

ANNEX 11**National public sector funding****Legal aid**

The tables below provide headline statistics on legal aid, based on the government's impact assessment of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012.¹ The breakdown of funding between the private sector and the not-for-profit sector is based on estimates from LAG. The tables show that, in overall terms, there will only be £157m of legal aid available for non-family law in England and Wales in 2013/14, of which £61m will be for social welfare law. LAG predicts £54m will be for private sector provision (mainly for housing (homelessness), asylum, community care, mental health and public law) and £7m for not-for-profit provision (mainly for housing (homelessness) and asylum and immigration). The Advice Services Alliance (ASA) have commented that if the not-for-profit sector is going to survive, it will need to shift work from legal help to legal representation – a cultural shift at least some not-for-profit agencies are gearing up to make. The private sector has always been better at getting the higher rate of pay under legal representation work.

It should be noted that the cost of medical assessments and translation, as well as bankruptcy fees, have also been met, in the past, through legal aid, but in future will have to be funded in other ways for cases that are now out of scope.

Outlook

The immediate outlook is one of major cuts. Furthermore, since the key criterion for retaining advice and legal support within the scope of legal aid was where an individual's human rights are potentially affected, there may be very little flexibility for using the post LASPO Act social welfare law legal aid budget for purposes other than these human rights areas.

1 This impact assessment was carried out by the government after the enactment of the LASPO Bill in May 2012. It was taken down from the Ministry of Justice (MoJ) website later in 2012, but LAG still has a hard copy of the assessment.

Headline statistics on legal aid cuts

Source: Government impact assessment 2012 (with LAG estimate of not-for-profit share and breakdown)

Overall legal aid budget

Type of legal aid	£m
Criminal	1,200
Civil	830
TOTAL	2,030

Civil legal aid – pre and post cuts

Civil legal aid	Pre cuts £m	Cut £m	Post cuts £m
Family law	568	130 (23% cut)	438
Non-family law	262	105 (40% cut)	157
TOTAL	830	235 (28% cut)	595

Breakdown of non-family law

Non-family law	Pre cuts £m	Cut £m	Post cuts £m
Non-social welfare law	112	16 (14% cut)	96
Social welfare law	150*	89 (59% cut)	61
TOTAL	262	105 (40% cut)	157
*NB Assumes £5.5m spent on legal help on asylum cases			

Breakdown of social welfare law type of provider pre and post cuts

Social welfare law	Pre cuts £m	Cut £m	Post cuts £m
Not for profit	57	50 (88% cut)	7
Private practice	93	39 (42% cut)	54
TOTAL	150	89 (59% cut)	61

Breakdown of social welfare law type of provider pre and post cuts

Social welfare law	Pre cuts £m	Cut £m	Post cuts £m
Legal help	115*	81 (70% cut)	34
Legal representation	35	8 (23% cut)	27
TOTAL	150	89 (59% cut)	61
*NB Assumes £5.5m spent on legal help on asylum cases			

Breakdown of cuts to not-for-profit sector

Social welfare law	£m	% of the cuts
Housing	10	20
Debt	18	36
Benefits	16	32
Employment	2	4
Immigration	4	8
TOTAL	50	100

Cabinet Office

The Cabinet Office is providing £20m for 2013/14 and £20m for 2014/15 for the Advice Services Transition Fund (ASTF) in the UK to help the not-for-profit sector adapt to the new, post LASPO, funding environment. The England share of this Fund (£16.8m pa) is being matched by an equivalent sum from the Big Lottery Fund, making a fund of £67m over two years. The fund is for groups of not-for-profit providers who can demonstrate that they have compelling plans to transform service delivery in their areas by adopting the following principles outlined in the government's review of not-for-profit advice services (October 2012):

- collaboration;
- early intervention;
- resilience and innovation;
- focusing on outcomes and impact;
- exploiting remote channels efficiently.

Only up to 25 per cent of the funding can be used to fund direct provision of advice; the remaining 75 per cent must be used to fund transitional activity. Applicants were also required to apply in partnerships covering unitary or district council areas (of which there are 325 in total), in order to encourage greater collaboration in delivery. A total of 226 awards have been made. The Big Lottery Fund plan to provide a support and evaluation package for the grantees. They also want to commission a piece of work in 18 months' time to review what funders might like to do when the ASTF comes to an end. They propose asking their contractor to look at the Low Commission's report and take this into account when making their recommendations.

Proposals as to how to use the Wales share of this funding (c£975,000) are under discussion following publication of the Wales Advice Services Review in March 2013. It is proposed that part of the budget be used to fund frontline services and part for the development of the longer term response to the review.

Outlook

Given the role of the Office for Civil Society in the Cabinet Office and the interest it has shown in the advice sector since 2011/12, there is scope for recommending that the Cabinet Office helps fund particular aspects of the Low Commission's strategy, particularly in terms of the further development of local networks of provision.

Other government departments

England

Other government departments provide varying amounts of funding for national not-for-profit organisations providing advice services relevant to their area of concern. Details of each department's level of funding are not available. However, the main examples of departmental funding are:

- Department for Communities and Local Government: National Homelessness Advice Service
- Department for Education: Sure Start, special educational needs
- Home Office: asylum and immigration
- Department for Work and Pensions (DWP): Future Jobs Fund and welfare benefits
- Department for Business, Innovation and Skills: Citizens Advice grant in aid
- Department of Health: direct payments and individual budgets
- Ministry of Defence: Veterans Advice
- MoJ: ex-offenders advice as part of outsourced, payment-by-results, contracts to the private and not-for-profit sector
- MoJ's Community Legal Service grant programme (£655,000 in 2012/13), which funded ASA, the Law Centres Federation and the Royal Courts of Justice CAB, has now been ended

- Treasury: some of the fines incurred by banks as a result of the Libor scandal were allocated to the Royal British Legion, who have just used these funds to invite tenders for the delivery of benefits and money advice to 8,000 people mainly through face-to-face provision

According to the Cabinet Office, total government departmental spending on advice and legal support in England is expected to decline by £84m pa from £195m in 2010/11 to £111m in 2014/15. However, it is unclear exactly what is included in these figures and they were unable to provide any further breakdown.

Outlook in England

There is a case for arguing that government departments should provide increased funding for agencies promoting their objectives, especially given the cutbacks in legal aid and local authority funding. However, the prospects of achieving this are very low in the present climate; the outlook is more likely to be one of further cuts.

The main exceptions to this are the DWP and the MoJ. The DWP has recently consulted on a Local Support Services Framework for the introduction of universal credit in England and Wales. This could involve the DWP providing resources to local authorities for them to commission advice agencies to help support this process. There is also a case for the DWP contributing to the costs of the advice which it is creating the need for.

The MoJ has launched a new initiative for funding work with ex-offenders on a payment-by-results model. This could create opportunities for advice agencies as subcontractors to prime providers, providing advice on benefits, debt and housing for ex-offenders. However, they will need to ensure that the payment regime does not result in cash-flow problems. The MoJ may also be open to the argument that some of the £89m saved on legal aid on social welfare law could be used as a contribution to the National Advice and Legal Support Fund recommended by the Law Commission to help mitigate some of the impact of the legal aid cuts.

Wales

The main government programmes in Wales (post March 2013 shuffle) are:

- Department for Communities and Tackling Poverty – Better Advice, Better Lives: £2.221m grant pa to Citizens Advice Cymru for 2012–15. This includes funding for Better Advice, Better Health (£800,000 for the development of resilient communities through the provision of generic and specialist advice meeting locally identified advice needs in 2013/14)
- Department for Housing and Regeneration: over £900,000 pa to Shelter Cymru
- Communities First and Financial Inclusion Programme includes funding for

Communities First Clusters, including a number of projects relating to money advice and other advice services: £967,000 for a mixture of frontline services and the development of the longer term response to the Advice Services Review in 2013/14

- Equalities, Diversity and Inclusion Department: £105,000 to support specialist discrimination advice in 2013/14

Outlook in Wales

The Advice Services Review for Wales, published in March 2013, does not contain specific funding proposals, but generally conveys a positive message about the need for funding, national, regionally and locally. See also DWP Local Support Services Framework above.