



Justice Select Committee Inquiry into Access to Justice Bar Council written evidence

About Us

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Scope of Response

This submission addresses the questions the Committee has sought evidence on, and includes contributions from Advocate, the Criminal Bar Association (CBA) and the Family Law Bar Association (FLBA).

Executive Summary

The Bar Council's submission of September 2024 to the multi-year spending review set out our main asks of the government¹. Unfortunately, many of these issues have not improved, with some, notably the Crown Court backlog, even having worsened. Though the recent reviews conducted by Sir Brian Leveson and Rt Hon David Gauke may have some positive longer-term impacts on access to justice, they will not have an immediate discernible impact. There must be a balance between longer term priorities for reform and addressing the acute problems we face now, which require immediate and significant investment. We continue to stress that investment in the criminal justice system must be the first priority.

Question 1: How does the current state of the legal services and representation market in England and Wales, and associated operating pressures, affect access to justice for clients?

The justice system has faced years of underfunding with significant cuts to the Ministry of Justice (MoJ) budget by consecutive governments. The level of the underfunding and the disproportionate extent of cuts compared to other government departments has been set out in our *Justice short changed* report².

Key findings included:

- Public funding for justice in England and Wales has declined by 22.4% in real per person terms from 2009/10 to 2022/23

¹ Bar Council "[Bar Council Spending Review Submission: Fixing the foundations of the justice system](#)" September 2024

² Bar Council "[Justice short changed - public funding of the justice system](#)" September 2024

- Over this period the UK economy grew by 11.5% and overall government spending increased by 10.1% in real per person terms
- Funding for justice is 30.4% below where it would be if it had kept pace with the UK's inflation, population growth and the economy

The detrimental effect of this underfunding of the justice sector has been, and is most visible in, the inability to reduce the court backlogs. The latest criminal court statistics from September 2025 reported the highest backlog on record with an open caseload in the Crown Court of 78,329³.

In addition, there is insufficient funding of and investment in court buildings, difficulty in filling vacancies in parts of the judiciary, a capped number of sitting days even when there were enough judges and advocates for courts to be sitting, and not enough barristers prepared to do legal aid work due to the low fee rates compared to what can be earned in other areas of work.

The effect of court backlogs on access to justice for members of the public is what is often well characterised by the phrase 'justice delayed is justice denied'.

Indeed, research from the London Mayor's Office for Policing and Crime (MOPAC) found that, after CPS charge, victim withdrawals account for a quarter of all non-convictions⁴, with one of the reasons for withdrawal being the length of proceedings, exacerbated by court delays, prolonging recovery and the victim moving forward with their life⁵.

Crown Court backlogs also have a financial impact on barristers as they can normally only submit a bill for their legal aid case after the case has concluded. If a barrister undertakes a Plea and Trial Preparation Hearing (PTPH) it can be several years before the barrister is paid for that hearing. This is because courts are now listing the trial to 2, 3 or 4 years from the date of the PTPH.

Question 2: What is the role of supplementary advice services in supporting access to justice?

Other stakeholders will be better placed than the Bar Council to provide evidence on supplementary advice services, for example AdviceNow or Support Through Court. The charitable sector does admirable and excellent, work with limited resources and under great pressure, to help members of the public during their interactions with the justice system. However, it is worth noting that although these services are "supplementary", they are not intended to be, and cannot be, a replacement to expert legal advice and representation by a barrister or solicitor.

Question 3: What is the impact of those acting without legal advice and / or representation on access to justice?

In 2012, the Legal Aid Sentencing and Punishment of Offenders Act (LASPO) removed legal aid from large areas of civil and family law. The result was a large increase of those acting without legal representation - litigants in person (LIPs).

³ MoJ "[Criminal court statistics quarterly: April to June 2025](#)" updated 30 September 2025

⁴ MOPAC "[Understanding Victim Withdrawal in London](#)" July 2025, p15

⁵ Ibid, p17

LIPs are less likely to put forward the correct or most appropriate legal points and, however much the judge may assist⁶, consequently there may be a risk that the litigant in person is less likely to win their case and obtain justice than if they had legal representation.

There has been a significant increase of LIPs in recent years, resulting in cases taking longer and making it more difficult to reduce court backlogs, thereby delaying access to justice for others.

In October 2018 we published a research report on the impact of LASPO since its implementation⁷. The research found that:

- More than 91% of respondents reported the number of individuals struggling to get access to legal advice and representation had increased or risen significantly
- 91% of respondents reported a significant increase in the number of LIPs in family cases; and 77% of respondents reported a significant increase in the number of LIPs in civil cases
- 77% saw a significant delay in family court cases because of the increase in LIPs
- Almost 25% of respondents have stopped doing legal aid work
- 48% of barristers surveyed do less legal aid work than before LASPO

A report of the Justice Select Committee of March 2015⁸ makes reference to research commissioned by the MoJ on LIPs in private family law cases⁹.

The research into LIPs in private family law cases found¹⁰:

“LIP cases appear less likely to settle and may require longer hearings and more hearings. A larger quantitative dataset is needed to test this finding conclusively.” (p. 52)

“Analysis of the contested applications in that survey indicated that cases where one or both parties did not have representation throughout the case (or at all) were less likely to settle than those in which both parties were represented throughout. Furthermore, those cases involving LIPs that did settle were likely to do so at a later stage of the proceedings than those in which both parties were represented throughout the case. The findings from this cross-sectional study cannot prove causation

⁶ The requirement of the judge to stay neutral whilst also balancing attempts to assist a litigant in person through proceedings can make striking a balance difficult, and create a less than ideal situation.

⁷ Bar Council [“Bar Council submission to the Ministry of Justice LASPO Post-Implementation Review”](#) 27 September 2018

⁸ Justice Committee [“Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”](#) 4 March 2015 p37 para 95

⁹ MoJ [“Litigants in person in private family law cases”](#) 27 November 2014

¹⁰ MoJ [“Litigants in person in private family law cases”](#) 27 November 2014

or address the potential impact of unobserved characteristics on settlement. However, the findings are consistent with the Moorhead and Sefton study.” (p.56)

“In semi-represented cases the researchers did observe judges spending more time explaining the process to the unrepresented party as an attempt to ensure equality of arms between the parties. Further, the team also observed judges permitting the unrepresented party far more leeway in how they conducted their cases, again apparently as a means to redress any perceived power imbalance.” (p.57)

“fully represented cases were more likely to be resolved by consent than LIP cases and more likely to have fewer and shorter hearings than semi-represented cases. Cases in which neither party was represented appeared more likely to collapse than other types of cases.” (p.59)

In summary, this research showed:

- Cases with LIPs that are ‘substantive’ take up more court time than if they had legal representation.
- There are also short cases with LIPs, that fail and never would have been brought in the first place if they had received legal advice.

Question 4: Without impacting the public purse, what potential funding options would increase access to justice? e.g. an access to justice fund levy, conditional fee arrangements, third party funding.

Money could be saved in the round and access to justice improved by increasing funding for early legal advice. This would enable cases to be resolved at an earlier stage before they get to a crisis stage – at which point they are more expensive. For example, the 2012 cuts to the scope of legal aid removed legal aid from housing cases unless the individual might be made homeless. Consequently, cases were only funded for legal aid once they had got to this crisis stage, rather than resolving them more cheaply at an earlier stage.

In August 2024, The Bar Council and the Access to Justice Foundation commissioned a report analysing the value of early legal advice it found¹¹:

- The provision of funding for free specialist legal advice is a financially sound decision
- Spending to support those in crisis is usually inevitable, regardless of whether free legal advice is given. The immediate financial impact to government varies based on a client’s needs and the level of support required. Where a person is in need of specialist advice, our estimates suggest that the Treasury incurs an average cost of £12,400 in the first year without advice, compared to £3,300 when free legal advice is provided

¹¹ Access to Justice Foundation & The Bar Council [“The Value of Justice for All”](#) August 2024

- In 2023, the provision of free specialist legal advice saved the Treasury approximately £9,100 per case. For the estimated ½ million people receiving free legal advice, this equates to a saving of around £4.5 billion in the first year
- This means that for every £1 spent on free specialist legal advice and its outcomes in 2023, there was a saving to government of £2.71

We continue to call on the government to invest in the provision of early legal advice.

The Bar Council also supports 'Non Court Dispute Resolution' (often called 'Alternative Dispute Resolution (ADR)') – such as mediation and arbitration (see answer to question 8 for further information). For ADR to succeed, it needs people who are suitably trained and regulated to undertake the work. ADR is generally lower in cost than traditional legal advice and representation, but it is not free and might not always be the best route to resolution for parties with a dispute. Many barristers specialise in mediation and arbitration, and are well placed to assist parties in resolving issues outside of court, given their extensive training and experience.

There is no simple alternative or quick fix that can replace a properly funded legal aid system. There is a seemingly never-ending series of reviews looking at alternative forms of funding. Lord Justice Jackson's 584-page *Review of Civil Litigation Costs: Final Report* of December 2009 had a chapter each on: before-the-event insurance; after-the-event insurance; conditional fee agreements; third party funding; contingency fees; Contingent Legal Aid Fund (CLAF) or Supplementary Legal Aid Scheme (SLAS)¹².

The most recent *Review of Litigation Funding*, published in June 2025 by the Civil Justice Council not only examined the categories in the Jackson report, but also considered: portfolio funding and litigation loans; crowdfunding and pure funding¹³.

Yet none of these reports propose a magic answer to replace legal aid and a mixed economy is needed. The 2025 Civil Justice Council report states:

"4.4 The Working Party considers the following to be the overriding principles that should govern a holistic approach to litigation. They are that access to justice (in its broad sense of just prevention, consensual resolution and adjudication) is dependent upon:

[...]

c) the State ensuring such resources available via publicly-funded legal aid and through facilitating the effective provision of private forms of funding;"¹⁴

There are, however, changes that can be made, to reduce some of the burden on criminal legal aid funds:

i. Widening the scope of legal expenses insurance in household policies

¹² Rt Hon Lord Justice Jackson "[Review of Civil Litigation Costs](#)" December 2009

¹³ Civil Justice Council "[Review of Litigation Funding](#)" June 2025

¹⁴ Ibid, p21-22

Those who take out household insurance and similar policies can opt to include legal expenses insurance but it excludes the provision of legal expenses in criminal cases. Such a restriction should be removed.

ii. Proceeds of crime recovered, to have a proportion reinvested in legal aid

The Asset Recovery Incentivisation Scheme (ARIS) was instituted in 2006. Its object is to encourage investment and resources to be put into the investigation and prosecution of financial crime by sharing a proportion of the proceeds of recoveries with the agencies conducting investigation and prosecution.

These funds come from:

- Criminal prosecution and confiscation following conviction under Part 2 of the Proceeds of Crime Act 2002 (PoCA)
- Non-conviction civil recovery and forfeiture under Part 5 of PoCA

The government's "Asset recovery statistical bulleting: financial years ending 2019 to 2024" reports that "there was £243.3 million of assets recovered from confiscation, forfeiture, and civil recovery orders in the financial year ending March 2024."¹⁵

It also reports that, after paying compensation to victims, there remained "£98.1 million of ARIS funding distributed to POCA agencies in the financial year ending March 2024."¹⁶

Those ARIS funds went to police, local authorities, HMCTS, Crown Prosecution Service, HMRC and the National Crime Agency. None of it went to reimburse the legal aid fund for the cost of legal representation of the defendant. The government might therefore reconsider the distribution of these funds, and include reimbursement of the legal aid fund.

The Criminal Legal Aid Advisory Board (CLAAB) Annual Report 2024 on pages 31-34 put forward this proposal, and similar proposals, concluding¹⁷:

"[...] we invite the Lord Chancellor to consider that repayment to the LAA of defence Legal Aid from proceeds of crime is justified and consistent with deprivation of assets and the principle that those who can pay should pay for their defence." (p.34, para. 126)

Question 5: If limited funds were available, what would be the priority areas for spending?

In our submission to the Spending Review in September 2024 we set out 5 key priority areas for the Treasury to consider¹⁸:

¹⁵ Home Office "[Asset recovery statistical bulletin: financial years ending 2019 to 2024](#)" 12 September 2024

¹⁶ Ibid.

¹⁷ MoJ "[Criminal Legal Aid Advisory Board \(CLAAB\) annual report 2024](#)" 14 November 2024

¹⁸ Bar Council "[Bar Council Spending Review Submission: Fixing the foundations of the justice system](#)" September 2024

1. Restoring adequate resources to the justice system to promote growth and protect the public

- Funding for the justice system should be in line with the demands made of it
- Remove the cap on sitting days in the Crown Court and provide sufficient sitting days in all jurisdictions, especially family

2. Recruiting and retaining criminal barristers to ensure the long-term sustainability of the criminal justice system

- Government to match-fund the cost of 100 additional criminal pupillages (barrister traineeships) per year to provide for the long-term sustainability of the criminal Bar
- Immediate uplift of 15% to criminal prosecution and defence fees to provide enough publicly funded barristers to meet the demand
- Provide ongoing inflation-related fee increases through the establishment of an independent fee review body to properly reward and sustain a publicly funded Bar

3. Rebuilding and recognising the courts as a vital public service – like schools and hospitals – to help deliver swift effective justice

- As part of its mission to deliver modern public services, the government should provide adequate funding for the repair and improvement of much neglected court infrastructure. We endorse the need for capital spend of £1bn as identified by HM Courts and Tribunal Service
- A longer-term infrastructure plan should be developed to rebuild a court estate which can function efficiently – akin to the approach taken with prison building

4. Widening access to legal support to tackle violence against women and girls (VAWG)

- Remove means testing for legal aid for alleged victims and survivors of domestic abuse and bring all cases involving domestic abuse within legal aid scope for both parties
- A package of measures to address VAWG through the family justice system
- Increase fees for RASSO (rape and serious sexual offence) cases in the Crown Court, and equalise prosecution and defence fees, to retain and recruit the specialist barristers needed for cases involving violence against women and girls

5. Widening legal aid eligibility and making greater provision for early legal advice to promote access to justice and save costs to the Treasury

- Complete the review of civil legal aid and widen the scope of legal aid provision
- Fund legal representation for families in inquests

- Support the early legal advice sector to restore access to justice and realise savings across departments including health, work and pensions, and the Home Office
- Restoration of legal aid for early legal advice to pre-LASPO cuts and in line with inflation at a cost of £137m

Regarding priority 5, to complete the review of civil legal aid, we have called for a substantial increase to civil/family legal aid fees. Our February 2024 submission to the MoJ “Review of Civil Legal Aid - Call for Evidence” stated¹⁹:

17. The National Audit Office’s report “Government’s management of legal aid” (09 February 2024) rightly stated that:

“MoJ has not increased fees for civil cases since 1996, and it reduced fees by 10% between October 2011 and February 2012. In real terms, fees are now approximately half what they were 28 years ago.”

20. The erosion of the value of civil and family legally aided fees has accelerated over the last decade. Using the measure of all prices in the UK economy (GDP deflator), this erosion has been approximately 23% in the last 10 years. In terms of what those fees can buy (using the CPI) the decline has been around 30% per cent. In the last 8 years (the time covered by the dataset used by the Bar Council in its Data Analysis report) using the GDP deflator the erosion of the value of the fees has been 21%, and using CPI the decline has been 29%.

21. As the Bar Council’s Data Analysis Review demonstrates in relation to gross fees received:

“... those barristers who report the highest proportion of their fees coming from legal aid also have the lowest overall fees”

“... each 1 per cent increase in legal aid (as a proportion of fees) reduces total fee income by £611. So that says that moving from say 40 per cent to 50 per cent legally aided work reduces total fees by £6,110 on average.”²⁰

Question 6: How are the legal services regulators responding to their obligation to improve access to justice under the Legal Services Act 2007?

The Bar Standards Board (BSB) is the frontline regulator for barristers. This task is delegated to the BSB by the General Council of the Bar, which has the role of the Approved Regulator within the Legal Services Act 2007.

Improving access to justice is one of the regulatory objectives. The BSB must, in so far as is reasonably practicable, act in a way that is compatible with the regulatory objectives, when discharging its regulatory functions (s.28)²¹. It does not state that all the regulatory objectives must be promoted at all times. Improving access to justice is a complex and multifaceted issue and

¹⁹ Bar Council “[Review of Civil Legal Aid – Call for Evidence](#)” February 2024

²⁰ Bar Council “[Review of Civil Legal Aid – Call for Evidence](#)” February 2024

²¹ [Legal Services Act 2007](#), Section 28

there is an argument that it is more appropriately and effectively addressed by government and the third sector.

The BSB is best placed to report on its work on access to justice. Recent work in this area is summarised in its recent business plan²², which includes its funding and support of the Legal Choices website²³, the transparency rules, research on digital comparison tools and support of charities that operate in this space.

The Bar Council is also responsible for implementing the regulatory objectives. Promoting access to justice underpins a broad range of the Bar Council's work. Some examples of the Bar Council's work to improve access to justice includes:

- Drawing on our members' expertise to influence policy and legislation that relates to the justice system, funding, access to justice and the rule of law. This is achieved by responding to consultations, parliamentary briefings and other parliamentary engagement work. For example, we submitted written evidence to parliamentary inquiries on reducing the backlogs in the criminal courts, the UK-EU reset and legal services as a soft power. We gave written and oral evidence to the Lords Public Services Committee on interpretation and translation services in the courts.
- Financial support of Advocate, the official pro bono charity of the Bar, as well as encouraging barristers to donate to it through the Authorisation to Practice process. Advocate supports people who would otherwise not have access to legal advice and representation.
- Championing the work of Advocate and barristers that do pro bono work through Pro Bono Week and the pro-bono award. This raises the profile of barristers' pro bono work and may incentivise others to become involved.
- Involvement annually in fundraising for the London Legal Walk, which funds the London Legal Support Trust.
- Proactively engaging with the media to position the Bar Council as a leading voice on the rule of law and access to justice.
- Jointly sponsored research with the Access to Justice Foundation on 'The value of justice for all' – a large-scale economic analysis which found that for every £1 the Treasury spent on

²² Bar Standards Board "[Business Plan 2025-2026](#)" 7 April 2025

²³ <https://www.legalchoices.org.uk/>

legal advice, it saved the public purse £2.71 – a nearly threefold saving on investment²⁴. We used this data in our spending review submission²⁵.

- We host the Direct Access Portal platform, that facilitates the matching of clients with public access barristers that they can then instruct²⁶.

Question 7: How is pro bono work and free legal advice being used to support access to justice and what reliance is placed on it?

The Bar already carries out substantial amounts of pro bono work. 49% of barristers undertook pro bono work in 2023 (up from 43% in 2021)²⁷. In key areas of need, the participation of barristers is even higher: 53% of family barristers and 74% of employment barristers reported doing pro bono work²⁸.

Advocate

Advocate is the Bar's main pro bono charity and connects volunteer barristers, who provide free representation and advice, with people in need. Advocate operates in every area of law before every court and tribunal across England and Wales. It assists only in cases where the applicant cannot access legal aid, cannot afford to pay and is pursuing a case which has been assessed by an independent barrister to be meritorious. The charity receives no funding from government and is funded by the Bar and the Bar's institutions. Nearly 8,000 barristers (around 50% of all practicing barristers) fund Advocate through voluntary donations. The charity is also entirely reliant on barristers giving up their time for free.

Each year, Advocate receives over 5,000 applications and assists with around 1,500 matters, plus many more through on-the-day court schemes. The demand for Advocate's services continues to grow, with a 24% increase in requests for help in 2024, continuing a year-on-year upward trend. There is particular demand for its services in family law and employment law. It has insufficient volunteers to assist in all cases that Advocate considers (based on its assessment of the merits of the case and the applicant's means) warrant assistance. In the circumstances, many of these litigants must regrettably be turned away. Pro bono is no substitute for legal aid and cannot begin to meet the current need from the public.

Advocate continues to encourage greater participation in pro bono but it considers that the profession already does a significant amount of pro bono and it is difficult to ask barristers, many of whom are on modest incomes, to give up more of their time for free. In this regard, it must be remembered that the majority of the Bar is self-employed and so time spent on pro bono will inevitably impact on their personal earnings.

The Free Representation Unit (FRU)

²⁴ Access to Justice Foundation & The Bar Council "[The Value of Justice for All](#)" August 2024

²⁵ Bar Council "[Bar Council Spending Review Submission: Fixing the foundations of the justice system](#)" September 2024

²⁶ <https://www.directaccessportal.co.uk/>

²⁷ Bar Council "[Barristers Working Lives Report 2023](#)" October 2024

²⁸ Bar Council "Pro bono work at the Bar: 2023 and 2021" not available online

The Free Representation Unit (FRU) is a charity operating in the Southeast of England which provides free legal representation in employment, social security and criminal injuries compensation tribunals. It receives no government funding, and is supported financially by the Bar Council and other Bar institutions, as well as by donations from individual lawyers. Their representation work is provided by volunteers, most of whom are law students or legal professionals in the early stages of their careers. A small proportion of their volunteers are experienced barristers, legal executives or solicitors who wish to provide pro bono services.

FRU is one of very few organisations which provides free legal representation in tribunal hearings. FRU notes that there are tens of thousands of applications to tribunals made every year, but that they only have capacity to take on several hundred cases a year. This means that many applying to FRU for representation often have to represent themselves - either owing the limited capacity of FRU or by virtue of their operations only covering the Southeast of England. They find also that their capacity for taking on cases is restricted by the number of cases that their paid legal supervisors can supervise at any one time, but that they have no shortage of potential volunteers, and more cases are referred to us than we can take on.

FRU notes that many of the cases with which it deals are received once a tribunal hearing date has already been set. They find that, because of the lack of early legal advice, claims are sometimes brought forward that are not supported by evidence, or other legitimate claims are missed. They also state that many of the cases with which they deal have been brought without any legal advice having been so far provided to the individual bringing the case. FRU therefore spends a great deal of its time identifying correct claims, making applications to the tribunal, and engaging in complex case management hearings.

Question 8: How can advice, legal support or non-court dispute resolution, such as mediation and restorative justice, help the early resolution of disputes?

Early access to legal advice and non-court dispute resolution (NCDR), particularly mediation, can significantly reduce the time, cost, and complexity of resolving disputes. This can help parties better understand their rights, clarify issues, and explore early settlement options, thereby avoiding unnecessary litigation.

Mediation provides a confidential and flexible forum for resolving disputes based on parties' interests, and is particularly effective in family, small claims, and commercial matters. It is beneficial for society in its reducing conflict, stress and the adverse consequences that follow. The Bar Council supports expanding access to these processes, particularly through:

- Early legal advice, which enables informed participation and reduces escalation
- Signposting to mediation in suitable cases

When properly supported, NCDR and early advice reduces pressure on courts, improves user satisfaction, and promotes fair, durable settlements.

If adequately funded, to ensure it is used and it properly functions, NCDR has the potential to reduce wider costs to the system²⁹.

Question 9: What role is there for digital innovation and data collection in supporting access to justice?

The implementation of any digital service or artificial intelligence (AI) tool within the justice system should be based on research and supported by data. It must also be piloted, after significant testing.

It is essential that the government keep contemporaneous data and records of how any digital services including AI tools are working in practice. Additionally, records should be kept on what improvements are being made to such services and on what basis.

The National Audit Office report *Challenges in using data across government* highlights the need for evidence backed decision making at all levels of government activity and the problems that arise when data is inadequate³⁰. Therefore, we recommend that data is collected at every stage of the implementation process and throughout the life of any digital tool. The benefit of good quality data cannot be overstated; it will enable the government to get value for money by only investing in tools which are proven to be effective, and avoid future investment in inefficient or ineffective tools.

In our written evidence to the Home Affairs Select Committee as part of the inquiry into tackling violence against women and girls (VAWG)³¹, we addressed a question from the Committee on the relationship between measurement of VAWG and funding, and how VAWG should be measured. We noted that, in the context of family courts, while it is possible to monitor the number of applications for which protection is sought by applications in the family court as a whole, which is a good insight into the scale of applications, there is an issue finding whether these applications are specifically about VAWG, and whether these applications are also private or public law cases. That is to say there is no available measurement of VAWG across the spectrum of family court applications. We suggest that by having this data available, not only would an understanding of the nature of VAWG be easier, but there would also be more information available that could inform future policy decisions and practices³².

In a Home Office policy paper of 2025 “it was noted that “the inability to track cases between the police and CPS significantly limits understanding of victim attrition at a critical point of the criminal justice process”, and that “the existing way in which data is recorded and presented is not sufficiently transparent or comprehensive to explain these patterns [of victims disengaging]”.³³

The report then called on the Home Office, Ministry of Justice, and criminal justice agencies to “overhaul and integrate data across the criminal justice system, to enhance operational work, improve accuracy, promote transparency and, ultimately, build accountability”.

²⁹ NAO “[Government’s Management of Legal Aid](#)” February 2024, p7 para 8

³⁰ NAO “[Challenges in using data across government](#)” 21 June 2019

³¹ Bar Council “[Home Affairs Select Committee – Inquiry into tackling violence against women and girls – Bar Council written evidence](#)” April 2025

³² Bar Council “[Home Affairs Select Committee – Inquiry into tackling violence against women and girls – Bar Council written evidence](#)” April 2025

³³ Home Office “[Shifting the scales: transforming the criminal justice response to domestic abuse](#)” 15 April 2025

These are just two examples of how data collection is currently inadequate in multiple areas, and how it must be better collected and used.

There is an important much broader point about data collection across the justice system. At the moment, data collection is inconsistent. It is collected in some parts of the justice system but not others. The manner in which data is collected in various parts of the system also differs. This makes understanding the justice system and justice outcomes – which is already complex - all the more difficult.

We have a long-standing view that consistent and robust data collection and analysis across all parts of the justice system would assist in making well thought through, evidence-based decisions and policy development. Justice outcomes would also be positively impacted.

Question 10: How could the current system of legal aid be improved to provide a cost-efficient and cost-controlled service, with suitably remunerated legal practice across civil, criminal and family law?

The current system of legal aid is already a highly cost-controlled service and does not suitably remunerate legal aid.

Regarding civil and family legal aid, in February 2024, we submitted our response to the Ministry of Justices' Review of Civil Legal Aid (RoCLA) and set out (pages 2-3)³⁴:

10. Two main themes arise when examining the experience of civil and family barristers with the civil legal aid system:

- Inadequate remuneration
- Unhelpful, time-consuming and unnecessary administration.

Our submission was followed by a supplementary data submission from the Bar Council³⁵. Key findings included (page 3):

1. The more legal aid work a barrister does, the lower their overall income.
2. The civil and family fee schemes have been eroded by inflation over the last eight years.

On criminal legal aid, we submitted a joint paper with the Criminal Bar Association *on the Advocates Graduated Fee Scheme (AGFS): Criminal Legal Aid Advisory Board (CLAAB) meeting of 27 February 2025*³⁶. It included the following requests:

³⁴ Bar Council "[Review of Civil Legal Aid – Call for Evidence – The Bar Council's Response](#)" 21 February 2024

³⁵ Bar Council "[Bar Council Data Analysis: Review of Civil Legal Aid: The Family and Civil Legal Aid Bar 2015-2023](#)" February 2024

³⁶ Not published online

33. We seek the following to ensure that the profession survives:

1. The ring fencing and use of the remainder of the monies within the 2022 agreement
2. An immediate increase in AGFS and CPS fees of 15%
3. Increases in the base fees for homicide, RASSO and other significantly underpaid cases
4. The ability for CLAAB to recommend an annual increase in fees to reflect rises in inflation and cost of living increases, or an annual pay review body

Question 11: What has been the impact of the Legal Aid Agency cyber-attack, revealed in April 2025, on recipients and providers of legal aid work, and how have the Legal Aid Agency and Ministry of Justice responded?

a.) Barristers' criminal legal aid fee billing

Crown Court legal aid fees are billed via a different system (than the LAA Portal), For barristers who undertake criminal legal aid work. Consequently, when the LAA shut the portal down, criminal legal aid billing was still possible. Fees initially took longer to process, but are now back within target.

However, the LAA has complex computer systems, with many interactions between them. One of the major problems has been the LAA remittance advices. The fee system that puts the money into barristers' chambers bank accounts worked relatively promptly, but the different computer system that send chambers the list of which cases the money was in respect of (so that chambers could distribute money to the correct barristers) was a problem. The remittance advices were often not sent out, and the chambers had to email the LAA for them. This resulted in delays because chambers did not know to whom the money should be paid.

By way of example, one chambers normally have around £80-£120k of criminal legal aid fees to be assessed at any one time. At the height of the problem the outstanding billing was around £300k. The effect on individual criminal barristers led to a delay of about 1 month on receipt of payments. The problems did cause worry, but the delays were not so great as to cause significant hardship.

b.) Barristers' civil/family legal aid fee billing

For barristers who do civil/family legal aid, the impact has been worse. Since the LAA shut down the portal and the billing system for civil/family legal aid fees - Client and Cost Management System (CCMS), barristers have, for the last six months, been unable to submit bills for their civil and family legal aid cases.

It is too early to assess the full impact on these barristers because the billing system for civil and family legal aid has still not been restored. It was due to be restored in mid-late September, but the LAA have announced a further delay without a date for resolution.

LAA staff have done their best to put in place workarounds, in particular the contingency payments scheme³⁷. Under this scheme barristers and solicitors can claim for an interim payment, generally based on an average of what their payments were prior to the cyber-attack. However, once the billing system is restored, the LAA will then begin to recoup all of those payments which could be administratively complex and burdensome.

Part of the reason why the recoupments system is likely to be problematic is the confusion over VAT. When the LAA make a contingency payment, they do not identify a VAT element to that payment, however we were advised by the LAA that HMRC consider that the payment is subject to VAT. The Bar Council's Taxation Panel were doubtful about HMRC's interpretation, but were issued guidance from the Panel setting out the two different interpretations about whether VAT does or does not apply, and indicating that barristers follow the HMRC interpretation³⁸. However, we later saw reference to an email from a member of HMRC staff giving it as their opinion that VAT did not apply because it was, in effect, a loan. We do not know whether this is the view of a 'rogue' HMRC employee or a change of official position. Some chambers have been recording these payments as having a VAT element and some chambers have not. When the LAA start to recoup those fees, it is not clear whether the LAA recoupment will identify a VAT element in the recoupment or not.

Many barristers who have had previous bad experiences with the LAA system in civil/family legal aid, with payments claimed and then subsequently recouped by the LAA – sometimes many years later – have declined to apply for funds from the contingency payments scheme, considering a bank loan a safer option.

We recognise how many LAA staff have been working long hours to try and restore the systems and to put in place workarounds to keep the system going. Despite the challenging circumstances of the cyber-attack, their work has been made more difficult by the fact that the LAA have faced decades with the same underinvestment as the rest of the justice system. Many of their computer systems are a mixture of legacy systems cobbled together over the years on a minimal budget.

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³⁷ LAA "[Contingency Payment – Providers Guide](#)" July 2025

³⁸ <https://www.barcouncilethics.co.uk/documents/taxation-handbook/>