

Written Evidence by Public Law Project

1. [Public Law Project](#) ('PLP') is a national legal charity committed to promoting access to justice, better public decision-making, and the rule of law.
2. For more than 30 years, PLP has used a combination of legal casework, policy research, and training to improve access to justice. PLP's work has, to give three examples, successfully prevented the imposition of a 'residence test' for civil legal aid;¹ improved otherwise onerous requirements for evidencing domestic violence;² and made it easier to access exceptional case funding ('ECF').³

Summary and recommendations

3. This evidence provides the Public Accounts Committee ('PAC' or 'the Committee') with updated information relevant to the recommendations of its 2024 report '[Value for Money from Legal Aid](#)'.⁴
- I. **Improving data on legal need, including by location:** PLP's report '[Access to immigration legal aid in South-west England, 2024](#)' demonstrates that the Legal Aid Agency ('LAA')'s "matching service"⁵ has created a mirage of capacity and not secured that immigration legal aid be made available in the South West Procurement Area.

The Committee should ask:

- a. *The Ministry of Justice ('MoJ') whether it plans to give LAA a mandate to monitor demand for and provision of publicly funded legal services.*
- b. *LAA whether (and on what basis) it considers the immigration providers south west support directory to have been effective in making immigration legal aid available in the South West Procurement Area.*

- II. **Remote advice:** PLP's 2024 report '[Remote immigration and asylum advice](#)' casts doubt on remote advice as a one-size-fits all solution to the immigration legal aid crisis. MoJ urgently needs to conduct further research and develop best practice guidance for the use of remote legal advice.

The Committee should ask MoJ:

- a. *Whether it still intends to implement the changes it proposed to the legal aid contract that were intended to make it easier for providers to offer remote advice.*
- b. *What measures it intends to put in place to safeguard against the risks associated with remote advice. Will MoJ consult on best practice guidance for remote services?*

- III. **ECF and immigration matters:** the extra administrative costs associated with ECF remain, and continue to systematically disincentivise providers from conducting ECF work. Therefore, MoJ

¹ In [The Public Law Project, R \(on the application of\) v Lord Chancellor \[2016\] UKSC 39](#).

² PLP acted for the claimant in [Rights of Women, R \(on the application of\) v The Lord Chancellor and Secretary of State for Justice \[2016\] EWCA Civ 91](#).

³ See e.g. [Gudanaviciene & Ors, R \(on the application of\) v The Director of Legal Aid Casework & Ors \[2014\] EWCA Civ 1622](#), where PLP acted for the claimant.

⁴ Public Accounts Committee, '[Value for Money from Legal Aid](#)' (2024) HC 481.

⁵ Described in response to the Committee's questions – Public Accounts Committee, 'Oral evidence: Value for money from legal aid' HC 481 – Q18.

ought urgently to consider whether ECF is the best way of delivering effective and cost-efficient access to justice for rights-critical immigration matters.

The Committee should ask MoJ why rights-critical immigration matters remain out-of-scope for legal aid given that this costs LAA more, and makes it harder for individuals to access legal aid.

- IV. **Cost-shunting:** PLP's 2024 report '[Immigration legal aid and value for money](#)' sets out how MoJ can gather better data on the cost-shunting effects of legal aid cuts on MoJ, HMCTS, local authorities, and health services.

The Committee should ask MoJ to provide full information about how they are improving their understanding of legal aid cost-shunting, including: where have MoJ been conducting research and/or collating evidence? And in what areas do MoJ plan to conduct further research?

- V. **Financial sustainability:** while the increase in fees for housing and immigration legal aid work is welcome, MoJ's first steps do not meet the scale of the legal aid crisis.

The Committee should ask MoJ:

- a. *When it will implement the new fees for housing and immigration matters.*
- b. *How it plans on monitoring the increase's efficacy in securing access to justice, and whether it is open further increases if needed.*
- c. *Whether it has estimated how the fixed fee will be profitable under the new rates and whether it expects the new rates to offer profit when the first cases are actually paid.*
- d. *Whether it is still considering awarding fee increases in areas other than housing and immigration.*

I. Improving data on legal need, including by location

LAA should be mandated to monitor unmet legal need

4. In its 2024 report, the Committee concluded that MoJ and LAA lacked sufficient data to assess whether those eligible for legal aid can access it.⁶ PAC (and the National Audit Office ('NAO'))⁷ were able to scrutinise the extent of the public's unmet legal needs because of their engagement with data from legal aid providers, civil society organisations, and academics. The Committee highlighted, for example, PLP's 2023 survey of nine asylum support organisations that showed them to be making an average 16 attempts for each successful referral to legal aid providers.⁸
5. No government body collects equivalent data. LAA, we suggest, would be the natural candidate for doing so. Its predecessor, the Legal Services Commission, used to.⁹ And NAO (following the conclusions of both the Westminster Commission on Legal Aid¹⁰ and the Justice Select Committee¹¹) recommended that MoJ should work with LAA to gather robust data on demand for and provision of publicly funded legal services.¹²
6. In response to PAC's recommendations, MoJ committed to considering how it would gather better data on barriers to accessing legal aid.¹³ The data gathered during MoJ's Review of Civil Legal Aid ('RoCLA') should not be taken as fulfilling this recommendation, although the review does represent a thorough consideration of the public's legal needs. RoCLA continued the trend of relying on providers, civil society, and academics' submissions to gather data, and did not establish any new means of ongoing data collection by government.

Recommendation: the Committee should ask MoJ whether it plans to give LAA a mandate to monitor demand for and provision of publicly funded legal services

Geographical variation: PLP's evidence of immigration legal aid under-provision in the South West Procurement Area

7. In response to the Committee's questioning MoJ acknowledged that there was a particularly severe shortage of immigration legal aid provision in the South West Procurement Area.¹⁴ It is PLP's position that this shortage is resulting in eligible individuals being denied access to legal aid and, as a result, that the Lord Chancellor is in breach of her statutory duty to secure that legal aid be made available in accordance with LASPO.¹⁵

⁶ Public Accounts Committee, '[Value for Money from Legal Aid](#)' (2024) HC 481 – paragraph 1.

⁷ National Audit Office, '[Government's management of legal aid](#)' (2023) HC 514.

⁸ Rourke, D., Cripwell, E., Summers, J. and Hynes, J., '[Access to immigration legal aid in 2023: An ocean of unmet need](#)' (2023) Public Law Project – page 38; cited in Public Accounts Committee, '[Value for Money from Legal Aid](#)' (2024) HC 481 at paragraph 13.

⁹ National Audit Office, '[Government's management of legal aid](#)' (2023) HC 514 – paragraph 2.12.

¹⁰ Westminster Commission on Legal Aid, '[Inquiry into the Sustainability and Recovery of the Legal Aid Sector](#)' (2021) – page 79, recommendations G and H.

¹¹ House of Commons Justice Select Committee '[The Future of Legal Aid](#)' (2021) HC 70 – page 54.

¹² National Audit Office, '[Government's management of legal aid](#)' (2023) HC 514 – recommendation b.

¹³ HM Treasury, '[Response to Thirty-third report of Session 2023-24](#)' (2024) CP 1151 – paragraph 1.1.

¹⁴ Legal aid tendering is based on 'procurement areas'. A map of those for immigration contracts is available [here](#) (source: LAA's response to [the FOIA request submitted by Jo Hynes on 8th November 2023](#), attachment 'Quarter 1 Cap Review.pptx').

¹⁵ Public Law Project, '[Proposed claim for judicial review concerning breach of the Lord Chancellor's duty under s 1\(1\) of LASPO 2012](#)' letter to Government Legal Department dated 2nd November 2023 – paragraph 9-20.

8. The Lord Chancellor's position on the South West shortage was set out by LAA in response to the Committee's questioning:¹⁶ the problem does not result from under-provision, it results from a failure to match "*over-capacity in some areas with under-capacity in others.*"¹⁷

The immigration providers south west support directory

9. MoJ's solution was LAA's re-launch of the [immigration providers south west support directory](#) in November 2023. The directory operates as a regularly updated list of providers who are prepared to remotely take on clients in the South West. LAA does not formally assess providers' capacity – providers are included on the list if they have expressed interest via e-mail.
10. In oral evidence to the Committee, LAA was referring to the immigration providers south west support directory when describing a "*matching service*"¹⁸ that would bring better coverage to the South West Procurement Area. What the Committee was not told was that LAA had tried this before: a similar list had been in operation from early 2022 but was discontinued by LAA in June 2023.¹⁹

Evidence of unmet legal need

11. Since PLP submitted evidence to PAC's previous inquiry, we have published '[Access to immigration legal aid in Southwest England 2024](#)' – which assessed the effectiveness of the directory. PLP did so by asking each of the listed providers about their capacity, on a day when the directory was updated, fortnightly for six months.
12. PLP concluded that the appearance of excess supply that the directory provides is a 'capacity mirage'. Not once did we find that even half of the providers listed had any capacity to take on remote clients. On average, only 11% of providers had capacity (including for asylum appeals). Anecdotally, we observed that even where a provider stated they had capacity, it would still be difficult to successfully refer an eligible individual to them.

Recommendation: the Committee should ask LAA whether (and on what basis) it considers the immigration providers south west support directory to have been effective in making immigration legal aid available in the South West Procurement Area.

II. Understanding the impact of remote advice on vulnerable groups

New research by PLP: remote advice can have mixed impacts on vulnerable groups

13. Since the Committee called for information to better understand the impact of remote provision on vulnerable groups,²⁰ PLP has published '[Remote immigration and asylum advice:](#)

¹⁶ Public Accounts Committee, '[Oral evidence: Value for money from legal aid](#)' HC 481 – Q18; '[Proposed claim in respect of the Lord Chancellor's duty under section 1\(1\) of LASPO](#)', Government Legal Department letter to PLP (24th October 2023).

¹⁷ Ibid, paragraph 7.

¹⁸ Public Accounts Committee, '[Oral evidence: Value for money from legal aid](#)' HC 481 – Q18.

¹⁹ Ibid, paragraphs 31-35.

²⁰ Public Accounts Committee, '[Value for Money from Legal Aid](#)' (2024) HC 481 – paragraph 2.

[what we know and what we need to know](#).²¹ As part of this research, PLP interviewed ten refugees and asylum seekers who had experienced both in-person and remote advice. It found:

- a. Remote advice can be more convenient, particularly for short consultations and for clients whose vulnerability makes travelling difficult.
- b. Remote advice is likely to be inappropriate where service users have not met their solicitor at all, when they were experiencing significant mental health issues, or when they did not have a private, quiet space.
- c. Service users valued being able to make a meaningful, informed choice about whether remote or in-person advice was more suitable in their circumstances.
- d. Service users valued being able to establish a relationship of trust with their representative in-person because doing so made future remote interactions easier.
- e. Remote advice can make negative experiences of publicly funded legal services worse, for example, by making clients feel isolated from their advisor.

Implications for MoJ proposals on remote advice

- 14. MoJ has recently consulted on changes proposed to the legal aid contract that were intended to make it easier for providers to do work remotely in parts of the country where they do not have an office presence.²²
- 15. MoJ has not confirmed whether it will implement these changes.²³ In considering how best to utilise remote advice provision, MoJ should consider the mixed impact it can have as identified in PLP's research.
- 16. Making it easier for providers to offer remote services presents MoJ with the opportunity to improve the user experience of legal aid; however, for that opportunity to be realised, MoJ must give proper consideration to the associated risks. Remote legal services are not suitable for all clients and can make it difficult for individuals to trust in their solicitor, particularly where they need to disclose sensitive information.
- 17. MoJ acknowledged these risks in oral evidence to the Committee.²⁴ At present, MoJ safeguards against them by asking providers to use their professional judgement as to whether remote provision is appropriate.²⁵ However, PLP's remote advice research presents two challenges to the effectiveness of that approach.
- 18. Firstly, remote advice has the capacity to make existing challenges in accessing legal aid worse. Providers are already under intense commercial pressure, and their viability might be improved by 'cherry-picking' simpler cases from a geographically wider pool. Therefore,

²¹ Hynes, J. (2024).

²² Ministry of Justice, '[Civil legal aid: Towards a sustainable future](#)' (2025) CP 1268 – Chapter 2.

²³ Ministry of Justice, '[Civil legal aid: Towards a sustainable future, consultation response](#)' (2025) CP 1333 – Chapter 3, Part 2.

²⁴ Public Accounts Committee, '[Oral evidence: Value for money from legal aid](#)' HC 481 – Q41.

²⁵ HM Treasury, '[Response to Thirty-third report of Session 2023-24](#)' (2024) CP 1151 – paragraph 2.2.

increasing the incentive to conduct cases remotely risks sidelining the need to take proper account of a client's individual needs.

19. Secondly, there are lots of things we do not know about how to best serve clients with remote services. As a result, providers might not be properly equipped to effectively judge whether and in what circumstances remote advice is appropriate.

Recommendation: the Committee should ask MoJ whether it still intends to implement the changes it proposed to the legal aid contract that were intended to make it easier for providers to offer remote advice.

Recommendation: the Committee should ask MoJ what measures it intends to put in place to safeguard against the risks associated with remote advice. Will MoJ consult on best practice guidance for remote services?

III. Exceptional Case Funding ('ECF') and immigration matters

Inadequacy of the ECF scheme

20. From 2013, LASPO drastically reduced what was in-scope for legal aid. ECF was intended as a safeguard mechanism that would enable individuals to access legal aid where a failure to grant it would risk a breach of their fundamental rights.
21. In its 2024 report, the Committee expressed concern about the effectiveness of the ECF scheme.²⁶ They concluded that, as compared with in-scope funding, the ECF scheme:
 - (i) imposed additional hurdles on those applying for help; and
 - (ii) created additional administrative burdens for the LAA.
22. The Committee's conclusion is supported by PLP's ECF research. PLP's research has consistently shown that the administrative burdens associated with ECF systematically disincentive providers (who are already under intense commercial pressures) from supporting people to make ECF applications²⁷ and from doing work that requires ECF.²⁸
23. LAA ECF processing times indicate that ECF is still costly for LAA to administer. In 2025, (before the introduction of data breach contingency measures) the average processing time of civil applications has varied between 7 and 14 days, whereas ECF applications have consistently taken an average of 18 days to process.²⁹ Exceptional and complex case applications have taken an average of 14 days.
24. The long processing times associated with ECF make the scheme even less commercially attractive to providers. For example, where ECF is sought for an urgent case, long processing times might mean that the provider cannot know whether legal aid will be granted before a hearing.

²⁶ Public Accounts Committee, '[Value for Money from Legal Aid](#)' (2024) HC 481 – paragraph 3.

²⁷ See Tomlinson, J. and Marshall, E., '[Improving Exceptional Case Funding: Providers' Perspectives](#)' (2020), Public Law Project.

²⁸ See, for example, Rourke, D., Cripwell, E., Summers, J. and Hynes, J., '[Access to immigration legal aid in 2023: An ocean of unmet need](#)' (2023), Public Law Project.

²⁹ Legal Aid Agency, '[Civil Processing Times](#)' – old figures are archived [here](#).

Particular impact on immigration matters

Why such a high proportion of ECF is for immigration matters

25. Immigration matters make up about two-thirds of applications for ECF and three-quarters of ECF grants.³⁰ The high prevalence of immigration matters being funded via ECF reflects the fact that many rights-critical immigration matters are out-of-scope for legal aid. Some such matters remain in scope – including asylum, immigration detention, SIAC appeals, domestic violence and trafficking.³¹ But many do not.
26. Notably excluded are immigration applications made on human rights grounds, other than those based on ECHR Articles 2 (right to life) and 3 (freedom from torture and inhuman or degrading treatment). Applications relating to Article 8 (right private and family life) are the most common type of immigration ECF application.³²
27. **Example Article 8 case:**³³ PLP’s casework experience shows how important access to legal advice is in Article 8 immigration cases. ‘Mary’, for example, had arrived in the UK aged 15 and, on applying to renew her leave to remain, found that she could not afford the fee. She did not know that she could apply for a waiver, so her application was refused. As a result, she was at risk of being deported and thereby separated from her two British-born children. It was only because Mary found a solicitor prepared to help her apply for ECF that she was able to stay with her children in the UK.
28. Other rights-critical immigration matters are also out-of-scope for legal aid. This includes most deportation cases, family reunion cases, appeals against deprivation of citizenship, and cases relating to managed migration.

Rights-critical immigration matters should be brought in-scope

29. In 2024-25, 88% of applications for immigration related ECF were successful.³⁴ When so many ECF applications are immigration related, and those applications are so routinely successful, it is imperative that MoJ consider whether ECF is the best way of delivering cost-effective access to justice for rights-critical immigration matters.
30. Where individuals are unable to access ECF this risks breaching individual rights, and in immigration cases it can result in significant and long-lasting harms to individuals and their families. Given the very high grant rate for immigration ECF, and that providers must carry out means and merits tests for legal aid in all cases in any case, there is a lack of evidence to suggest that the additional costs associated with the ECF scheme make best use of public funds.

Recommendation: the Committee should ask MoJ why rights-critical immigration matters remain out-of-scope for legal aid given that this costs LAA more, and makes it harder for individuals to access legal aid.

³⁰ In the financial year 2024-25: 64% of applications were for immigration matters (2,255 out of 3,518), as were 77% of grants (1,982 out of 2,565) – Legal Aid Agency ‘[Legal Aid Statistics](#)’ (2025).

³¹ Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1.

³² National Audit Office, ‘[Government’s management of legal aid](#)’ (2023) HC 514 – paragraph 2.25.

³³ This example is based on a PLP case, described in Public Law Project ‘[How to get Exceptional Case Funding for immigration cases](#)’ (2018) – page 3.

³⁴ 1,982 out of 2,255 – Legal Aid Agency, ‘[Legal Aid Statistics](#)’ (2025).

IV. Cost-shunting

Understanding value for money from immigration legal aid

31. Since the Committee's 2024 conclusion that MoJ had still not made sufficient progress in identifying or addressing wider system costs of its legal aid reforms,³⁵ PLP has published '[Immigration legal aid and value for money: Identifying the missing data](#)' – a research briefing produced by academics at the University of Exeter.³⁶ It sets out four types of cost-shunting associated with cuts to immigration legal aid which are relatively easy to measure.
32. **Costs to MoJ:** the ECF scheme is associated with higher processing times (see paragraph 23 above). MoJ does not publish LAA's total expenditure on ECF administration, which makes estimating the cost-effectiveness of the ECF scheme difficult.
33. **Costs to HMCTS:** anecdotal evidence suggests that unrepresented parties in immigration appeals need longer hearings and more adjournments – which end up costing the taxpayer.³⁷ In oral evidence to the Committee, MoJ indicated that it only held limited data on the impact had by litigants-in-person.³⁸ To properly account for these costs, MoJ should publish data on hearing lengths and number of adjournments, broken down by whether a party was unrepresented.
34. **Costs to local authorities:** local authorities are required to pay for temporary accommodation and provide financial support to individuals who have certain types of immigration status. The cost of supporting such individuals is substantial, and in some cases, local authorities are paying for their legal advice and representation as a more cost-effective solution than, for instance, funding temporary accommodation.³⁹ No systematic data on these costs has been published.
35. **Costs to health services:** research by the Legal Services Board and the Law Society demonstrates that unmet legal need has a significant impact on individuals, including stress and ill-health⁴⁰ and that, after solicitors, people are most likely to go to a doctor for advice on a legal issue.⁴¹ PLP's research suggests that while much of the cost shunted onto health services would be difficult to measure, MoJ could begin by establishing whether hospital discharges are delayed due to immigration status (for example, where someone has insecure status and no accommodation to be discharged to).

Recommendation: the Committee should ask MoJ to provide full information about how they are improving their understanding of legal aid cost-shunting, including: where have MoJ

³⁵ Public Accounts Committee, '[Value for Money from Legal Aid](#)' (2024) HC 481 – paragraph 5.

³⁶ Pearce, S., Marshall, E. and Engle, S. (2024).

³⁷ See e.g. Immigration Law Practitioner's Association '[Supporting litigants-in-person in the legal aid crisis](#)', letter from Zoe Bantleman to Plimmer J dated 8th April 2024.

³⁸ Public Accounts Committee, '[Oral evidence: Value for money from legal aid](#)' HC 481 – Q70 (data is held for private family cases).

³⁹ Wilding, J. '[It's a no-brainer': local authority funding for immigration legal advice in the UK](#)', Justice Together (2023).

⁴⁰ Legal Services Board and the Law Society '[Legal needs of individuals in England and Wales](#)' (2020).

⁴¹ Legal Services Board and the Law Society '[Legal Needs of Individuals in England and Wales Summary report 2024](#)' (2024).

been conducting research and/or collating evidence? And in what areas do MoJ plan to conduct further research?

V. The financial sustainability of publicly funded legal services

36. MoJ's decision to increase fees for housing and immigration legal aid work is welcome. However, on its own, the increase will not be enough to secure a sustainable future for the legal aid market.
37. **The new rates are still too low:** MoJ's purpose in setting the new rates was to enable profit against estimated current costs to encourage market entry and expand provision.⁴² MoJ's methodology was flawed: (i) MoJ used cost estimates that did not assess costs for immigration providers;⁴³ and (ii) MoJ assumes that costs will stay at the same, unsustainably low level whereas providers report that their costs are likely to increase, for example by using the extra money to retain existing staff.⁴⁴ The Committee should note that providers are already experiencing increased costs as a result of managing LAA's data breach contingency arrangements.

Recommendation: the Committee should ask MoJ when it will implement the new fees for housing and immigration matters and how it plans on monitoring the increase's efficacy in securing access to justice, and whether it is open to further increases if needed.

38. **Providers often won't receive the new hourly rate:** the new rates will only apply to cases that are opened after they have come into effect – cases which will not be billed until they are closed. As a result, providers will continue to work on the lower fees up to years from now. Further, the retention of fixed fees means that many cases will, in practice, be remunerated at a much lower rate. Where fees are fixed, providers are usually paid the same irrespective of time spent on a case (unless the case meets certain set criteria for having required an exceptional amount of work).

Recommendation: the Committee should ask whether MoJ expects the new rates to still offer profit when the first cases are actually paid. Further, the Committee should ask MoJ whether it has estimated how the fixed fee will be profitable under the new rates.

39. **All other categories of law will be paid at the same, unsustainably low rate:** providers in other areas cannot continue loss-making work long-term. MoJ suggested that rate increases for other areas were being considered in the context of the spending review⁴⁵ – but the spending review has since concluded, and no such announcement has been made.

Recommendation: the Committee should ask MoJ whether it is still considering awarding fee increases for areas other than housing and immigration.

Public Law Project
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⁴² Ministry of Justice, '[Civil legal aid: Towards a sustainable future, consultation response](#)' (2025) CP 1333 – page 15.

⁴³ Ministry of Justice, '[Civil legal aid: Towards a sustainable future](#)' (2025) CP 1268 – page 36.

⁴⁴ Wilding, J. '[No Access to Justice 2: Mapping the UK's continuing immigration and asylum legal advice crisis](#)', Justice Together (2025) – page 32.

⁴⁵ Ministry of Justice, '[Civil legal aid: Towards a sustainable future](#)' (2025) CP 1268 – page 5.