

<p>Title: Civil legal aid: Towards a sustainable future</p> <p>IA No: MoJ015/2024</p> <p>RPC Reference No: N/A</p> <p>Lead department or agency: Ministry of Justice</p> <p>Other departments or agencies: Legal Aid Agency</p>	Impact Assessment (IA)
	Date: 02/07/2025
	Stage: Consultation response
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Civil.LegalAidPolicy@justice.gov.uk

Summary: Intervention and Options	RPC Opinion: Not Applicable
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Cost of Preferred (or more likely) Option (in 2025 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Not a regulatory provision
N/A	N/A	N/A	

What is the problem under consideration? Why is government action or intervention necessary?

The Lord Chancellor has a statutory duty under the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 to ensure legal aid is made available to eligible clients. Fees are an important incentive for providers to undertake legal aid work, helping to ensure legal aid work is financially attractive. The Review of Civil Legal Aid (RoCLA) was launched in January 2023 to examine the sustainability of civil legal aid. Evidence from RoCLA has indicated that the housing & debt (referred to hereafter as ‘housing’) and immigration & asylum (referred to hereafter as ‘immigration’) categories of law face the biggest challenges around sustainability: service provision, high demand, and the impact of current fee levels on profitability. Therefore, the government published the consultation paper ‘Civil Legal Aid: Towards A Sustainable Future’ on 24 January 2025 consulting on a fee increase which will lead to a more sustainable legal aid sector in these areas, enabling those eligible to continue to be able to access high quality services in a timely manner.

What are the policy objectives of the action or intervention and the intended effects?

1. The policy aims are to:

1. Ensure a sustainable housing and immigration legal aid market by remunerating at a rate which allows providers to attract and retain legal aid professionals and, ideally to enable providers to innovate and try different delivery models.
2. Ensure high quality provision of housing and immigration legal aid is available to those who are eligible and encourages early resolution where appropriate.
3. Reduce the number of different rates being paid, paving the way for future simplification of the fee schemes which will make it easier for the LAA to maintain their digital systems to reduce the complexity of claims for providers.
4. Pay a fair price to incentivise efficient delivery models whilst delivering value for money for the taxpayer. Collectively, this intervention should make it easier for eligible users to access legal aid services and make

What policy options have been considered, including any alternatives to regulation?

- Do nothing: No changes are made to how legal aid is remunerated.
- Option 1: Uplift fees for housing and immigration legal aid work to a minimum hourly rate of £65.35/£69.30 per hour, or by 10% if higher, and uplift fixed fees by a corresponding amount.

Option 1 is the preferred option as it best meets the government’s policy objectives.

Will the policy be reviewed? It will not be reviewed.						
Is this measure likely to impact on international trade and investment?			No			
Are any of these organisations in scope?			Micro Yes/No	Small Yes/No	Medium Yes/No	Large Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the Minister responsible: Sal Sadana Date: 02/07/25

Summary: Analysis & Evidence

Policy Option 1

Description: Uplift fees for housing and immigration legal aid work to a minimum hourly rate of £65.35/£69.30 per hour, or by 10% if higher, and uplift fixed fees by a corresponding amount.

FULL ECONOMIC ASSESSMENT

Price Base Year 2025	PV Base Year N/A	Time Period Years	Net Benefit (Present Value (PV)) (£m)			
			Low: N/A	High: N/A	Best Estimate:	N/A
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)	
Low	Not estimated	-	£18m		N/A	
High	Not estimated	-	£22m		N/A	
Best Estimate	Not estimated	-	£20m		N/A	
Description and scale of key monetised costs by 'main affected groups'						
<ul style="list-style-type: none"> The cost of the fee increase is expected to be around £20m per year in steady state. The Legal Aid Agency will incur this cost as a result of higher fees for legal aid work in the housing and immigration categories of law. 						
Other key non-monetised costs by 'main affected groups'						
<ul style="list-style-type: none"> The Legal Aid Agency will incur some implementation costs due to the digital changes which are required to enact this policy; however, these have not been costed for this impact assessment. 						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)	
Low	£0	-	£18m		N/A	
High	£0	-	£22m		N/A	
Best Estimate	£0	-	£20m		N/A	
Description and scale of key monetised benefits by 'main affected groups'						
<ul style="list-style-type: none"> There will be a corresponding benefit to housing and immigration legal aid providers (including solicitors' firms, not for profit providers and barristers) of around £20m per year in steady state. Legal aid clients are also assumed to receive a benefit equal in value to the benefit received by providers, using price as a proxy for the value derived in the absence of any other evidence. 						
Other key non-monetised benefits by 'main affected groups'						
<ul style="list-style-type: none"> Prospective legal aid clients may find it easier to obtain housing and immigration legal aid services compared to a counterfactual where more providers stop undertaking legal aid work. As this option will bring the rate at which all Controlled Work is paid to the same level as the lower end of Licensed Work, this should allow providers to allocate more experienced (and therefore more expensive) resource between Controlled Work and Licensed Work more freely, which may lead to efficiencies if cases are successfully resolved at an earlier stage. Providers will achieve a higher level of profitability, so increasing the incentive for new providers to start doing legal aid work while disincentivising existing providers from leaving the legal aid market. 						
Key assumptions/sensitivities/risks					Discount rate	N/A
<ul style="list-style-type: none"> The key assumption is that future legal aid demand is the same as levels seen in the past. Specifically, the baseline used for costing the impacts of this policy is all cases which submitted a final bill in 2023-24, and so volumes and case mix in future years are assumed to be the same as in 2023-24. 						

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:		
Costs: N/A	Benefits: N/A	Net: N/A	N/A		

Evidence Base

A. Background

3. The legal aid scheme exists to ensure access to legal advice and legal remedies through the courts and tribunals system for specified legal issues to those who, where required, pass a means and merits test. It does this by funding the costs of legal advice and representation by qualified legal aid practitioners.
4. The legal aid scheme is governed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). LASPO sets out which types of services can be funded by legal aid. This is colloquially known as “in scope” legal aid. For services that are not “in scope”, legal aid funding may still be available via the Exceptional Case Funding Scheme, where an individual can demonstrate that without legal aid there is a risk that their human rights may be breached.
5. Legal aid work is mainly categorised either as Controlled Work or Licensed Work.¹ This work can be summarised as:

Controlled Work	Licensed Work
Legal help, help at court, and Controlled Legal Representation at some immigration tribunals	Mainly includes legal representation (other than Controlled Legal Representation)
Responsibility for the determination is delegated by the Director of Legal Aid Casework to providers	LAA (on behalf of the Director of Legal Aid Casework) generally makes the determination, but this is sometimes delegated to providers. A Licensed Work determination is evidenced by the issue of a legal aid certificate
High volumes of lower-cost work	Lower volumes of higher-cost work
Usually paid using fixed fees	Most categories paid using hourly rates

6. Fees are an important incentive for providers to undertake legal aid work, helping to ensure legal aid work is financially attractive to providers. The fees payable for legal aid services are set out in the Civil Legal Aid (Remuneration) Regulations 2013 (the Remuneration Regulations), which should be read alongside the 2024 Standard Civil Contract and relevant category-specific contract specification. These documents govern the relationship, including fees for services provided, between legal aid providers and the Legal Aid Agency (LAA) who contract for legal aid services on behalf of the Lord Chancellor. Payments for barristers are also set by the Remuneration Regulations, but barristers are instructed by contracted legal aid providers and do not hold a contract with the LAA.
7. All housing and immigration Controlled Work is remunerated according to either standard fees or hourly rates, which are set out in the Remuneration Regulations. All housing and immigration Licensed Work is remunerated by hourly rates.
8. For immigration, the kind of work funded by legal aid includes:

¹ There are a number of legal services outside of Controlled Work and Licensed Work such as is also Special Case Work and family mediation.

- **Legal help:** initial advice for asylum applications, applications for bail, applications for leave to enter or remain on Article 3 European Convention Human Rights, and for some immigration matters including for separated migrant children and victims of trafficking.
 - **Controlled Legal Representation:** appeals at the First-tier Tribunal for asylum and some immigration cases.
 - **Licensed Work:** Legal representation and appeals at the higher court.
9. For housing, under the standard contract, areas currently in scope of legal aid include:
- cases concerning eviction and possession (including rent arrears)
 - court orders to get housing disrepairs fixed where these pose a serious risk of harm to health or safety
 - injunctions to protect individuals from harassment arising out of housing related issues; and
 - rehousing assistance for homeless individuals.
10. Through LASPO, mortgage possession cases were reclassified as debt work. Where this is legal advice then this is paid as legal help (Controlled Work), and where this is preparation for, or representation at, a court hearing then this is paid as Licensed Work. Debt work is now only available where there is an immediate risk of the client losing their home, mortgage possession cases and involuntary bankruptcy.
11. In addition, some providers also hold a contract for work under the Housing Loss Prevention Advice Service (HLPAS) which provides means-free early legal advice for housing matters, welfare benefits, council tax arrears and debt (where an individual faces possession of or eviction from their home) alongside the existing in-court duty scheme for free, on the day advice and representation for possessions.

Problem Under Consideration

12. Since LASPO was introduced, case volumes and provider numbers have declined. In response to these concerns, the Review of Civil Legal Aid (RoCLA) was launched in January 2023, aiming to collect evidence to identify ways to improve the sustainability of civil legal aid provision.
13. RoCLA highlighted challenges around the sustainability of civil legal aid which are particularly acute in the housing and immigration sector. This assessment is based on a combination of factors:
- **Service levels** - Following the recent LAA tender in 2024, there were some challenges with direct provision in a small number of regions.
 - **High demand** - In RoCLA's Provider Survey Report, 50% of providers indicated that demand was very high, with this significantly more likely to be reported for housing (65%) and immigration services (83%), compared to civil legal aid providers as a whole.
 - **Sector retention concerns** - If no changes occur within the civil legal aid sector, 40% of providers surveyed in RoCLA's provider survey indicated they intend to exit the sector within the next five years. Given the demand and service levels described above, we are concerned that the eligible users will struggle to access housing and immigration legal aid if such attrition occurs.

- **Profitability** - The sustainability research carried out for The Law Society by Frontier Economics on housing and family providers showed particularly acute issues in the housing category, with this work found to be loss-making for all providers (where cases which achieve inter-partes costs are excluded). The average fee-earner for housing recovered only around half of the cost of delivering legal aid work. Other evidence presented to the MoJ outside of RoCLA indicates that Controlled immigration Work is loss-making. The Provider Survey found that lack of financial viability was the top reason given by both private practices (65%) and non-profits (37%) who had stopped holding a civil legal aid contract.

14. Taken together, this evidence suggests intervention is needed by way of fee increases for housing and immigration work to address these issues, improve sustainability and help ensure eligible users remain able to access to legal aid.
15. The Ministry of Justice therefore published the consultation paper 'Civil Legal Aid: Towards A Sustainable Future' on 24 January 2025, consulting on increases to housing and immigration fees. The fee options described in this impact assessment (IA), which accompanies the government response to the consultation, aim to ensure fair and equitable remuneration for legal aid practitioners, align with our principles in fee setting and represent an important step in the Government's response to the evidence gathered as part of the RoCLA. The changes may generate efficiencies within the wider legal aid system by focussing larger fee increases on early legal advice – which has the potential to increase quality and capacity of advice at an early stage to prevent legal issues escalating and becoming more expensive.

B. Policy Rationale and Objectives

Rationale

16. The conventional economic approaches to government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules), where the new interventions avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more vulnerable groups in society).
17. The rationale for government intervention in this instance is both equity and efficiency: the evidence from RoCLA indicated that the housing and immigration sectors face significant challenges and that increasing fee levels will address the challenges identified around sustainability and the availability of legal aid services for eligible users in these categories. In particular, RoCLA highlighted acute challenges with service levels, high demand, and the impact of current fee levels on profitability.

Policy Objectives

18. The policy objective is to improve the sustainability of housing and immigration legal aid. In doing so, the proposals aim to ensure that legal aid services remain available for eligible users in immigration and housing.

19. The principles which have been used to design the fee uplifts aim to:

- Ensure a sustainable housing and immigration legal aid market by remunerating at a rate which allows providers to attract and retain legal aid professionals and ideally enables providers to innovate and try different delivery models.
- Ensure high quality provision is available to those who need it and encourage early resolution where appropriate.
- Reduce the number of different rates being paid, paving the way for future simplification of the fee schemes which will make it easier for the LAA to maintain their digital systems and reduce the complexity of submitting claims for providers.
- Pay a fair price to incentivise efficient delivery models whilst delivering value for money for the taxpayer.

20. The policy satisfies the above principles by:

- Remunerating at a rate whereby it is possible for providers to make a profit, helping to ensure a sustainable housing and immigration market.
- Targeting larger increases to the earlier stages of clients' legal journeys.
- Reducing the number of different rates being paid, paving the way for future simplification which may be less burdensome for providers and the LAA.
- Delivering value for money by increasing fees in the categories of law where the challenges are most acute, and identifying a level of increase that will achieve our aims in an efficient way.

C. Affected Stakeholder Groups, Organisations and Sectors

21. The options assessed in this Impact Assessment (IA) are expected to directly affect the following groups:

- Eligible individuals requiring legal advice or representation in the courts and tribunals in England and Wales.
- Legal aid providers and barristers doing publicly-funded legal work.
- The Legal Aid Agency (LAA).

D. Description of options considered

22. To meet the policy objectives, the following options are assessed in this IA:

- **Option 0/do nothing: No changes are made to how legal aid is remunerated.**
- **Option 1: Uplift fees for housing and immigration legal aid work to a minimum hourly rate of £65.35/£69.30 per hour, or by 10% if higher, and uplift fixed fees by a corresponding amount.**

23. The preferred option is Option 1: Uplift fees for housing and immigration legal aid work. This option, which is described in more detail below, is intended to make these areas of work more sustainable for practitioners and accessible for clients.

Option 0: Base Case/Do nothing

24. Under the 'do nothing' or 'base case' option, the current legal aid fees for housing and immigration legal aid work would remain unchanged.

25. Given the evidence summarised above, and the responses to the consultation, under this option there would likely be a continuing decline in housing and immigration provider numbers, with those remaining attempting to service high levels of demand. It is likely that

eligible prospective legal aid clients will continue to face challenges around accessing the legal aid services that they need.

Option 1: Uplift fees for housing and immigration legal aid work to a minimum hourly rate of £65.35/£69.30 per hour, or by 10% if higher, and uplift fixed fees by a corresponding amount.

26. Under Option 1 all preparation, attendance and advocacy fees in the housing and immigration categories will be uplifted by 10%, or to a minimum hourly rate of £65.35/£69.30 per hour, whichever is higher. Fixed fees, and other rates such as travel and waiting, will be uplifted by a corresponding amount based on the relevant preparation hourly rate for the same type of work.
27. In addition, there will be some simplification to the fees:
- hourly rates will be rounded to the nearest 5p and fixed fees to the nearest £1,
 - attendance at court rates will be set at 75% of the relevant preparation rates,
 - travel and waiting will be set at 50% of the relevant preparation rates; and
 - routine letters and telephone per item rates will be set to the same value, using the highest value (after the uplifts and rounding are applied) within controlled and Licensed Work separately.
28. Following the consultation, the attendance at court rates, which were originally proposed at 50% of the corresponding preparation and attendance rates, have been increased to 75%. Further detail on this change is set out in the consultation response.
29. There will be a different impact of this policy for Controlled Work and Licensed Work. Controlled work is generally legal advice, and in immigration also covers representation at the first tier tribunal, where providers have delegated authority to start work without approval from the LAA. As the rates for this work are all at least 10% below the minimum floor, all Controlled Work rates and fixed fees in the housing and immigration categories will increase by a percentage between 10% and 43%.
30. Licensed Work covers representation at courts and at the upper tribunal. For housing and immigration Licensed Work, as all preparation and attendance rates are above (or within 10% of) the floor hourly rate, then all rates will receive a 10% uplift.
31. Option 1 will require amendments to the relevant legal aid contract, which will be undertaken by the LAA. Implementing option 1 will also require negative secondary legislation.

E. Cost & Benefit Analysis

32. This IA follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with the HM Treasury Green Book.
33. Where possible, this IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the options under consideration. The costs and benefits of each proposal are compared to option 0, the do nothing or 'baseline' case. As the 'baseline' option is compared to itself, the costs and benefits are necessarily zero.
34. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts that cannot sensibly be monetised. These might be impacts on certain groups of society or some data privacy impacts, positive or negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those which are non-monetisable.

35. Where costs and benefits are monetisable, we have estimated the steady state implications of the policy change. Values are rounded to the nearest £1m.
36. All figures are based on current 2025 prices and include VAT, where applicable. We have not applied optimism bias to these estimates but we have provided some sensitivity analysis in the Risk and Assumptions section to quantify some uncertainty. We have also not included transitional or implementation costs to the Legal Aid Agency.
37. As changes in Legal Aid fee schemes for existing services amount to a transfer of resources between the Legal Aid Fund and providers, it is normal not to calculate a Net Present Cost (NPC). However, the first sensitivity analysis of option 1 suggests that it would lead to new funded services being provided, an NPC has been calculated for the portion of cost which is new work under the scenarios shown. However, we have also assumed that the benefit to the client is equal to the cost to the Legal Aid fund so the Total Net Present Social Value for each option is zero. Where relevant, the net present costs in this IA are based on a 10-year appraisal period and assume that steady state estimates apply throughout the period.

Option 1: Uplift fees for housing and immigration legal aid work to a minimum hourly rate of £65.35/£69.30 per hour, or by 10% if higher, and uplift fixed fees by a corresponding amount.

Methodology

38. The consultation document, particularly Annex A, describes the methodology of how the size of the fee uplift has been determined. This IA looks at the cost of the resulting policy.
39. The cost modelling was performed using a baseline of all legal aid cases (excluding specialist telephone advice cases) which submitted a final bill in 2023-24. Disbursements have been excluded from the baseline because these are not expected to change under the policy, and do not contribute to the sustainability of law firms. VAT is included because this is a relevant impact for the legal aid fund, but it does not affect the percentage uplifts that providers will receive under this policy. The data used aligns with the legal aid statistics quarterly publication January-March 2024 version².
40. Controlled work and Licensed Work are treated separately in the model. For Controlled Work, each claim was classified as one of:
- Being paid a fixed fee
 - Being paid hourly rates because it escaped the fixed fee
 - Being paid hourly rates because it was not covered by the fixed fee
41. The exception to the above was certain immigration cases because the remuneration regulations changed for cases starting after 1st April 2023, meaning that new cases have a lower escape multiplier. All immigration claims were re-valued as though they were paid under the current regulations, which increases the baseline cost by around £4m compared to 2023-24 spend. This accounts for the fact that immigration costs are expected to increase regardless of any fee increases, because of a change made to the escape multiplier on 1st April 2023 which will feed through to billing as cases started after this date close.
42. For each Controlled Work claim the relevant hourly rate paid, or which underpins the fixed fee, were identified. The cost of each claim was then calculated in two steps: first, each case cost has been uplifted by the percentage which will have to be applied to the relevant rate so that it reaches a level equal to an intermediate floor level of £59.40/£63 (non-London/London), with no uplift if rates are already higher; and secondly, on top of this an additional 10% uplift was also applied on the total cost of all cases (excluding

² All versions of the Legal aid statistics quarterly can be found here: <https://www.gov.uk/government/collections/legal-aid-statistics>

disbursements). Together these steps mean that the new effective hourly rate in all cases was at least £65.35/£69.30 per hour, and all cases get at least a 10% uplift.

- 43. For Licensed Work, since all rates are already above the intermediate floor level only the 10% has been applied to the total cost (excluding disbursements).
- 44. The fee simplification was modelled separately on top of the new total costs calculated. This is because data is not available in all cases at the individual rate level, so these smaller changes cannot be incorporated directly into the main model. Instead, it is assumed that the fraction of spend on travel and waiting, and routine letters and telephone calls, out of total spend on cases where full cost information is held, is representative of where information is not available. In effect this means that the proportion of spend on these categories of work in Licensed Work cases in the Client and Cost Management System³ is applied to the total cost for other Licensed Work cases and all relevant Controlled Work cases. As only the hourly rates are being simplified (the fixed fees are unchanged) then only Controlled Work which is hourly rates from the outset, or which escapes the fixed fee, is included.
- 45. As outlined in the options description above, the attendance at court rates were initially calculated at 50% of the corresponding preparation rates at the time of the consultation. Following the consultation, this has been revised to 75%, and the updated rate has been incorporated into the costing presented here.

Volumes and Costs

- 46. The volume of work and case mix is assumed to be equivalent to the LAA billing closed case volumes in 2023-24 (this is our 2023-24 baseline). The impact of this assumption is explored further in the following risks, assumptions and sensitivity analysis section.
- 47. The cost of the preferred option is the difference between the baseline (including the adjustment made for the new immigration regulations) and the modelled cost of the same cases paid under the new fees. Table 1 shows the baseline spend used, and the resulting cost of the fee uplifts and fee simplification. The fee simplification is a very small proportion of the cost of Option 1 estimated to increase the cost of the policy by 1% (£0.3m) compared to the fee uplifts without simplification.

Table 1: Estimated Cost of Option 1 by Legal Aid Area

Area	Baseline spend	Steady State Annual Cost	Percentage increase on		
			Controlled	Licensed	Overall
Housing	£25m	£6m	42%	11%	24%
Immigration	£47m	£14m	32%	11%	30%
Both areas	£72m	£20m	34%	11%	28%

- 48. It should be noted that, because different work attracts different levels of uplift, individual providers will receive a percentage increase in their legal aid income which depends on their case mix. The overall column in the table above shows the percentage increase in total legal aid spend for all work in the relevant categories for the case mix in the 2023-24 baseline, and will be the increase received by providers which have a case mix in the same proportions as legal aid as a whole.

³ Excluding summary assessment cases.

Costs and Benefits of Option 1

Monetised Costs and Benefits

Legal Aid Agency

49. The LAA will incur a cost to the legal aid fund of around £20m per year in steady state. In addition there will be transition costs associated with the implementation of this option, due to the digital changes required.

Legal aid providers and barristers doing publicly-funded work

50. Legal aid providers and barristers will receive an overall benefit equal to the cost to the legal aid fund described in the previous paragraph. The amount each provider will receive will depend on the amount of work they do of different types – a provider doing only Licensed Work will receive a 10% increase in income, while a provider doing only housing Controlled Work will receive a 42% increase in income.

Eligible individuals requiring legal advice or representation in the courts and tribunals in England and Wales.

51. Clients receiving legal aid will receive a benefit equal to the value of the cost to the legal aid fund, which amount to £20m overall.

Non-monetised Benefits

Legal aid providers and barristers doing publicly-funded work

52. Option 1 brings the rate at which all Controlled Work is paid to the same level as the lower end of Licensed Work. This should allow providers to allocate more experienced (and therefore more expensive) resource between Controlled Work and Licensed Work more freely, which may lead to efficiencies if cases are successfully resolved at an earlier stage.

53. Option 1 will also allow providers to achieve a higher level of profitability, so increasing the incentive for new providers to start doing legal aid work while disincentivising existing providers from leaving the legal aid market.

Eligible individuals requiring legal advice or representation in the courts and tribunals in England and Wales.

54. Clients may receive higher quality services due to providers being able to allocate more experienced fee earners on legal aid work, particularly on Controlled Work; however, we are unable to quantify the size of this potential benefit. If higher availability and quality of Controlled Work leads to the resolution of legal issues before they escalate then clients may also receive a benefit in the form of avoided costs.

F. Risks, assumptions and sensitivity analysis

55. The assumptions used to cost these proposals are described in the methodology paragraphs in the Cost and Benefit Analysis section above.

56. The core risk associated with Option 1 concerns future volumes. While we have assumed that the legal aid system will continue to deliver the same case mix and volume of services as in the 2023-24 baseline, there is a risk that demand could be lower or higher in future. If volumes are higher, then the costs of Option 1 will be higher in proportion with the higher volumes. The following sensitivity analysis demonstrates this by considering the different

total cost of some realistic scenarios. In addition, there will be some implementation costs which are not considered here.

Sensitivity Analysis

57. Table 2 shows the total cost of Option 1 if providers choose to increase the amount of legal aid work they do due to the policy itself. The scenarios assume that Controlled Work is likely to increase more than Licensed Work, because the increase in Controlled Work fees is higher so there will be a stronger incentive to increase this work. The additional cost shown includes the full cost (including disbursements) of the additional cases paid at the new higher rates. The net present cost has been the discounted cost of the additional cases over a 10-year appraisal period.

Table 2: Sensitivity Analysis Under Scenarios of Increased Legal Aid Provision

Scenario	Additional Cost	Total policy cost	Net Present Cost
Central scenario	-	£20m	N/A
+5% Controlled Work	+£4m	£24m	£40m
+10% Controlled Work	+£9m	£28m	£79m
+10% Controlled Work & +5% Licensed Work	+£10m	£30m	£91m
+15% Controlled Work & +10% Licensed Work	+£15m	£35m	£141m

58. It is also possible that external factors, or other policy changes, might increase or decrease the amount of work done by legal aid providers. In this case the cost of Option 1 would not include the whole cost of additional (or fewer) cases because the increase (or decrease) in caseload would not have been caused by the policy itself.

59. The following table shows the cost of Option 1 under some scenarios where controlled and Licensed Work vary. It also shows how the percentage increase in the fees received by providers on the work done under the scenarios also changed. The table shows that the overall increase on work done is slightly higher in the scenarios where the case mix changes such that more Controlled Work is done (because the increase for Controlled Work is higher than licensed), but that even with a 10% change in one type of work and not the other that the overall percentage increase for providers would not change substantially.

Table 3: Sensitivity Analysis Under Scenarios of Varied Legal Aid Provision

Scenario	Total policy cost	Percentage increase on work done
Central scenario	£20m	28%
-10% Controlled Work & -10% Licensed Work	£18m	28%
-10% Controlled Work only	£18m	27%
-10% Licensed Work only	£20m	28%
+10% Controlled Work & +10% Licensed Work	£22m	28%
+10% Controlled Work only	£22m	28%
+10% Licensed Work only	£20m	27%

G. Wider impacts

Equalities

60. The Equalities Assessment published alongside the consultation response gives further details on the equalities impacts.

Families

61. We have no evidence to suggest that families will be disproportionately adversely affected by the proposal.

Impact on small and micro businesses

62. Legal aid is provided by businesses of various sizes, and these changes should have a positive impact for all sizes of business.

Foreign trade impacts

63. We do not envisage any foreign trade impacts.

Economic Growth

64. A sustainable civil legal aid market will have a positive effect in supporting growth by protecting the rule of law. This policy also supports the growth agenda insofar as this investment is necessary to support the sustainability of this crucial market. Our changes are designed to put the housing and immigration legal aid system on a sustainable long-term footing to help ensure that legal aid is made available in accordance with the Lord Chancellor's statutory duties under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).

Better Regulation

65. This measure is out of scope of the Better Regulation Framework and is not a regulatory provision.

Welsh language

66. We have considered the implications for Welsh language in the development of these proposals. A Welsh language version of the consultation response will be available.

H. Monitoring and Evaluation

67. Following implementation of the preferred option, we will continue to monitor the impact of these changes on claims, volumes and costs with the help of the LAA.