

Legal Aid Payment Review Panel – Report to the Minister for Community Safety

July 2021

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Foreword

The driver for the establishment of a Legal Aid Payment Review Panel was the recommendation made by Martyn Evans in the Independent Strategic Review of Legal Aid. The Evans report reflected on the current process for negotiating and setting fee levels. It considered submissions to support a general uplift in fees, including research commissioned by the Law Society of Scotland about the impact of current fee levels on solicitors' income. The report also considered comparisons between prosecution and defence costs. Despite this, Martyn Evans found a lack of evidence on what constituted a "fair" remuneration and he recommended that a robust and independent evidence guided process for reviewing and agreeing fees should be developed, informed by a much stronger evidence base.

During the course of the Legal Aid Payment Review Panel, panel members considered the current provision of legal aid; public funding for legal services in other jurisdictions; and how public funding in the NHS supports provision of services by private businesses to meet government priorities. What the panel found was that there was no single model which would transfer across to Scotland without losing fundamental principles of legal aid provision.

As with the findings of the Independent Strategic Review of Legal Aid, the panel found that detailed research is required to build an evidence guided process for setting legal aid payments and reviewing them regularly.

The evidence the panel received demonstrated that there is no "silver bullet" for establishing the structures and setting the levels of payments for publicly funded legal assistance. A "one size fits all" approach will not reflect the variety of different circumstances and providers. However, the work of the panel does identify the potential to improve significantly the transparency in how fee levels are set, to ensure an evidence guided process that is subject to regular review, and to better reflect the needs of the profession and the changing requirements of the justice system and those who rely on access to publicly funded legal assistance.

Neil Rennick, Chair
Director of Justice
Scottish Government

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Section 1: Background and the Operation of the Panel

Background

This report sets out the range of evidence and information considered by the Panel, the key issues raised, conclusions reached by the group and recommendations made in line with the remit and objectives. Please refer to Annex A for Panel member biographies and a table of attendance throughout the meetings thus far. The Panel remit, terms of reference, and expected outcomes of the Panel are encompassed within the annex, all of which were agreed at the first meeting. Also included within the annex is a breakdown of meeting discussions, papers and presentations.

The Panel also suggests actions that could be taken to improve the current system of payment and how to build the evidence needed to develop an evidence guided process to fee setting and payment reviews in the future. It should be noted that these discussions took place in a pre-Covid context, and adjustments have been made to this report to take account of the impact of Covid-19, where appropriate.

Remit of Panel

To assess and agree an evidence guided process and methodology that would underpin a future review of payment structures and fee levels for legal services provided by solicitors and advocates to assisted persons. To provide advice to the Minister on options.

Presentations

The panel heard presentations on the current status of legal aid funding in Scotland, as well as comparisons with other jurisdictions and areas of publicly funded work. Details of these were made publicly available via the [Legal Aid Payment Advisory Panel](#) webpage.

Section 2: Key Findings and Summary of Recommendations

Key Findings

What the panel heard during the presentations demonstrated that there is no “silver bullet” for developing structures and setting levels of payments for public services, and nor are the challenges articulated in relation to legal aid unique, either in terms of geography or types of service. Similar challenges are encountered elsewhere and there is no ready-made framework from other countries or other public services which would neatly transfer into our adversarial justice system or provider business models. There would always be disadvantages to each model. It did however demonstrate that there are a number of beneficial aspects present in Scotland that the panel would wish to keep.

A mixed model of judicare and increased diversity of payment methods for legal aid work, including grant funding and contracts, was supported by the panel. How this could be better utilised should be considered.

The solicitor profession is frustrated that the cost of providing services is not directly factored into the current model, but the panel recognised that it was not easy to create such a link when costs will vary widely depending on the size, location, structure and workload of the firm. The solicitor profession also favour simplification and certainty in how fees are calculated.

The crux of the matter is that, whatever its historic origins, the current system of fee structures and levels is a result of an irregular process of ad hoc reform, revision and percentage uprating over three decades, such that it can now appear arbitrary and is not working effectively for the profession, the Scottish Government or the wider justice system. The main driver is to ensure that the system remains sustainable, meaning that it is capable of providing appropriate remuneration to providers such that they are able to deliver sufficient services of an appropriate quality to those who need them in a way that supports the operation of a transparent, efficient and effective user-focused justice system. The current model/approach can be a source of much tension.

From a Government perspective, there is currently no evidence that the fees to which successive percentage increases have been applied were or are now set at the correct levels meaning it is hard to establish value for money. From a profession perspective, often the fee rises have not kept pace with inflation, diminishing the real terms value of those fees. How effective a fee structure or reasonable a fee level is can also be highly subjective - what is an effective fee structure or reasonable fee level for an efficient and busy legal aid practice, carrying a high volume of legal aid cases, might not be for those who are not. By raising fees on an ad hoc basis, this means that when decisions are taken, they will be more beneficial to some than to others. In the short term a fee increase may be advantageous to all providers however in the longer term sustainability of firms committed to legal aid is affected by marginal operators remaining in the market. Capacity in the system needs to be considered.

The Way Forward

The current process of payment for legally aided services should be redesigned as part of the work to reform the legal aid system in Scotland. That redesign should lead to greater transparency around the way in which payment is structured and payment levels set, and offer a range of methods for paying for services. It should be adaptable to changes in work practices, such as court procedural changes, and in priorities. This work should sit alongside the reforms to the legal aid system.

The first set of recommendations that we have issued largely relate to how evidence should be used to inform a [wholesale review of payment rates and methods](#) that sit alongside the ambitions for a reformed and improved, user-centred, legal aid public service. That review should:

- Consider both the aggregate and disaggregated position on payment of fees;
- Consider specific issues that apply to different areas of legal aid;
- Provide for alignment between payment and priorities;
- Provide for a regular review process of these aspects of legal aid; and,
- Understand and promote the sustainability of future supply.

The Panel recognises that this is a medium term aspiration and that there are [shorter term improvements](#) that can be made. Scotland is, in general, well served by the quality and availability of legal practitioners. Independent analysis suggests that, by international standards, Scotland has a relatively generous system of legal aid, both in terms of the scope of civil and criminal business covered and the lack of a cash limit. However, the time is right to review the process of payments to ensure that they can continue to support effective access to justice across the wide range of legal aid funded activity and diverse delivery models.

Therefore, alongside the medium term redesign of the system and the development of an evidence guided process to inform the setting of payments, the Panel has a series of recommendations for the shorter term that can be quickly actioned and implemented.

For example, Criminal fee reforms have been proposed and the Scottish Government should consult with the profession with a view to progressing with agreed reforms as a priority. Such reforms would result in some simplification of the existing fee regime, reducing the administrative burden on solicitors.

The Panel also identified a need for better evidence about the challenges faced by individual firms and the legal aid market as a whole in responding to changes in levels and patterns of demand, including the need for 24/7 availability, and the demographics of the legal profession. Work to gather this evidence should explore issues associated with recruitment, retention and the use of trainees, as well as issues around diversity, and the challenges the age/gender profile presents the future shape of the sector.

Summary of Panel Recommendations

An evidence guided process that considers the cost of delivery, the health of the market and the priorities of users should be developed alongside the wider legal aid reforms to underpin fee reforms over the medium term:

This process will need to be built on a foundation of understanding of a number of issues. Independent research should be commissioned to gather evidence, with a focus on four key research questions that the panel has set out, regarding:

- The actual and expected remuneration of legal aid providers under the existing system
- The conditions needed to secure sufficient supply to enable the effective delivery of legal aid services at a scale and quality consistent with prevailing needs and in line with legal aid policy and stated strategic justice and social outcomes
- The development of metrics to assess the 'health' of the legal aid sector
- Measures that can be used to assess legal aid fees from year to year

As part of the process for agreeing fee reforms, it should be agreed that fees will be assessed from one year to the next reflecting an indicator identified in the independent research. Consideration would have to be given on the impact on those providers in receipt of grant funding.

Regular reviews of payment levels and the models in operation should inform ongoing fee reform. These reviews should also have the scope to consider elements such as the effective operation of the system and a process for concerns to be raised as needed. This should happen around once every five years, but with the potential to update specific aspects of the system, as necessary, between wider reviews

More information regarding these recommendations can be found in [Section 3](#) of this report – which looks at developing an evidence base to guide the fee reform process

In the shorter term, the panel recommends that:

1. Specific proposals should be developed for greater use of diverse and mixed models of payment for the delivery of legal aid services and how this should be embedded in the reformed legal aid system.
2. Further evidence needs to be developed to identify challenges in the operation of the provider base, running of businesses and delivery of legal aid services in the context of wider changes in the justice system, employment market and technological landscape. This will include an assessment of the extent of challenges in recruitment and retention and whether they are particular to the provision of legal aid services or other factors. In the short term, evidence should be drawn from the operation of the recently launched legal aid traineeship fund, supplemented by further work to explore the experience of recently qualified solicitors. The evidence gathered at this stage should be used to inform the medium term review of payment structures, if, for example, it suggests that changes in structure could encourage a younger

and more diverse workforce supplying legal aid to ensure the supply of the service remains sustainable.

3. Quality assurance is an important part of evidencing the quality of service provided and the experience of the user. Greater clarity around the respective roles of those who deliver services and those who fund the delivery would improve understanding of expectations for the user.
4. Improvements should be made to the legal aid system that would reduce the administrative burden on solicitors and would have a benefit in reducing business costs. The panel recommends that the reforms proposed by the Scottish Government in December 2020 be consulted on at the earliest opportunity to address a number of issues raised during the lifetime of the panel.

More information regarding these recommendations can be found in [Section 4](#) of this report, which looks at payment models, staff retention and quality assurance

Section 3: Developing an Evidence Base to Guide The Fee Reform Process

Introduction

In common with the Evans Review, the Panel struggled to establish a robust and reliable evidence base that could be used to guide future fee reform. The Panel also recognises that a challenge will be felt not just in setting fees at a reasonable level, but also in ensuring they are maintained at a reasonable level. We therefore recommend that:

An evidence guided process that considers the cost of delivery, the health of the market and the priorities of users should be developed alongside the wider legal aid reforms to underpin fee reforms over the medium term:

In order to guide this process, independent research should be commissioned to focus on four key research questions that the panel has set out, regarding:

- The actual and expected remuneration of legal aid providers under the existing system
- The conditions needed to secure sufficient supply to enable the effective delivery of legal aid services at a scale and quality consistent with prevailing needs and in line with legal aid policy and stated strategic justice and social outcomes
- The development of metrics to assess the 'health' of the legal aid sector
- Measures that can be used to assess legal aid fees from year to year

As part of the process for agreeing fee reforms, it should be agreed that fees will be assessed over time reflecting an indicator identified in the independent research.

Regular reviews of payment levels and the models in operation should inform ongoing fee reform. These reviews should also have the scope to consider elements such as the effective operation of the system and a process for concerns to be raised as needed. This should happen around once every five years, but with the potential to update specific aspects of the system, as necessary, between wider reviews

This section outlines the reasons for these recommendations – summarising the evidence that the panel heard and spelling out in more detail what independent research the panel recommends that the Scottish Government commission.

Financial Context

The case made by many within the profession is that legal aid is underfunded and that the budget has diminished in both cash and real terms and that has been driven by a real term reduction in some fees. Aggregate expenditure has declined real terms over the past 30 years. In 2019-20 total legal aid expenditure was £130.9m – similar to the levels of expenditure seen in the late 1990s (varying between £120.2m in 1999-2000 and £136.1m in 1997-98). However in terms of purchasing power, total legal aid expenditure is lower than it was in the mid-nineties – with 2019-20 expenditure around two thirds (65.8%) as high as it was in 1995-96 in real terms¹. These factors contribute to the overall impression that legal aid in Scotland is underfunded.

Against that perspective is the recognition that Scotland is one of the highest spenders per person on legal aid in the world. England and Northern Ireland have, on the face of it, higher legal aid funding per capita; however, Scotland funds significantly more legally aided cases per capita than those jurisdictions. The reduction in scope seen in England and Wales would not be desirable to the panel. For further context Northern Ireland is still dealing with legacy litigation from the Troubles which offers an explanation as to why legal aid funding per capita there is double that of England, Wales and Scotland. Scotland is one of only two European jurisdictions with an uncapped budget, and retaining the wide scope of actions for which legal aid is available throughout an international economic downturn has been recognised.

Furthermore, given the reduction in crime and in court volumes seen over the past three decades, some reduction in legal aid expenditure should be expected by the profession – as this represents a reduction in demand for legal aid services. Indeed, recorded crime levels have fallen more quickly since 1995-96 than legal aid expenditure has – with overall recorded crime levels in 2019-20 around half of their 1995-96 levels.

The decline in crime levels does however mask significant variation. For example, while the number of recorded crimes has fallen dramatically since 2019-20 – by 24%, the number of recorded sexual crimes has doubled over the same period. This is in contrast to non-sexual crimes of violence which have fallen by 19% and crimes of dishonesty which have fallen by 29%. The level of offences recorded by police has fallen even more quickly – declining by 50% between 2013-14 and 2019-20².

There has also been a long-term downward trend in civil cases initiated over the past decade. In 2018-19, a total of 72,107 civil law cases were initiated in all courts, as compared with 117,839 in 2009-10, a 39% reduction³.

¹ 1995-96 is the first year of available data, with 2019-20 the latest year of available data, HMT GDP Deflators (as at March 2021) were used to calculate real terms decline:
<https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-march-2021-budget>

² Detailed data can be found in Scottish Government Statistics on Recorded Crime in Scotland, available at: <https://www.gov.scot/publications/recorded-crime-scotland-2019-2020/>

³ Detailed data can be found in Scottish Government Statistics on Civil Justice in Scotland, available at: <https://www.gov.scot/publications/civil-justice-statistics-scotland-2018-19/>

There would appear to be a dichotomy; at the macro level the quantum expenditure on legal aid has not varied as much as might have been expected in response to wider changes in the justice system, while at the micro level these changes have had significant impact on the legal profession and individual practitioners.

One of the main drivers of this dichotomy is likely the complexity of cases: on the criminal side, the complexity and demands of the work have increased. It has been reported that private civil work is subsidising civil legal aid work conducted by firms and individuals. In both spheres however, the evidence base on exactly how work has changed is not particularly strong.

This impacts on discussions around fee levels as professionals are frustrated at the lack of what they consider to be satisfactory levels of fees, while those who are responsible for the public purse have seen less of an overall reduction in expenditure across the legal aid budget than might have been expected in a context of lower rates of crime.

Furthermore, this dichotomy at the national level will not always match local and individual experiences. The impact of these changes to both criminal and civil case volumes will not have been consistent across different geographical locations and individual firms and has undoubtedly been significant for some legal aid providers.

Current fee rates

Historically, fees for legal aid work were based on a proportion of the market rate, based on a table of fees, and reflected the reduced risk of non-payment in delivering publicly funded legal services. The link to the market rate was lost when the table of fees was abolished by the Law Society of Scotland and there is no longer a firm benchmark against which to determine what the market rate is and what is a fair public service rate.

We now have a situation where a number of fees currently in place were agreed in response to new demands in the system, or as a trade-off for other benefits. Therefore, the current fee system is largely ad-hoc in its construction – and not informed by current evidence. Furthermore, the true cost and value of these services has not been ascertained, and so thinking about a new process is inherently complex, difficult and overdue.

The lack of co-ordination has led to specific differences in payment for legal aid services. For example, Law Centres will be more likely to carry out work associated with social justice and tackling inequalities. Under the current payment structure, this work tends to attract advice and assistance rates, which are lower than rates available for other aspects of civil work (and less likely to lead to recoverable judicial expenses), leading to a lower income being achieved, despite the high priority placed on this work by Scottish Government. Similarly, while some tribunal work such as immigration and mental health may be relatively well remunerated, case volumes and other factors may mean that other tribunals' work may be proportionately less well remunerated.

Law Centres, and other not for profit organisations, that help to tackle social inequalities and protect the rights of the most vulnerable, often rely upon grant funding in addition to payments from the existing fee structures under legal aid. Grants are usually restricted to delivering certain types of work, or operating specific projects; work under grant is not paid for on a case by case basis, instead the associated costs of delivering the work will be met (for example staff and overhead costs) on the basis of a full cost recovery model. Grant Funding to Law Centres is currently restricted to an annually agreed budget, which can bring challenges in long-term planning terms of staffing and casework.

International Comparisons

International comparisons and the England and Wales model of legal aid, while helpful, do not offer an obvious single solution for the Scottish context. Internationally, there are numerous models for delivery. However, before reaching a conclusion about their efficiency it was important that the contexts within which different models are designed should be understood. For example, barristers and advocates do very different things in different jurisdictions and there is not an easy way to carry out comparisons between some international jurisdictions and Scotland. The way in which justice systems operate influence the model of legal aid that is used in those systems - particularly in terms of whether systems were adversarial or inquisitorial. Scotland is unusual in having an uncapped legal aid budget and offering legal aid for a wide scope of actions.

In most jurisdictions there are three key levers for managing expenditure on legal aid: scope, eligibility and remuneration. Other countries use these three control mechanisms in different ways. However, one common feature of the jurisdictions discussed was the frequency of breakdowns in the relationship between the legal profession and the government or legal aid agencies due to the issues involved with updating fees. In many cases this had led to industrial action on the part of the legal profession, and efforts to reduce the scope of legal aid (in order to manage budgets) on the part of the public sector. In most cases, however, the relevance to Scotland was limited, both by the comparatively narrow scope of legal aid in these jurisdictions and by the large differences in legal systems.

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| <p>The Panel did not identify an international model that could easily be used as a single design template for legal aid reforms in Scotland.</p> |
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Many of the trade-offs that have been made in an international context would be unpalatable for the current professional landscape in Scotland and could have a negative impact on meeting policy priorities. Jurisdictions where legal aid payments appeared to be extremely generous also had very limited scope for what areas of law could be supported. The panel understands that the Scottish Government would not support any system which would reduce the scope of legal advice that individuals could receive funding for and respondents to the Scottish Government consultation on legal aid reform also agreed that wide scope should remain. While international experience is valuable in highlighting issues and demonstrating other experiences, any future model needs to be considered in the Scottish context as well in order to understand what its implications might be – as the scope for changes to influence behaviour is significant.

Costs and Challenges

The current legislation is prescriptive and restricts the way in which legal services can be remunerated. Currently, case by case payment (judicare) accounts for around 97% of legal aid expenditure and is the means by which private solicitors are paid for the work they do. It is a reactive and piecemeal system of payment that does not allow for targeted funding to address gaps in supply, nor does it provide security of income for solicitors. While much of it is based on block or fixed fees, there is still a significant degree of friction inherent in deciding how “time and line” fees should be applied to a particular case.

The cost to solicitors of delivering legal services was a significant area of discussion within the panel. It was reported that meeting the costs of overheads and staff was becoming more difficult within the current fee system and, combined with fee levels, impacted on profitability and viability. Meeting the costs of outlays, for example for expert witnesses, also affected cash flow.

It was reported that the profession is frustrated that the cost of providing services is not considered fully as part of the payment model or models. In many cases the fee rates are not felt by practitioners to accurately reflect either work done or work that *should* be done in supporting clients. The panel heard evidence of the Netherlands model in which a block fee was paid for all work which would be expected to be carried out in a case type. It was expected that this work would not take more than a prescribed maximum number of hours. It was for the provider to work efficiently to complete the work within that timescale to the required standard.

There is concern that current fee models and the process for amending these are failing to keep up with wider justice system reforms, court process changes and developing client needs. The cost of inefficiency in the justice system was raised in the group discussions; it can be frustrating when court processes are changed, often at a late stage and for a range of reasons, and this has an impact on the efficiency of case management. Any assessment of the costs of delivery should take account of this.

In contrast, the Faculty of Advocates reports it is broadly satisfied with the current model, notwithstanding the need to adapt fees to justice system reforms and to put in place a formal timeframe for regular reviews of payment levels.

Building on this, in its presentation to the group, the Law Society of Scotland set out its research on the options for uplifting fees across the board. The Society outlined different scenarios on what measure of inflation might be appropriate, and from what point in time it should be applied. It surfaced discussion around the variation of approaches in setting fees in the past; as mentioned earlier, some arose out of negotiation on trade-offs and some were as a result of new demands or processes. Therefore, when looking across the fee structures there is no one point in time which would be relevant to all in determining an uplift. As such, it is unlikely that simply uprating fees from a historical point would represent a robust solution – however the issue did highlight that developing a process to address how fees could keep pace with changes in the costs of delivery and changes in the legal system would be a

necessary part of fee reform and that research should be commissioned to consider this.

It is likely that the difficulties of deciding how to uprate fees (or change the quantum of legal aid expenditure in a demand led context) have obscured the need to think more strategically about how fees are structured and what those structures deliver – which may have exacerbated the problem. There may be merit in separating these two elements of how fees are uprated. If it were possible to identify potential efficiencies by changing the structure (but not the quantum) of fees regularly, this might ease bargaining over the affordability of fee increases. The group was able to identify a series of examples where increasing fees could incentivise or accommodate better outcomes. However, the group did not identify any examples of fees leading to unproductive outcomes, or individual fees that could be lowered without harming the outcomes delivered.

It could be argued that the lifespan of the current fee model for solicitors has reached a key stage for reform. The reform of legal aid not only provides opportunities to address issues around accessibility and user need but to develop a wider range of ways in which payment for services could be made.

Reforms to legal aid should include a redesigned payment system that would provide a wider diversity of payment models, including grants and contracting, in addition to judicare, that could flex to meet needs of users and providers of legal services in a more dynamic way and that could transform the way in which legal aid services are delivered and paid for.

This could have the effect of re-shaping the market that delivers legal aid and provide a way of shaping that market in line with some form of workforce planning and greater synergy between providers. It could be possible for solicitors to be paid through a combination of payment models, such as grants and case by case payments.

In re-designing the payment system, it is important that a “one-size fits all” approach is avoided.

Those who operate in criminal legal aid have different business models to those who operate in the many sub-divisions of civil legal aid, and those who provide advocacy also provide a different range of legal services. The markets for delivery of these different aspects of legal aid are also varied.

The impact of payment and payment models also affects the behaviour of those delivering services. Any review should consider the intended and unintended consequences of change – and where it is relevant spell out where changes to legal aid might have implications on outcomes beyond the legal aid system. For example, a payment model that reflects particular client needs and supports them to engage with other services could have wider impact elsewhere in the public and third sector landscape.

The evidence base that underpins a redesigned payment system will be critical to ensure that fairness and best value are delivered and it will be in the profession’s

interests to engage with this work as it progresses. This could be based on analysis of business models currently in place in the legal profession to determine costs, the financial impact of different business models and fees on the profitability of providing legal aid. It is recognised that any new system will likely lead to significant opposition where changes lead to losers relative to the status quo. However this is not, of itself, an argument in favour of the status quo.

Reviewing fees

Simply assessing what a reasonable fee level is, and instituting fee reforms to achieve that will not represent a long-term solution to the difficulties faced by both Government and the profession – it is important to also put in place a framework to ensure that the changes in fees from that point forward are reasonable and justified.

One of the main frustrations around the current system of setting fees is that there is no structure for regular reviews of fees. Often the only route for raising the issue is at the point where new regulations that affect solicitor fees are being developed then considered by the Scottish Parliament.

In its submission to the independent review of legal aid the Law Society of Scotland raised this as an issue it would like to be resolved. Similarly, in presentations to the group both the Law Society of Scotland and the Faculty of Advocates placed this high on their agendas of issues to be resolved.

The group was provided with presentations on the operation of contracts for GPs and dentists which stimulated discussion on the subject. Key aims of these systems were to ensure broadly equitable payments for professionals; an ability to encourage and remunerate specific activities, such as preventative measures; and funding to help address gaps in geographical availability of services. Features of these models also included regular reviews of remuneration levels. These models were not directly comparable with legal aid, given the very wide variation in different types of activity supported by legal aid. However, some of the features of these arrangements as well as the benefits of having a regular process for review and to be able to target resources towards addressing user need, service gaps and policy priorities were acknowledged as relevant to a reformed system of legal aid.

Therefore, alongside the development of an evidence guided process to inform a more open and robust process for the review of fees, that process should include provision for regular reviews of the fee levels. These reviews could consider not just how to structure fees to deliver best outcomes, but also:

- Continued monitoring of the health of the sector, drawing on the health of the sector metrics that are identified in the evidence review
- Commentary on the degree to which fees reflect changes in the cost of delivery
- Identification of how well legal aid payment structures meet policy objectives, and commentary on the efficiency of the system and how well the payment structure incentivises positive behaviours

Market Health

Understanding how the sector operates and the challenges faced in delivering legal aid services is an important aspect of determining the correct level of payment for services.

While we have significant data on trends in demands, there is less information regarding relative changes to supply and how legal aid is delivered. We know that, over the past decade, there has been less change in the numbers of solicitors actively providing legal aid than might have been expected given the substantial reductions in criminal and some civil caseloads described above. However, for some firms legal aid is a relatively small element of their business, whilst for others, e.g. criminal practitioners, it is the largest part of their work.

SLAB provided a paper on the way in which the market operates by local authority area and areas of law, setting out the size of firms, the range of legal aid work conducted and amount of legal fees paid. Even within firms carrying out legal aid work it was unclear whether the legal aid income represented all of the work carried out or if there was additional income from private work. This made it difficult to determine whether legal aid income represented a viable business model.

The economists and academics on the group considered that market strength and viability were a key issue in moving ahead with reforms. In simplistic terms, the lack of change in supply could be perceived to indicate that legal aid work is viable and sustainable – at least in the shorter term. What may be less simple to identify is whether viability equates to a strong and thriving market or one that is managing to survive. For example, in the context of shrinking demand for criminal legal aid (i.e. fewer crimes being committed or being pursued through the courts) no clear mechanism to compete on price grounds, and a market where the client engages with a complex service relatively infrequently, it is difficult for new entrants to attract a large number of clients. This can lead to inefficiency through a lack of competition, and leaves the market vulnerable to a large shock if and when existing suppliers leave the market.

There are many aspects that contribute to viability and profit margins, and payment is one of them. Workload, overheads and efficiency are contributory factors also. A review of the payment system should include understanding of the way in which the market operates, the efficiency of business models and the barriers to improving efficiency.

For these reasons, the panel believes that the independent research should help develop “health of the system” indicators that can be used to understand how the legal aid supply market is operating. In practice, this is likely to require a variety of indicators for different types of legal aid activity.

Proposed Evidence Review

As part of the first recommendation of the Panel, the Panel wanted to further specify what type of evidence could assess the current situation, better inform fee reform going forward and address some of the issues raised in this section. The Panel recommends that independent research should be commissioned by the Scottish Government to answer the following research questions. The panel would like the Scottish Government to be able to publish this independent research no later than 8 months after commencement of the research.

- 1) Given current fee levels and the mix, volume and distribution of business, what levels of remuneration are achieved by legal aid professionals (both profit sharing and employed), what range of remuneration is observed and what factors might contribute to any variations? How does actual remuneration compare to the expectations of professionals of differing levels of experience, status, seniority etc?
- 2) What level of input e.g working hours and arrangements are required to maintain a viable business generating the levels of remuneration found at 1)?
- 3) The Legal Aid Payment Panel did not think that fees should be updated from year to year by inflation measures, but did support regular assessment of fees between full reviews – what measures would be most suitable?
- 4) What metrics can be used to address the health of the system?

This research should be used to underpin future discussions on the quantum of legal aid expenditure, as set out in Chapter 4 of the Evans Review. The panel encourages the profession to engage openly with this process and help the review reach clear conclusions.

Section 4: Shorter Term Recommendations on Payment Models, Staff Retention Issues and Quality Assurance

Introduction

In addition to looking at the costs of Legal Aid, and the process for reforming Legal Aid fees as a whole, the Panel discussed a variety of more specific measures that can be taken forward – in many cases in the short and immediate term. This section goes through each of the main areas that the Panel looked at and provides more detail on the Panel's recommendations that:

1. [Increased diversity in the use of mixed models of payment for the delivery of legal aid services and this should be embedded in the reformed legal aid system.](#)
2. [Further evidence needs to be developed to identify challenges in the running of businesses and delivery of legal aid services in the context of wider changes in the justice system, employment market and technological landscape. This will include a focus on recruitment and retention and the extent to which challenges in this regard are particular to the provision of legal aid services or other factors. Where required, fees could be structured to encourage a younger and more diverse workforce supplying legal aid to ensure the supply of the service remains sustainable.](#)
3. [Quality assurance is an important part of evidencing the quality of service provided. Greater clarity around the respective roles of those who deliver services and those who fund the delivery would improve understanding of expectations and experience of the user.](#)
4. [Improvements should be made to the legal aid system that would reduce the administrative burden on solicitors and would have a benefit in reducing business costs. The panel recommends that the reforms proposed by the Scottish Government in December 2020 be consulted on at the earliest opportunity to address a number of issues raised during the lifetime of the panel.](#)

This section outlines the reasons for these recommendations with a brief summary of the Panel's discussions in each area.

Service Agreements and Grants

The group considered the range of payment methods that could be put in place in the reformed system. While case by case fees are the predominant means of paying for legal services and are a useful way of allowing the market to flex depending on workload, they do not provide for security of income for solicitors or for ensuring access to legal services, particularly in priority areas of need. The panel had heard evidence from those involved in the NHS contracting with GP practices and private

dentists. There were elements of this approach that were attractive to the panel and although it again was not considered to be a perfect read across it demonstrated that judicare was not the only way to remunerate private businesses providing public services. In a user-centred public service such as the NHS these agreements guarantee a standard of service for the user while providing security of income to the provider.

The lack of security of income in legal aid in comparison to the likes of dentists was illustrated in the recent Covid-lockdown, where the reduction in business prevented the normal stream of work, and payment for that work, from operating, or slowed work down. Dentists under contract to provide NHS services benefited from a continued revenue stream despite the need to close surgeries. In contrast, for legal aid providers, there was no means for the Scottish Government to provide that security of income. While the Scottish Government put in place an enhanced interim fee payment scheme to support cash flow, and a Covid-19 Resilience Fund to provide financial support (and there was access to the UKG Furlough scheme), a formal arrangement involving a commitment to deliver - and be remunerated for – an agreed level of business would have provided a better platform for offering financial support.

SLAB conducted a review of the potential use of contracts in the legal aid system in 2013 and found that there were a number of challenges in moving forward with contracting, not least the challenges in determining likely demand and supply needs, and the readiness of the profession to participate in a procurement exercise. Since that time, attempts to introduce price competitive tendering in England and Wales were not successful in some aspects and the panel considers this would be unlikely to be suitable for use in the legal aid system in the Scottish context.

Subject to Scottish Government approval of the overall plan as to the criteria of a programme, SLAB has the power to enter into grant funding arrangements for civil legal assistance work, including the provision of advice by third sector organisations, and those grants work well. The funding is provided for an overall service that targets either certain case types or clients, or both, rather than case by case funding. It works well in ensuring that overall client needs can be met beyond the specific problem or dispute presented.

The working environment for solicitors providing legal aid services can be demanding, depending on the business model in operation. In developing a new model for the payment of fees, a review of the model of delivery should also be conducted to determine whether a redesigned model of delivery, and therefore payment, could help address a number of issues previously identified, such as long working hours, and patterns, gender and other diversity issues. For example the challenge of 24/7 delivery for firms of different sizes and structures, and recruitment and retention of staff. It would be particularly relevant in developing more flexible approaches to payment for legal services.

Overall, there was support for the benefits of using a variety of payment methods for legal aid work, of which judicare would continue to be a part. There is an opportunity to consider this as part of the legal aid reforms.

Recommendation: Increased diversity in the use of mixed models of payment for the delivery of legal aid services is needed and this should be embedded in the reformed legal aid system.

Recruitment and Retention

Members of the group reported on difficulty in recruitment and retention of staff, thought to be as a consequence of the salaries they felt able to offer. The ability of other organisations, such as COPFS and Scottish Government to offer higher initial salaries put some, for example Law Centres, at a disadvantage when recruiting staff.

There are a number of reports on this issue specifically with regard to lawyers. The Law Society of Scotland's report on the Profile of the Profession, published in 2018, reports that 54% of respondents had considered leaving the profession in the last five years. Respondents most frequently felt that achieving an improved work-life balance was their most important career aspiration over the next five years.

This resonates with the outcome of a survey conducted by the Scottish Young Lawyers Association, again undertaken in 2018. That report reflected that over 75% of those surveyed have considered a career outside of law since commencing their traineeship. The majority of reasons cited were in order to achieve a better work-life balance and better pay. It should be noted that respondents would have included trainees and NQ lawyers engaged in non-legally aided work and therefore this is not a problem unique to legal aid but to the legal profession in general. It may also be reflective of the business model of younger lawyer's terms and conditions being set by partners.

A study on Gen Y⁴ (born between early 80s and early 00s) reports that graduates increasingly prioritise work-life balance. Gen Y graduates are also more mobile than previous generations. This does not translate into a long-term commitment to their employer, with most looking to move on within two years. A "portfolio career"⁵ is replacing the "job for life" habits of previous generations. The Panel identified a need for better evidence about challenges of recruitment and retention and their causes, including whether and to what extent such challenges are associated with current rates of pay, working conditions, and career development within the legal aid sector are impacting on attracting and retaining new talent.

The ability to offer traineeships and retain those trainees was raised as a concern and linked to questions over the sustainability of the provision legal aid services.

There is a lack of clear evidence on the extent, nature and causes of the reported difficulties in recruiting and retaining staff to undertake legal aid work. In particular, it is unclear whether such difficulties as exist are symptomatic of a wider evolution of working habits and to what degree specific issues in delivering legal aid contribute to the challenges reported in the group. There can be no doubt that the business

⁴ [Great Expectations – Managing Generation Y | The Institute of Leadership & Mgt \(institutelm.com\)](#)

⁵ [What is a Portfolio Career? | HRZone](#)

models developed by legal firms and practitioners will have an impact on their ability to recruit and retain staff.

There is a need to understand – and an opportunity to learn – more about the supply of legal aid, including the make-up of the workforce (age, diversity, experience etc.) and whether the current structure of the market can deliver high quality and flexible jobs in order to ensure that standards of delivery are maintained and solicitors are incentivised to deliver legal aid in the future.

Recruitment, retention and the ability to engage trainees are clearly important aspects of both sustaining the delivery of legal aid services and in ensuring that the market is thriving. A review should consider these issues as part of the work on creating health indicators for the system.

Recommendation: Further evidence needs to be developed to identify challenges in the running of businesses and delivery of legal aid services in the context of wider changes in the justice system, employment market and technological landscape. This will include a focus on recruitment and retention and the extent to which challenges in this regard are particular to the provision of legal aid services or other factors. Where required, fees could be structured to encourage a younger and more diverse workforce supplying legal aid through multiple channels to ensure the supply of the service remains sustainable.

Quality and accountability

Current quality controls include the peer review process, which is highly regarded by the profession and is thought to have had a positive impact on improving standards. The Scottish Legal Complaints Commission reports that there are few complaints made about legal aid solicitors.

In respect of advice providers, the Scottish Government owns and SLAB manages the accreditation process for the Scottish National Standards for Information and Advice Providers quality assurance scheme. The Faculty of Advocates operates an internal quality assurance scheme that applies to all aspects of advocates' work, not just legal aid work.

Solicitors and advocates are also officers of the court and are required to meet the needs of the court.

There should be a clear link between standards of service and payment, however that link is not clearly articulated in the current system. In providing best quality for public funding it is important to have evidence that demonstrates public funds are being used appropriately. Quality assurance schemes, such as peer review, provide much of that evidence. What is lacking is a clarity around what is expected of service deliverers and what deliverers can expect from funders.

For example, dentists can attract funded continuing professional development (CPD) depending on how much NHS work is carried out. Service level agreements, or memorandums of understanding, can be a useful way of ensuring clarity of

expectations and could sit alongside the peer review scheme. This is something that featured in the consultation of legal aid reforms.

Recommendation: Quality assurance is an important part of evidencing the quality of service provided. Greater clarity around the respective roles of those who deliver services and those who fund the delivery would improve understanding of expectations and experiences of the user.

Simplification

There is general consensus that the current system is too complex, and simplification is one of the key drivers for reforming the system. For solicitors delivering legal aid, that complexity adds to their workload, particularly in respect of a) understanding the correct fee to apply, b) identifying the appropriate amount to claim and c) preparing accounts. Sometimes the complexity is disproportionate to the amount of fee being claimed, or that which is paid. The process for assessing accounts, including negotiating abatements (deductions from amounts claimed made on the basis that SLAB is not satisfied that they meet the taxation standard) can add to the administrative burden on solicitors and can be frustrating. Individually, these can seem to involve small amounts but there is an aggregate impact on the management of the legal aid fund. It can be debilitating for both the profession and SLAB, which is bound to apply the terms of statute in dealing with accounts, and this has contributed to a sometimes challenging relationship.

The complexity of the fee models, particularly those that still rely on “time and line” and the growing disparity between modern court process and often long standing fees collide to create a lack of clarity on what fee should be applied. When combined with situations where there is a lack of agreement on what is “reasonable” we have a system where consensus can be difficult to achieve.

Work on simplifying the system has been ongoing and most recently the simplified system for claiming fees for telephone calls in a police station has seen expenditure on this area of provision rise from £557k in the 12 months to December 2017 to £1.53m in the 12 month period to July 2019.

The Panel considered that further simplification of the system could have a positive impact on solicitors and shouldn't wait until the reforms were in place. For example, simplification of fees for solemn criminal cases could change the way in which S76 cases were dealt with. The Law Society of Scotland and SLAB were engaged in discussions on how a single aid type might be developed which would significantly simplify the system.

Recommendation: Improvements should be made to the legal aid system that would reduce the administrative burden on solicitors and would have a benefit in reducing business costs. The panel therefore recommends that the fee reforms proposed by the Scottish Government in December 2020 be consulted on at the earliest opportunity to address a number of issues raised during the lifetime of the panel.

Section 5: Summary

The Panel appreciates that the current statutory framework is not flexible enough to fully modernise the pay regime currently in operation. It became clear during discussions that the potential for improvement within the current regime was limited. It recognised the challenges in determining a fee rate based on the current models of fees; there is no baseline evidence on which to base a transparent assessment of what fair remuneration means and how this might be applied to the wide range of legal services being delivered by solicitors, law centres, third sector organisations and advocates. The current models are struggling to keep up with changes in court practice and often don't reflect work undertaken.

The Panel was keen to avoid a process that mirrors the current system of negotiating fees from the basis of what is already in place, as that lacks robustness and clarity for all of those involved. The panel have concluded that using inflation as a basis for fee increases was not the correct approach. A future evidence guided process of reviewing rates of remuneration should therefore not be based on the current system.

The Panel was asked to agree the framework for an evidence guided process and it recognised that there are a number of factors that should be taken into account in determining appropriate payment levels for legal services, such as those outlined above. It is clear that an understanding of user views and experiences, how the market operates, and the challenges faced by solicitors and advocates currently play little part in determining fee levels, and that is an omission that should not continue in the future.

The future sustainability of the system and ensuring that we continue to have suitably skilled solicitors willing to undertake legal aid work is important in being able to design the delivery framework for a reformed legal aid system. Developing indicators that can be used to measure the health of the market would allow for analysis of the range of factors in a transparent and consistent fashion.

Also, a review of legal aid payment and reform of the legal aid system provides an opportunity to move towards a range of payment methods that enable funds to be targeted towards particular priorities and to ensure particular levels of service.

Panel Remit

- To assess and agree an evidence guided process and methodology that would underpin a future review of payment structures and fee levels for legal services provided by solicitors and advocates to assisted persons. To provide advice to the Minister on options.

Terms of Reference

- Examine the current legislative framework for payment of solicitors and advocates in order to propose an optimal framework for the long term
- Identify improvements which could be implemented in the short term to address payment and rates of fees, prior to implementation of a Bill
- Analyse and compare the existing fee structures in the legal assistance schemes against international models and models in other policy areas
- Appraise the different models for payment via the legal assistance schemes with a view to identifying effective structures and review system
- Consider mechanisms and models for ensuring supply of services e.g. alternative fee agreements; service level agreements; fee weighting; panels

Expected Outcomes from the group - to ensure that the proposed evidence based process:

- Is fair and transparent (to the user and the provider)
- Encourages and enables sufficient, efficient and sustainable supply of services
- Is accountable and ensures that work done is in the interests of the assisted person
- Is flexible, and can enable service delivery to adapt, to changes in the justice system and technology
- Provides for consistent data gathering and quality control; and
- Provides adequate control over public spending in the context of an uncapped budget and wider public spending constraints

Membership

Chair

Neil Rennick

Director of Justice, Scottish Government

Professor Emeritus Frank Stephen, Economist

Professor Stephen was Professor of Regulation in the School of Law from 2005 until 2014. From 2007 till 2011 he was Head of the School of Law. Prior to Manchester he was a Professor of Economics at the University of Strathclyde. In 2010 he was President of the International Society for New Institutional Economics (ISNIE). During 2006 Frank was a Special Adviser to the Joint Committee of the

House of Lords and the House of Commons on the Legal Services Bill. In 2010 he was Special Adviser to the Justice Committee of the Scottish Parliament for its scrutiny of the Legal Services (Scotland) Act 2010. He has represented the University of Manchester as a partner in the EU Commission funded China-EU School of Law in Beijing. He is currently a member of its Joint Management Committee. Professor Stephen is a highly regarded expert economist with a wealth of experience in advising government.

Professor Graeme Roy, Economist

Professor of Economics, Adam Smith Business School and Dean of External Engagement University of Glasgow. Former Director of the Fraser of Allander Institute, University of Strathclyde and former Senior Economic Adviser and Head of the First Minister's Policy Unit in the Scottish Government. Past adviser to the Scottish Parliament's Economy, Jobs and Fair Work Committee. Chair of the Scottish Government advisory group on the Economic Impact of Minimum Unit Pricing. Professor Roy is a highly regarded expert economist with experience of advising government and a background in public policy.

Professor Mike Danson, Economist

Professor Danson is an economist, Fellow of the Academy of Social Sciences and has many and varied research interests including employability and volunteering, early-onset dementia and the workplace, regional economic development, basic income, and community ownership and management of land and other resources. He has authored over 300 research papers many published in international scientific journals and books. His research work is frequently presented at international conferences. Mike chairs Basic Income Network Scotland and is depute convenor of the Reid Foundation. He is a member of the Scottish Government's Just Transition Commission. Current research includes collaborative projects on the economic impacts of minority languages; microbreweries; and different aspects of sustainable economic development across peripheral, marginal and island regions in northern Europe.

Ian Moir

Mr Moir graduated from Glasgow University in 1991 and specialises principally on criminal defence work. His firm Ian Moir and Co are based in Glasgow however represent clients throughout Scotland. Ian is convenor of the Law Society of Scotland's criminal Legal Aid Team. He has been nominated by the former President of the Law Society of Scotland to sit on this panel.

Mark Thorley

Mr Thorley heads the family law and reparation department at his firm Thorley Stephenson SSC. He has previous specialisation in criminal, reparation and family law. Mark is the convenor of the Law Society of Scotland's civil Legal Aid Team. He has been nominated by the former President of the Law Society of Scotland to sit on this panel.

Ross Yuill

Mr Yuill is a Partner with The Glasgow Law Practice. He is a former President of the Glasgow Bar Association. He is a quality assurance peer reviewer for Legal Aid files instructed by The Scottish Legal Aid Board. He is a council member of the Law

Society of Scotland and a member of the Society's Criminal Law Committee. He is a Solicitor Advocate and presently Vice President (Criminal) of The Society of Solicitor Advocates. He has been nominated by the President of the SSA to sit on this panel.

Ronaldo Renucci QC

Mr Renucci became an advocate in 2001 and took silk in 2018. He specialises in criminal law and has represented clients in high profile cases across Scotland. Prior to that he was a Partner for 11 years in a criminal defence law firm and has experience of legal aid as a solicitor and an advocate. He was elected Vice Dean of Faculty in August 2020 and was been nominated by the former Dean of Faculty to sit on this panel.

Ruth M Innes QC

Ms Innes became an advocate in 2005 and took silk in 2018. She principally works in civil law specialising in family law with particular experience of complex and high value financial provision on divorce and in cases involving cross-border and international aspects. She is a fellow of the International Academy of Family Lawyers, Chair of the Advocate's Family Law Association and was been nominated by the former Dean of Faculty to sit on this panel.

Paul Brown

Mr Brown is a Director and the Principal Solicitor of the Legal Services Agency, a law centre based in Glasgow. He has been Principal Solicitor and a member of the Board of LSA since 1989. His interests include housing law, criminal injuries compensation and legal policy issues however LSA provide advice in most areas of law.

Gillian Fyfe

Ms Fyfe, **Strategic Lead for Stronger Communities at Citizens Advice Scotland**, is an experienced policy professional with a history of working in the government relations industry. Qualifications include: Doctor of Philosophy (Ph.D.) focused on Public policy from Glasgow Caledonian University.

Raymond McMenamin

Mr McMenamin was admitted as a solicitor in 1982 following a traineeship with the Crown Office. He worked as a Procurator Fiscal Depute in Linlithgow and Glasgow before moving to private practice and then progressing to partner in the firm where he remained for 30 years, and 20 years as senior partner. He became a solicitor advocate (criminal) in 2000 specialising in criminal law. He was also a member of the Criminal Law Committee of the Law Society of Scotland between 2004 and 2016. In 2007 he was appointed as a part time Sheriff and was elected President of the Part Time Sheriff's Association for 3 consecutive years from 2013 to 2016. He has now retired as a Solicitor Advocate and sits regularly throughout Scotland as a Sheriff. He is currently a member of the Scottish Legal Aid Board and has been nominated by the Chair to sit on this panel.

Colin Lancaster

Mr Lancaster joined SLAB in 1997 and was previously Head of Policy and then Director of Policy and Development. His responsibilities as a Director focused on improving the availability, quality and cost-effectiveness of publicly funded legal

assistance, both civil and criminal. He was also responsible for compliance and solicitor investigations, SLAB's research and management information departments, equalities, the Civil Legal Assistance Office (CLAO) and SLAB's substantial grant funding programme. He is the Chief Executive of the Scottish Legal Aid Board and has been nominated by the Chair to sit on this panel.

Meetings

Attendance March 2019 – January 2020

Attendance has varied throughout the year, with other work commitments being the main cause of absences. Apologies for each meeting set out below. The black boxes indicate non-attendance. Professor Mike Danson joined the Panel in October, and Gillian Fyfe in June.

| Payment Panel Advisory Group Attendance | | | | | | | |
|--|--------------|-------------|-------------|-------------|------------|------------|------------|
| Name | March | June | July | Sept | Oct | Nov | Jan |
| Professor Frank Stephen | x | x | | | x | x | x |
| Professor Graeme Roy | x | | x | x | | | |
| Professor Mike Danson | | | | | x | | x |
| Ian Moir | x | x | x | x | | x | x |
| Mark Thorley | | x | | x | | x | x |
| Ross Yuill | x | x | | x | | | |
| Ronaldo Renucci QC | | x | x | | | x | |
| Ruth Innes QC | x | x | x | x | x | x | |
| Paul Brown | x | x | x | x | x | x | x |
| Raymond McMenamin | x | x | x | x | x | x | x |
| Gillian Fyfe | | x | x | x | x | x | |
| Colin Lancaster | x | x | x | x | x | x | x |

Meeting Breakdown – Agenda/Papers

March 2019 (1st meeting)

Remit, terms of reference and expected outcomes.

Presentations

- 1) JAS – Trends in crime and court volumes.
- 2) SLAB – Payment framework of publicly funded legal assistance.
- 3) LSS – Legal aid fees.
- 4) FoA – Current structures for criminal and civil law from a faculty perspective.
- 5) Society of Solicitor Advocates – Overview of structures from a Solicitor Advocate perspective.
- 6) Scottish Association of Law Centres – Expert advisory structures in other jurisdictions.

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-march-2019/>

June 2019 (2nd meeting)

Presentations

- 1) Professor Alan Paterson on legal assistance in international jurisdictions.
- 2) Fiona Rutherford on legal assistance in other jurisdictions within the UK.

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-june-2019/>

July 2019 (3rd meeting)

Presentations

- 1) Neil Robertson, Primary Care, on GP funding.
- 2) David Notman, Primary Care and Dental services, on the NHS Dental Payment System.

Priorities for the next meeting – reflect on the specific questions that the two models and information have raised.

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-july-2019/>

September 6th 2019 (4th meeting)

- 1) Legal Aid Expenditure – Recent trends and discussions by Steven Ing, Economic Advisor.
- 2) Group discussion – The benefits of bringing in an external challenged to give further analytical feedback to the discussions. It was agreed that Professor Mike Danson would be invited to attend future meetings.
- 3) Discussions for the next meeting – Contracting, grant funding, The Faculty of Advocates, bonus and differential reward and specialisation.

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-september-2019/>

October 4th 2019 – (5th meeting)

- 1) Presentation on research undertaken by LSS/Alan McCreadie: Ian Moir. This paper explored research in connection with inflationary based increases to fees.
- 2) Paper on COPFS: Shona Urquhart (SG) and JAS. This paper explored the differences in funding costs associated with the prosecution and defence of criminal law.
- 3) Paper on contracting: SLAB. This paper was circulated immediately prior to the meeting, it was spoken to by SLAB but Panel members were to reflect and discuss in more detail at the next meeting.

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-october-2019/>

November 2019 (6th meeting)

- 1) Reflections from Economist Panel Members
- 2) SLAB: Segmentation Data/Summary - Matt Taylor provided the panel with descriptive paper on segmentation data. (SLAB)
- 3) SLAB's Contracting Paper – Speak to SLAB

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-november-2019/>

January 2020 (7th meeting)

1) Scottish Government Paper - paper reflected on the presentations to and discussions by the panel to date, and brought these together with reference to the remit and objectives of the Panel. It set out potential findings and recommendations that the group may include in its report to Ministers. *The final meeting will be held in March.* This would allow the panel a sufficient period of time to pull together work for comments/revision for discussion at this meeting.

1a) Paper Discussion

The purpose of the paper was to reflect on ground covered in the meetings so far and how the outcomes might be captured in making recommendations to the Minister.

<https://www.gov.scot/publications/legal-aid-payment-advisory-panel-minutes-january-2020/>

March 2021 (8th meeting)

- 1) Reflections on draft report and finalising the recommendations and report to the Minister.



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