support three broad

¹⁷³ Legal Aid Ontario et al, *Country Report: Canada*, International Legal Aid Group, 2023

¹⁷⁴ *Ibid.*, p. 3

areas of social programmes: post-secondary education, social assistance and social services, and early childhood development and early learning and childcare.¹⁷⁵

Each administrative division across Canada has its own legal aid 'plan' which operates independently of the other administrative divisions. These are the organisations responsible for providing legal aid services. For example, Legal Aid Ontario (LAO), the independent government body that administers legal aid plan in Ontario, receives its funding from the federal government, the provincial government, and the Law Foundation of Ontario.

The three Canadian territories receive federal criminal and civil legal aid funding via the Access to Justice Services Agreements (AJA).¹⁷⁶ The AJA are funding arrangements between the government and the three territories Yukon, the Northwest Territories, and Nunavut. It provides financial support for civil legal aid, Indigenous court work services, and public legal education and information. The arrangements acknowledge the service delivery challenges that exist in Canada's northern and remote regions, including language barriers, a lack of communications infrastructure, and limited access to private lawyers.

Provinces only receive direct federal funding for criminal legal aid and immigration and refugee (R&I) legal aid.

Types of services and providers

In 2020-21, 91% of the lawyers providing legal aid services in Canada were private bar lawyers. Public lawyers made up 8% of lawyers providing direct legal aid services to clients, and other lawyers (such as Executive Directors) made up 1%. Among private bar lawyers, 48% provided both criminal and civil law services.¹⁷⁷

Legal aid plans employ a variety of non-lawyers to support the delivery of legal aid services. Lawyers comprise 89% of legal aid plan personnel and non-lawyers comprise 11%. Of the non-lawyers working for legal aid plans, intake workers/support staff (81%) were most common, followed by paralegals (14%).¹⁷⁸

Canada has operated Community Legal Aid Clinics since the 1970s. A key feature of community clinics is the involvement of non-lawyers in service delivery. Provision is delivered through a broad range of services, such as referrals and legal education in addition to casework to provide a more holistic service to disadvantaged communities and boost opportunities for early resolution.

¹⁷⁵ [Canada Social Transfer - Canada.ca](#)

¹⁷⁶ [Government of Canada](#)

¹⁷⁷ [Legal Aid in Canada 2020-21 - Canadian Government](#)

¹⁷⁸ [Legal Aid in Canada 2020-21 - Canadian Government](#)

Community clinics are under local community governance. The Board of Directors in each clinic are community elected and must comprise of community members. They are independent from government and accountable to communities they serve, allowing them to be flexible and responsive to community legal need.¹⁷⁹

Fee structures

Fee structures vary widely across Canada. The lowest hourly rates are generally paid to private bar lawyers with less than five years' experience, and the rates may increase with experience and for complex case matters. A few legal aid programmes pay a flat hourly rate to private bar lawyers regardless of experience.¹⁸⁰ Some jurisdictions pay private practice lawyers working on a legal aid case a block fee, regardless of the actual amount of time spent on the case. Some jurisdictions pay a flat fee for a full day or a half day in court. Some jurisdictions have a maximum billable amount for a case.

For example, in Ontario, the hourly tariff is set between \$109.14 (£64.15) and \$136.43 (£80.19) per hour depending on experience and applies for all legal aid services. The fees are determined by Legal Aid Ontario (LAO), a government agency that provides legal help for financially eligible low-income Ontarians.¹⁸¹

Similar rates are offered by Legal Aid British Columbia (LABC) at between \$111.17 (£65.34) and \$137.78 (£80.98) per hour.¹⁸²

Eligibility criteria

There are differences in eligibility criteria across the provinces. Generally, eligibility is based on the applicant's income and assets, and some provinces also consider factors like family size and liabilities. Between 21% and 88% of the Canadian population are eligible for legal aid, depending on the jurisdiction.¹⁸³ ¹⁸⁴The large differences in eligible population are attributable to the wide demographic and socio-economic differences across Canada. This means there are also jurisdictional differences in political choice, established systems, demand and funding.

¹⁷⁹ Lenny Abramovicz, *The Critical Characteristics of Community Legal Aid Clinics in Ontario*, Journal of Law and Social Policy, 2004, p. 74

¹⁸⁰ LAO et al, 'Country Report: Canada', p. 5

¹⁸¹ [Legal Aid Ontario](#)

¹⁸² [Legal Aid British Columbia](#)

¹⁸³ Spyridoula Tsoukalas and Paul Roberts, *Legal Aid Eligibility and Coverage in Canada*, Department of Justice Canada, 2002

¹⁸⁴ It is challenging to determine an overall figure for the percentage of the Canadian population who are eligible for civil legal aid given that Canada is a federal country.

All jurisdictions except New Brunswick have income cut-offs for legal aid eligibility.¹⁸⁵ For almost all the legal aid plans, only those who receive means-tested benefits or have no income are automatically eligible for free legal services.

Quality assurance and oversight mechanisms

The legal profession in Canada is overseen by self-regulatory organisations (usually known as law societies) established by provincial legislation.

For example, lawyers in Ontario are regulated by the Law Society of Ontario (LSO). The LSO run Spot Audit and Practice Review Programs which are quality assurance activities that ensure competence of the legal profession.¹⁸⁶ In Ontario, the LSO handles complaints internally and there is no mechanism for escalation outside of the legal aid plan.

The Law Society of British Columbia (LSBC) also handle complaints internally. However, if the complainant feels their process was handled unfairly, they can escalate their case to the British Columbia Office of the Ombudsman, an independent body that handles complaints about provincial public authorities.¹⁸⁷

On a national level, the Canadian Bar Association represents lawyers, judges, notaries, law teachers and law students from across Canada.

Each legal aid program operates independently of the other programmes within Canada. The Association of Legal Aid Plans of Canada (ALAP) has been formed as an umbrella group representing each of the provincial and territorial legal aid programmes and provides an opportunity to share best practices in the delivery of legal aid services and consider access to justice issues together.¹⁸⁸

Finland

Type of system

Finland operates a civil law system. The Finnish legal aid system is governed by the Legal Aid Act ('Oikeusapulaki') which sets out the eligibility, coverage, and organisation of legal

¹⁸⁵ [Government of Canada](#)

¹⁸⁶ [Law Society of Ontario](#)

¹⁸⁷ [Law Society of British Columbia](#)

¹⁸⁸ LAO et al, 'Country Report: Canada', p. 3

aid. Finland operates a unitary government system. There is a two-tier government structure made up of a national government and self-governing municipalities.¹⁸⁹

Finland operates an adversarial legal system however some elements reflect an inquisitorial legal system.¹⁹⁰ For most civil legal cases, judges bear the responsibility of case management and conduct the trial, but the clients are responsible for obtaining and presenting the evidence in an oral court hearing.

Funding for civil legal aid provision

The Ministry of Justice administers and funds legal aid.¹⁹¹ There is standard eligibility criteria across Finland but the responsibility of deciding who receives civil legal aid is in the hands of the state PLA offices or the decisions of the courts.

Around 90% of Finnish citizens have legal expenses insurance (LEI) which is managed by private companies and is the primary means for covering legal costs. LEI costs between €12 (£10.32) to €100 (£85.97) annually¹⁹² and is an automatic add-on product to household insurance.¹⁹³ If someone has LEI, they are not entitled to receive state-funded legal aid unless in some circumstances. This includes costs that exceed the maximum coverage provided by LEI (subject to all the other conditions for state funded legal aid being met). In some cases, legal aid can also be granted to pay the excess of an LEI policy.¹⁹⁴

Types of services and providers

Finland has a mixed model of private lawyers and public lawyers in PLA offices throughout the country.

In recent years there have been reforms to legal services in Finland. For example, there has been a reduction in the number of PLA offices and there has been an emphasis on investing in digital services in legal aid.¹⁹⁵ For example, since 2009, telephone counselling in PLA offices has become a key means of receiving legal aid advice from the PLA offices. The 23 PLA offices provide a range of holistic legal services from legal counselling to court

¹⁸⁹ Open Society Justice Initiative, *Legal Aid in Finland Factsheet*, 2015

¹⁹⁰ Riikka Koulu, *Evidence in Civil Law – Finland*, Maribor: Institute for Local Self-Government and Public Procurement, 2015, p. 3

¹⁹¹ Antti Rissanen, 'Legal Aid in Finland', in Olaf Halvorsen Ronning and Ole Hammerslev (eds.), *Outsourcing Legal Aid in the Nordic Welfare States*, Cham: Palgrave Macmillan, 2018, p. 77

¹⁹² Conversion from EUR to GBP as of 10 January 2024.

¹⁹³ Ministry of Justice Finland, 'Country Report: Finland', p. 10

¹⁹⁴ *Ibid.*, p. 11

¹⁹⁵ Rissanen, 'Legal Aid in Finland', p. 91

duties. Citizens can apply for legal aid to the PLA offices by sending a physical application or filling in an electronic application form.

Private lawyers also offer legal aid in Finland, and they submit claims for legal aid to the PLA offices. The work of private lawyers is approved by the PLA office and then they are paid out of state funds. Private lawyers must be either members of the Finnish Bar Association (FBA) or hold a master's degree in law from a Finnish university.

The scope of work that public and private lawyers cover is different. Private lawyers can only handle legal aid cases involving court proceedings, but public lawyers can handle all out-of-court issues, such as legal advising or document drafting. Private lawyers can act in non-court cases but only when the PLA office cannot act, for example due to lack of capacity or conflict of interest.¹⁹⁶

The Ministry of Justice has launched preparations to reorganise the legal aid and public guardianship districts into a National Legal Aid and Guardianship Authority in 2024-2025. This would build on the existing model of PLA offices.

Fee structures

All public legal aid attorneys, who work at a state legal aid office get a monthly salary paid by the state from the legal aid budget. A private lawyer who deals with a legal aid case will be paid an hourly remuneration rate per case. A private lawyer's fee is also paid from the legal aid budget by a decision of a state legal aid office or a court.

Private lawyers are paid on an hourly rate and the standard salary is €110 per hour (+ 24% VAT).¹⁹⁷ This is £94.58 (+ 24% VAT). Legal aid is limited to a maximum of 80 hours of lawyer time for each issue separately and an application must be made for a time extension of up to 30 hours.¹⁹⁸ Legal aid covers lawyer fees, translation or interpretation services required, expenses for evidence (e.g., medical certificates), and witnesses' fees.¹⁹⁹

Eligibility criteria

Legal aid is either free or provided with an excess.²⁰⁰ In 2022, around 74% of the matters managed by legal aid offices were handled for free.²⁰¹

¹⁹⁶ Ibid. p. 87

¹⁹⁷ Ministry of Justice Finland, 'Country Report: Finland', p. 3

¹⁹⁸ Rissanen, 'Legal Aid in Finland'. p. 87

¹⁹⁹ Ibid. p. 82

²⁰⁰ Juha Palkamo, Hilla Viljamaa, Samuli Yli-Rahnasto, *Legal Aid for Legal Persons*, International Judicial Cooperation in Civil Matters, 2016

²⁰¹ Ministry of Justice Finland, 'Country Report: Finland', p. 3

Eligibility for legal aid is based on the applicant's available means which is assessed by calculating their net monthly income after tax and expenditure.²⁰² Expenditure includes housing costs, childcare fees, alimony, recovery proceedings, and loan arrangements.

Legal aid is granted on the basis of the applicant's monthly available means (not income) so it is difficult to say what share of the Finnish population qualifies for legal aid. It has been estimated that in 2018 the share of people within the scope of legal aid was 52.3% of people aged 15 years or older.²⁰³

There is a merit test for legal aid in Finland, and legal aid will generally be granted unless for example the case is of minor importance to the client.²⁰⁴ Unlike many other countries, merits testing in Finland does not include any measure on the likelihood of success. However, a user may have to pay the other parties' costs if a case is lost. This financial risk acts as a deterrent to clients wanting to pursue cases with low chances of success.

Legal aid covers legal matters including family and inheritance law, debt adjustment, immigration and asylum, and other issues. Legal aid is not provided in some cases such as uncontested divorces, matters of taxation, or public charges.²⁰⁵

Quality assurance and oversight mechanisms

Private lawyers in Finland are members of the Finnish Bar Association and, like public lawyers, their activities are supervised by the Bar and the Chancellor of Justice.

Public lawyers must obtain a Master of Law degree in Finland and have adequate experience of advocacy or adjudication. Public and private lawyers are required to follow the professional and ethical standards of the legal profession.

The Ministry of Justice administers legal aid and the state PLA offices grant legal aid and have a limited oversight role.²⁰⁶

The Netherlands

Type of system

²⁰² Rissanen, 'Legal Aid in Finland', p. 81

²⁰³ *Ibid.*, p. 4

²⁰⁴ Open Society Justice Initiative, 'Legal Aid in Finland Factsheet'

²⁰⁵ Ministry of Justice Finland, 'Country Report: Finland', pp. 5-6

²⁰⁶ Sonal Makhija et al, 'Access to Justice in Finland', in Alan Paterson et al (eds.), *Access to Justice. Global Access to Justice Project, 2020 : Part One – Nordic Countries. National Reports*, Global Access to Justice Project, 2021, p. 19

The Netherlands has a civil law system, and the Dutch constitution guarantees the right to legal aid.²⁰⁷ The Dutch legal aid system is governed by the Legal Aid Act which has been in force since 1994.

The Netherlands operates an inquisitorial legal system and a unitary government system with three levels of government.²⁰⁸ There is a central national government, 12 provinces and 355 municipalities.

Between 2003 and 2006 there were major reforms in the Dutch legal aid system. Legal Services Counters, known as 'Juridisch Loket', were introduced in 2004 to replace the Legal Aid Bureaus.²⁰⁹ The Counters are a national network of centres that provide first-line legal aid and act as a triage service, referring clients to private lawyers when necessary. Since 2007 there has also been the development of the Roadmap to Justice, or 'Rechtwijzer', website by the Legal Aid Board (LAB) to act as an online diagnosis and referral tool.

Funding for civil legal aid provision

The Ministry of Justice and Security funds legal aid via the Legal Aid Fund which operates according to 'open end provision'. In 2022, for civil legal aid, this was €174m (£150m) which was €10 (£8.60) per capita.²¹⁰

Approximately half of Dutch households have legal insurance policies which contributes to their legal support.²¹¹

Types of services and providers

The Netherlands operates a three-tiered legal aid model.²¹² The first tier offers online self-help, information, and support; the second tier provides free information and advice to users where they can clarify their legal matters; and the third tier is private lawyers and mediators who provide legal aid and representation for cases in the form of certificates (more detail in the case study).

Fee structures

The LAB pays the lawyers' fee, the cost for loss of time, and the cost for travelling. Generally, they are paid a fixed fee according to the type of case (with fixed surcharges if applicable), although exceptions can be made for more time-consuming cases. The LAB

²⁰⁷ Susanne Peters et al, *Country Report: Netherlands*, International Legal Aid Group, 2023

²⁰⁸ [European Committee of the Regions](#)

²⁰⁹ Susanne Peters et al, 'Country Report: Netherlands', p. 4

²¹⁰ *Ibid.*, p. 11

²¹¹ *Ibid.*, p. 4

²¹² The Raad voor Rechtsbijstand, *Legal Aid in the Netherlands*, p. 4

does not cover the court costs. Court registry fees only can be reduced in civil cases. Private lawyers and mediators do not charge for hours but are paid a fixed fee which differs according to the type of case they deal with. They bill the LAB for their services before being paid out of state funds by the LAB.²¹³

In 2017, an extensive re-evaluation of the average time spent per case was conducted and as a result fees for most cases were re-evaluated and increased in 2022.²¹⁴

The Ministry of Justice and Security determines the hourly rate every year following an annual price index. In 2023, the hourly rate is €120.20 (£103.30). Part of this fixed fee is paid by the client through the individual contribution; lawyers are responsible for collecting this contribution themselves. The LAB pays the remainder.²¹⁵

Eligibility criteria

The LAB assesses applications for a certificate based on the client's income, the client's assets, and the (financial) significance of their legal problem.²¹⁶ LAB will assess the applicant's income two years prior to the year of the application (this is the reference year).

If eligible for legal aid, the users may still be required to pay a personal contribution, for example anything beyond the salary costs of the lawyer (e.g., expert evidence). The personal contribution depends on the level of income in the reference year. There are five contribution categories, dependent on the users' income. In approximately 88% of the certificates granted, the person seeking justice falls under the lowest individual contribution category.²¹⁷

If the LAB rejects the applications for legal aid because the income in the reference year exceeded the statutory financial limits, there is an option of asking the LAB to make the current year the reference year. This is only possible if the income has fallen considerably in the meantime and this request needs to be made directly by the applicant.²¹⁸

If the user has visited the Counter before receiving legal aid, they are entitled to a discount on their individual contribution. However, if they approach lawyers directly, they will not receive the discount. In these instances, the lawyer can refer the client back to the Counter to allow the client to claim the discount.

²¹³ Goce Kocevski et al, *Expert Witnesses and the Legal Aid*, Council of Europe, 2021, p. 22

²¹⁴ Susanne Peters et al, 'Country Report: Netherlands', p. 9

²¹⁵ *Ibid.*, p. 10

²¹⁶ *Ibid.*, p. 13

²¹⁷ *Ibid.*, p. 12

²¹⁸ [Approach & Fees \(vdhradvocaten.nl\)](https://www.vdhradvocaten.nl)

In certain legal cases where the client has been deprived of free will or is the victim of a violent crime/sexual offence, clients are exempt from the client contribution.²¹⁹

Approximately 36% of the Dutch population are eligible for legal aid, based on their financial means.²²⁰ Legal aid covers all types of legal matters in the following areas: family, employment, housing, social security, consumer, administrative, debt restructuring, asylum and immigration.²²¹

Quality assurance and oversight mechanisms

The LAB resides under the Ministry of Justice and Security and handles all matters concerning the administration, supervision, expenditure, and implementation of legal aid in the Netherlands.

The LAB conduct regular satisfaction surveys, with the most recent survey results from 2018 indicating that clients were satisfied with their lawyer.

Most lawyers and mediators in the Netherlands operate under the ‘High Trust method’ when dealing with the applications of certificates for legal aid. The High Trust method is based on the principles of trust, transparency, and mutual understanding between providers and oversight bodies (further detail is provided in a case study).

To help ensure quality, the number of certificates that can be granted to a lawyer or mediator is maximally 250 per year and the maximum number of paid hours a lawyer can invoice for is 2000.²²²

The Netherlands Bar Association (the NOvA) is the professional body for all legal professionals in the Netherlands. The NOvA’s main responsibility is to oversee the quality of the legal profession by setting rules and regulations.²²³ By law, legal professionals must be members of the Bar and pay an annual financial contribution to the Bar which covers the costs incurred by the Bar.

In the Netherlands, peer review is currently only established in asylum law.²²⁴ However, the LAB has piloted mechanisms for ensuring more data-led policy development and embed mechanisms for continuous improvement (see the fuller case study).

²¹⁹ Susanne Peters et al, ‘Country Report: Netherlands’, p. 14

²²⁰ Ibid., p. 13

²²¹ Ibid., p. 23

²²² Ibid., p.17

²²³ Ibid., p. 17

²²⁴ Ibid., p. 17

The USA

Type of system

Federal and state courts are mostly common law, but some states have civil law. At the federal level, the Legal Services Corporation (LSC), a non-profit corporation, funds staff attorneys to provide legal aid. There are c.700 providers but the delivery and funding within and between states varies widely. The LSC funds around 25% of these and other providers include pro bono delivery, voluntary organisations, self-help centres and law schools.²²⁵

Unlike in many countries, the regulatory framework on who can provide legal advice is restricted to the use of non-profit organisations and ‘allied professionals’ (legal service providers authorised to give limited legal advice).²²⁶

Funding for civil legal aid provision

There is no national legal aid budget. At the federal level, LSC funds part of the state based civil legal aid system. At the state level, 705 separate and independent primarily staff-based service providers are funded by a variety of sources.

In the US system, as a general matter, funding is not targeted for specific cases or types of advocacy. Instead, each civil legal aid programme determines the scope of services and the clients they are going to serve. Most civil legal aid programmes provide legal advice and full representation before courts and administrative tribunals.

LSC is the largest single funder, but there are a variety of other funding sources that contribute to the overall legal aid provision.²²⁷ Notable examples include Interest on Lawyers’ Accounts (IOLTA), Foundations and Corporation Grants, CY Press, Legal Community, and other Public Funds.²²⁸

Types of services and providers

LSC-funded providers account for 25% of civil legal aid provision.

²²⁵ Sarah John, Mary C. Slosar, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*, Washington DC: Legal Services Corporation, 2022, pp. 7 – 8.

²²⁶ Innovation for Justice, *Designing a New Tier of Civil Legal Professional for Domestic Violence Survivors*, Phoenix City: Innovation for Justice, 2019, pp. 1 –2; Michael Houlberg, Natalie Anne Knowlton, *Allied Legal Professionals: A National Framework for Program Growth*, Institute for the Advancement of the American Legal System, 2023

²²⁷ [US Civil Legal Aid: Overview | Legal Aid History](#)

²²⁸ [US Civil Legal Aid: Overview | Legal Aid History](#)

Self-representing litigants can access court-based services, where ‘just in time’ and ‘just what is needed’ legal advice about procedural administration is provided. Online court services are currently being updated to tailor procedural information to improve usability for self-representing litigants in the system.

Law school clinics and legal incubators provide free legal services to clients of low and modest means, including cases analogous to civil legal aid.²²⁹ However, case distribution is not regulated and therefore unevenly distributed across areas of law.

Non-profit foundations offer free or cheap legal services for low-income individuals. They focus on training non-legal professionals to provide basic advice for litigants entering the system. Whilst framed differently per foundation, this model can commonly be described as the ‘Community-Justice Partnership’.²³⁰

Medical-Legal Partnerships (‘MLPs’) integrate lawyers into the health care setting to help patients navigate the complex legal systems that often hold solutions to many social determinants of health.²³¹ MLPs are active in 450 hospitals and clinics in 49 states and the District of Columbia.²³² Over three quarters of LSC-funded civil legal aid programs have a medical-legal partnership.

Pro bono work only covers a small amount of legal aid provision.²³³ There are approximately 900 pro bono programmes, which exist in every state. They are either components of bar associations, units of legal aid staff programmes, or independent nonprofit entities that refers cases to lawyers on the pro bono panels. Law school clinical programmes and self-help programmes also supplement this system.

Fee structures

Given that the USA is a federal country, fee structures and funding sources vary widely depending on state. The LSC funds 25% of civil legal aid providers and the remainder of civil legal aid is provided by several sources, such as law clinics and pro bono delivery. These have different fee structures.

Eligibility criteria and subject matter coverage

In 2021, LSC programmes served individuals with an annual income of \$16,100 (£12,853.03) or lower and \$33,125 (£26,444.52) for a family of four.²³⁴ LSC-funded

²²⁹ Coleen Shanahan et al., *Measuring Law School Clinics*, Tul. L. Review, 2018

²³⁰ [Innovation for Justice \(i4J\) \(innovation4justice.org\)](https://www.innovation4justice.org)

²³¹ Daniel Atkins et al., *Medical-Legal Partnership and Healthy Start: Integrating Civil Legal Aid Services into Public Health Advocacy*, The Journal of Legal Medicine, 2014, pp. 195 – 209.

²³² *Ibid.*, pp. 195 – 209.

²³³ [Civil Legal Aid Initiative: Non-LSC Federal Resources | National Legal Aid & Defender Association \(nlada.org\)](https://www.nlada.org)

²³⁴ [What is Legal Aid? | LSC - Legal Services Corporation: America's Partner for Equal Justice](https://www.lsc.gov)

programmes may only use LSC funds to provide legal assistance to clients who meet specific financial eligibility guidelines. Non-LSC funded programmes set their own criteria.

Unlike many countries, neither LSC nor most state funders impose a formal merit test on applicants for service and representation. Nor is there a “significance test” required by LSC or state funders.

In the USA, 53.6 million people are eligible for civil legal assistance from LSC funded programmes (i.e., without user contributions) which is 16.6% of the country’s population.²³⁵ LSC-funded programmes are also permitted to provide legal assistance to organisations of low-income persons, such as welfare rights or tenant organisations.²³⁶ To qualify, the organisation must lack the means to retain private counsel, and most of its members must be financially eligible under the LSC regulations; or the organisation must have as its principal activity the delivery of services to financially eligible members of the community. LSC’s 2021 Intake Census indicates that low-income individuals likely seek legal help from LSC-funded organisations for more than 1.9 million problems annually.²³⁷ 71% of these problems will either not receive any legal help or not receive enough legal help to be fully resolved. Over the course of a year, this translates to an estimated 1.4 million problems that will not get any or enough legal help. While LSC is the largest funder of civil legal aid in the country, there are many other legal aid organisations serving low-income communities that operate outside of LSC’s network.

Quality assurance and oversight mechanisms

The American Bar Association (ABA) is a voluntary bar association of lawyers and law students.²³⁸ It adopts policy (organisational positions) on certain legislative and national issues. It has several functions, including setting academic standards for law schools and ethics and professional standards for legal practice.

The Department for Justice monitors the legislation that details who can give out legal advice in the US. For example, this limits the scope of advice that Community-Justice Workers can provide for low-income people.²³⁹

²³⁵ [2022 By The Numbers.pdf | Powered by Box](#)

²³⁶ [Legal Services Corporation](#)

²³⁷ *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*, LSC, 2022

²³⁸ [About Us \(americanbar.org\)](#)

²³⁹ [Civil Legal Aid 101 \(justice.gov\)](#)

Appendix B

Methodology

The HM Government Open Innovation Team (OIT) was commissioned in May 2023 by the Ministry of Justice (MoJ) to support on the Comparative Analysis workstream in the Review of Civil Legal Aid (RoCLA). The OIT is a cross-government unit in the UK that works with external experts to generate analysis, ideas, and options to support policy development.

The OIT, working with the MoJ, conducted an expert literature review on civil legal aid in England and Wales and across the six comparator legal systems (Australia, Canada, Finland, Netherlands, Scotland, USA) and held interviews with 45 experts, including academics, researchers, government officials, and practitioners. This fieldwork stage continued until the end of October 2023. A full list of contributors is provided and we are grateful for their engagement. The evidence and insights from this engagement has informed the development of this report.

The RoCLA stakeholder sub-group, attended by members of legal representative bodies in England and Wales, were updated on the scope and objectives of the Comparative Analysis workstream in an online meeting on 19 July.

The provisional findings and policy case studies were discussed with a range of experts in two online workshops held on 17 October and 26 October.

These were then tested with the RoCLA stakeholder sub-group on 8 November.

There were also two focussed sessions with practitioners in England and Wales, organised by The Law Society (TLS) and the National Advice Network Wales (NAN) on 10 and 14 November, respectively.

The report was then independently peer reviewed by two independent academics.

Appendix C

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