

Summary: Analysis & Evidence

Policy Option 1

Description: Uplift fees for Housing & Debt and Immigration & Asylum 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		
High	Not estimated	-	£22m	N/A
Best Estimate	Not estimated	-	£20m	N/A

Description and scale of key monetised costs by 'main affected groups'

- The cost of the proposed fee increase would be expected to be around £20m per year in steady state.
- The Legal Aid Agency would incur this cost as a result of higher fees for legal aid work in the Housing & Debt and Immigration & Asylum categories of law.

Other key non-monetised costs by 'main affected groups'

- The Legal Aid Agency would 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		
High	£0	-	£22m	N/A
Best Estimate	£0	-	£20m	N/A

Description and scale of key monetised benefits by 'main affected groups'

- There would be a corresponding benefit to Housing & Debt and Immigration & Asylum 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'

- Prospective legal aid clients may find it easier to obtain Housing & Debt and Immigration & Asylum legal aid services compared to a counterfactual where more providers stop undertaking legal aid work.

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

1. 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.
2. 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.
3. 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

4. Fees are an important incentive for providers to undertake legal aid work. 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.
5. All Housing & Debt and Immigration & Asylum Controlled Work is remunerated according to either standard fees or hourly rates, which are set out in the Remuneration Regulations. All Housing & Debt and Immigration & Asylum Licensed Work is remunerated by hourly rates.
6. For Immigration & Asylum, 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.
7. For Housing & Debt, 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. 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. 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

8. 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.
9. RoCLA highlighted challenges around the sustainability of civil legal aid which are particularly acute in the Housing & Debt and Immigration & Asylum sector. This assessment is based on a combination of factors:
- **Service levels** - Following the LAA's recent tender round, as of December 2024, there are now 8 housing and debt areas with no direct provision and 5 HLPAS gaps which we are working on filling at present.
 - **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 & Debt (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.

10. 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.
11. The Ministry of Justice is therefore consulting on increases to Housing & Debt and Immigration & Asylum fees. The fee options described in this impact assessment (IA), which supports the consultation, therefore aim to ensure fair and equitable remuneration for legal aid practitioners and are an important step in the Government's response to the evidence gathered as part of the RoCLA. The proposed changes may generate efficiencies within the wider legal aid system by focussing larger increases on early legal advice – which has the potential to increase quality and capacity at an early stage to prevent legal issues escalating and becoming more expensive.

B. Policy Rationale and Objectives

Rationale

12. 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 proposed 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).
13. 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

14. The associated policy objective follows RoCLA, which aimed to consider ways to ensure and improve the long-term sustainability of civil legal aid. These proposals aim to support RoCLA's aims by ensuring that legal aid services remain available for eligible users in Immigration & Asylum and Housing & Debt.
15. 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.
16. The policy satisfies the above principles by:

- Remunerating at a rate whereby it is possible for the majority of providers to make a profit, helping to ensure a sustainable housing and immigration market.
- Targeting larger increases to the earlier stages of clients' legal journey.
- 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 prioritising increases 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

1. The proposals assessed in this 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

2. 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 & Debt and Immigration & Asylum 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.**
3. The preferred option is Option 1: Uplift fees for Housing & Debt and Immigration & Asylum legal aid work. This option is described in more detail below, and is intended to make these areas of work more sustainable for practitioners and accessible for clients.
4. All options (except the 'do nothing' option) require amendments to the relevant legal aid contract, which would be undertaken by the LAA. Implementing option 1 would also require negative secondary legislation.

Option 0: Base Case/Do nothing

5. Under the 'do nothing' or 'base case' option, the current legal aid fees for Housing & Debt and Immigration & Asylum legal aid work would remain unchanged.
6. Given the evidence summarised above, under this option there would likely be a continuing decline in Housing & Debt and Immigration & Asylum 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 & Debt and Immigration & Asylum 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.

17. Under Option 1 all preparation, attendance and advocacy fees in the Housing & Debt and Immigration & Asylum categories would 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, would be uplifted by a corresponding amount based on the relevant preparation hourly rate for the same type of work.

18. In addition, there would be some simplification to the fees:
- hourly rates would be rounded to the nearest 5p and fixed fees to the nearest £1,
 - travel and waiting as well as attendance at court rates would be set at the same value which would be 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.
19. There would be a different impact of this change 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 more than 10% below the proposed minimum floor then all controlled work rates and fixed fees in the Housing & Debt and Immigration & Asylum categories will increase by a percentage between 10% and 43%.
20. Licensed work covers representation at courts and at the upper tribunal. For Housing & Debt and Immigration licensed work, as all rates are above (or within 10% of) the proposed floor hourly rate, then all rates would receive a 10% uplift.
21. Under this option current providers should find that legal aid work in these categories is more profitable, and so may be able increase their supply of legal aid services, allocate more senior caseworkers to a matter (for instance if they have specific expertise), achieve a higher level of profitability, or a combination of these. It will also increase the incentive for new providers to start doing legal aid work.

E. Cost & Benefit Analysis

22. This IA follows the procedures and criteria set out in the Impact Assessment Guidance and is consistent with the HM Treasury Green Book.
23. 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.
24. 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.
25. Where costs and benefits are monetisable, we have estimated the steady state implications of the policy change. Values are rounded to the nearest £1m.
26. All figures are based on current 2025 prices and include VAT, where applicable. We have not applied optimism bias in 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.
27. Where relevant, the net present costs in this IA are based on a 10-year appraisal period and assume steady state is reached at the point of implementation. 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 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.

Option 1: Uplift fees for Housing & Debt and Immigration & Asylum 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

28. The consultation document, particularly Annex A, describes the methodology of how the size of the fee uplift has been determined. This impact assessment looks at the cost of the resulting policy.
29. 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 would receive under this policy. The data used aligns with the legal aid statistics quarterly publication January-March 2024 version².
30. 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
31. 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 the change made to the escape multiplier on 1st April 2023 which will feed through to billing as cases started after this date close.
32. For each controlled work claim the relevant hourly rate paid, or which underpins the fixed fee, is found. The cost of each claim is then calculated in two steps: first, each case cost is uplifted by the percentage which would 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 is also applied on the total cost of all cases (excluding disbursements). Together these steps mean that the new effective hourly rate in all cases is at least £65.35/£69.30 per hour, and all cases get at least a 10% uplift.
33. For licensed work, since all rates are already above the floor level then only the 10% is applied to the total cost (excluding disbursements).
34. The fee simplification is then 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

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

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 System (excluding summary assessment cases) 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.

Volumes and Costs

- 35. 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.
- 36. 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. The following table 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 the policy, estimated to increase the cost of the policy by 1% (£0.2m) compared to the fee uplifts without simplification.

Area	Baseline spend	Steady State Annual Cost	Percentage increase on		
			Controlled	Licensed	Overall
37. Housing & Debt	£25m	£6m	42%	10%	24%
38. Immigration	£47m	£14m	32%	10%	30%
Both areas	£72m	£20m	34%	10%	28%

- 39. Note that because different work attracts different levels of uplift then individual providers would 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 would be the increase received by providers which had a case mix in the same proportion as legal aid as a whole.

Costs and Benefits of Option 1

Monetised Costs and Benefits

Legal Aid Agency

- 40. The LAA would have a cost to the legal aid fund of around £20m per year in steady state. In addition there would 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

- 41. Legal aid providers and barristers would receive a benefit equal to cost to the legal aid fund. The amount each provider will receive will depend on the amount of work they do of different types – a provider doing only licensed work would receive a 10% increase in income, while a provider doing only housing controlled work would receive a 42% increase in income.

42. Eligible individuals requiring legal advice or representation in the courts and tribunals in England and Wales.
43. Clients receiving legal aid will receive a benefit equal to the value of the cost to the legal aid fund, which would amount to £20m overall.

Non-monetised Benefits

Legal aid providers and barristers doing publicly-funded work

44. Option 1 would 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.
45. Eligible individuals requiring legal advice or representation in the courts and tribunals in England and Wales.
46. Clients may receive higher quality services due to providers being able to allocate more experienced fee earners on 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

47. The assumptions used to cost these proposals are described in the methodology paragraphs in the Cost and Benefit Analysis section above.
48. The core risk associated with Option 1 is concerning 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 due to some realistic scenarios. In addition, there would be some implementation costs which are not considered here.

Sensitivity Analysis

49. The following table 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 would be a stronger incentive to increase this work. The additional cost shown includes the full cost (including disbursements) of additional cases paid at the new higher rates. The net present cost is the discounted cost of the additional cases over a 10-year appraisal period.

Scenario	Additional Cost	Total policy cost	Net Present Cost
Central scenario	-	£20m	N/A
+5% controlled work	+£4m	£24m	£40m
+10% controlled work	+£8m	£28m	£79m
+10% controlled work & +5% licensed work	+£10m	£29m	£91m
+15% controlled work & +10% licensed work	+£15m	£35m	£141m

50. It is also possible that external factors, or other policy changes such as the Means Test Review, 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 is not caused by the policy itself.

51. The following table shows the policy cost under some scenarios where controlled and licensed work vary. It also shows how the percentage increase on fees received by providers on the work done under the scenarios also changed – this 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 then the overall percentage increase for providers does not change substantially.

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	£19m	28%
+10% controlled work & +10% licensed work	£22m	28%
+10% controlled work only	£21m	28%
+10% licensed work only	£20m	27%

G. Wider impacts

Equalities

52. The Equalities Impact Assessment can be found with the consultation document “Civil legal aid: Towards a sustainable future”.

Families

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

Impact on small and micro businesses

54. 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

55. We do not envisage any foreign trade impacts.

Better Regulation

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

Welsh language

57. We have considered the implications for Welsh language in the development of these proposals and a Welsh language version of the consultation will be available.

H. Monitoring and Evaluation

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