

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. Securing access to justice is a cornerstone of PLP's work. 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

Question 1: PLP's research shows that:

- a. The current state of the legal aid market is such that eligible individuals are regularly being denied access to legal aid.
- b. The Ministry of Justice ('MoJ') has acknowledged a particularly severe shortage of immigration legal aid provision in the South West Procurement Area, but it has failed to increase provision in response.

Furthermore, whilst the announcement of an increase to immigration and housing fees is welcome, the increase is yet to be introduced and will not be enough to secure a sustainable future for the legal aid market.

Question 3: PLP's litigation experience provides examples of the ways legal advice and/or representation can impact on people's lives. These examples include cases where legal aid has been denied to people seeking to challenge domestic abusers, access special educational needs provision, and avoid family separation through unlawful deportation.

Question 4: it is crucial not to assume that the status quo is a money-saver and that any increase in the scope of legal aid is a money-loser. As the National Audit Office ('NAO') has underlined, not providing lawyers to people who need them to resolve disputes wastes time, money and resources. PLP's research demonstrates how cutting legal aid shifts costs from MoJ onto other government departments. The Home Office, for example, might be required to provide asylum accommodation for longer than would otherwise be necessary.

Question 5: in 2024-25, PLP completed research with the Bingham Centre for the Rule of Law that identified three priority areas which should back into scope of legal aid. These were: immigration; employment; and welfare benefits. Alongside being areas of acute need, these areas would fit within current government policy priorities – such as reducing the asylum appeals backlog, strengthening workers' rights, and protecting people – particularly disabled people – from the harmful consequences of poverty and inequality.

Question 8: PLP's area of expertise is judicial review proceedings and there are a number of instances where alternative dispute resolution could be better used. First is where the

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.

claimant desires an outcome that is beyond the range of remedies that a court could provide in judicial review proceedings. Second is where a relationship of distrust has developed between the parties but where, otherwise, there is broad agreement about where the dispute needs to go. Third is where a claimant wishes to take a more active stance in their own case but would be prevented from doing so because of the logistics of judicial review.

Question 9:

- a. Digital innovation: PLP's research shows that making it easier for providers to offer remote services could improve the user experience of legal aid; however, for that opportunity to be realised, MoJ must consider the associated risks and offer best practice guidance to providers on how to navigate them.
- b. Data gaps: MoJ should collect better data on the public's unmet legal needs, and on the extent to which legal aid cuts have shunted costs onto other public services.

Question 10: the cost-effectiveness of the legal aid scheme could be improved by reducing the cost of burdensome Legal Aid Agency ('LAA') administration, and by assessing the extent to which legal aid spending can reduce demand for other public services.

Question 11: the cyber-attack has increased the administrative burden for providers, has not been properly communicated to affected individuals, and has highlighted the need to invest in LAA's inadequate digital infrastructure. The overall effect of the attack is not yet clear, so the Committee should revisit this question in 6 months.

1. How does the current state of the legal services and representation market in England and Wales, and associated operating pressures, affect access to justice for clients?

State of immigration and asylum legal aid

3. Our response to this question relates primarily to the immigration and asylum legal advice sector as this area forms the main basis of our legal aid research.
4. PLP's report '[Access to immigration legal aid in 2023: An ocean of unmet need](#)'⁴ demonstrates that the immigration and asylum legal aid sector has collapsed.
5. **Immigration and asylum legal aid work is not sustained by legal aid fees:** providers rely on mixed funding from private practice and charitable funders, as well as relying on the goodwill of staff. Our research found that providers are subsidising legal aid work to make it sustainable, including through:
 - Grant funding: Greater Manchester Immigration Aid Unit, for example, drew on funding from 17 different charitable funders, subsidising legal aid work by around £285,000 and relying on further grant funding to be able to train staff.
 - Supplementing with better paid work: Wilsons Solicitors, for example, indicated that their lawyers had to take on a private case paying £88 p/hr, to subsidise each legal aid case paying £52 p/hr, as their break-even cost was around £70 p/hr.
6. **Provider capacity in the sector is saturated:** many providers receive significantly more enquiries than they can take on. Research conducted by Dr Jo Wilding, including a recent

⁴ Rourke, D., Cripwell, E., Summers, J. and Hynes, J. (2023) '[Access to immigration legal aid in 2023: An ocean of unmet need](#)', Public Law Project.

report with Refugee Action,⁵ clearly outlines the significant capacity gaps that exist in immigration and asylum legal aid.

7. **Support organisations' referrals are going unanswered:** PLP's national Legal Aid Capacity Data Collection Survey found that only 1 in 16 referral attempts to legal aid providers were successful.⁶ Even in the London and South East Procurement Area, where there are the most providers, an increasing and significant proportion of individuals are unable to access advice and assistance. Haringey Migrant Support Centre, for example, were unable to place 58% of visitors over a 6-month period between 1 August 2022 and 1 January 2023.
8. It is PLP's position (as we have made the Lord Chancellor aware through pre-action correspondence)⁷ 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 his statutory duty to secure that legal aid be made available in accordance with LASPO.

Moj's targeted response to immigration legal aid under-provision in the South West Procurement Area

9. In response to PLP's pre-action correspondence, MoJ acknowledged that there was a particularly severe shortage of immigration legal aid provision in the South West Procurement Area.⁸ The Lord Chancellor maintained that the shortage was not resulting from under-provision, but from a failure to match "*over-capacity in some areas and under-capacity in others.*"⁹
10. MoJ's solution was LAA's re-launch of the (previously discontinued)¹⁰ [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 Southwest. LAA does not formally assess providers' capacity – providers are included on the list if they have expressed interest via e-mail.
11. PLP's report '[Access to immigration legal aid in Southwest England 2024](#)' 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. We 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.

⁵ Wilding, J. (2025) '[No Access to Justice 2: Mapping the UK's continuing immigration and asylum legal advice crisis](#)', Justice Together.

⁶ Rourke, D., Cripwell, E., Summers, J. and Hynes, J. (2023) '[Access to immigration legal aid in 2023: An ocean of unmet need](#)', Public Law Project – page 38.

⁷ 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 '[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) – paragraph 8.

⁹ Ibid, paragraph 9.

¹⁰ A similar list had been in operation from early 2022 but was discontinued by LAA in June 2023 - *ibid*, paragraphs 31-35.

13. In September 2025, the Guardian [reported](#) that one of the largest (by expenditure) immigration legal aid firms had lost its legal aid contract because of concerns over the quality of service they were providing.¹¹ The firm held 40% of matter starts allocated to the South West Procurement area following LAA's most recent procurement round,¹² and LAA is yet to confirm what action it is taking to secure legal aid for those who had previously been represented by the firm. The choice should not be between a bad representative or no representative.

MoJ's general response: the fee increase

14. MoJ's announcement about its decision to increase fees for housing and immigration legal aid work is welcome. However, providers are yet to receive the new rates and, on its own, the increase will not be enough to secure a sustainable future for the legal aid market.
15. **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.¹³ MoJ's methodology was flawed: (i) MoJ used cost estimates that did not assess costs for immigration providers;¹⁴ 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.¹⁵ The Committee should note that providers are already experiencing increased costs as a result of managing LAA's data breach contingency arrangements.
16. **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).
17. **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 review¹⁶ – but the spending review has since concluded, and no such announcement has been made.

3. What is the impact of those acting without legal advice and / or representation having on access to justice?

¹¹ Taylor, D. (2025) '[Immigration law firm making £1.7m in legal aid loses contract over standards](#)', the Guardian.

¹² Legal Aid Agency (2024) '[Legal Aid Providers Directory](#)' – October 2024 version.

¹³ Ministry of Justice (2025) '[Civil legal aid: Towards a sustainable future, consultation response](#)' CP 1333 – page 15.

¹⁴ Ministry of Justice (2025) '[Civil legal aid: Towards a sustainable future](#)' CP 1268 – page 36.

¹⁵ Wilding, J. (2025) '[No Access to Justice 2: Mapping the UK's continuing immigration and asylum legal advice crisis](#)', Justice Together – page 32.

¹⁶ Ministry of Justice (2025) '[Civil legal aid: Towards a sustainable future](#)' CP 1268 – page 5.

18. PLP has conducted litigation to ensure access to legal aid for eligible individuals who have been denied it. This has provided us with examples showing the difference that can be made by having access to legal advice.

Impact on low-income domestic violence survivors and children in care/care leavers

19. In each of the following cases, the individuals concerned had to engage in separate legal proceedings to secure access to legal aid. They often described that the additional litigation compounded the stress and emotional toll they were facing in respect of their primary legal problem.
20. [GR v The Director of Legal Aid Casework](#):¹⁷ GR, a low-income homeowner, was unlawfully refused legal aid in a family case because LAA assessed her home equity as providing her with too much capital to be eligible for legal aid. In reality, however, GR was unable to sell the home to pay for a lawyer because it was jointly owned by her abusive ex-partner, who would not have agreed to the sale. There was no way GR would be able to represent herself effectively in court, which would have involved cross-examining her domestic abuser personally about the treatment he subjected her to.
21. [WA v The Director of Legal Aid Casework and the Lord Chancellor](#):¹⁸ WA was seeking to obtain full custody of her child, or at least to enforce a 50/50 child custody arrangement that her abusive ex-partner was in breach of. She was unlawfully denied legal aid because, as a result of the breached custody arrangement, LAA did not consider that she had a child in her household. Were it not for the fact that WA found solicitors to conduct the case at-risk, then by taking her child to live with him, WA's abuser would have also taken away her ability to challenge him through legal proceedings.
22. [CR v The Direction of Legal Aid Casework](#):¹⁹ CR was a severely disabled child in care who sought to bring a Special Educational Needs Tribunal appeal concerning an unsuitable school placement. CR's application for legal aid was denied based on her foster parents' means (who were in the process of adopting CR). They did not have full parental responsibility for CR, and had CR been over 16, she could have applied in her own name. Fortunately, because of CR's challenge, these assessment rules were changed. But, had they not been, CR would not have had the same access to representation as she would have had had she been older than 16.

Impact on people seeking immigration/asylum legal aid

23. 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.²⁰ But many do not.
24. Legal aid is only available for such cases via the ECF scheme. 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.

¹⁷ [R \(GR\) v DLAC \[2020\] EWHC 3140 \(Admin\)](#).

¹⁸ [R \(WA\) v DLAC and Lord Chancellor \[2023\] EWHC 689 \(Admin\)](#).

¹⁹ [R \(CR\) v DLAC \[2021\]](#) (unreported as settled pre-hearing).

²⁰ Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1.

25. Notably out-of-scope for legal aid 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.²¹
26. **Example Article 8 case:**²² 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.
27. Other rights-critical immigration matters, where the impact of not having legal advice can be severe, 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.

4. Without impacting the public purse, what potential funding options would increase access to justice? e.g. an access to justice fund levy, conditional fee arrangements, third party funding.

28. It is important to underline that in many instances cutting legal aid will not save the Treasury money. As such, it is critical not to assume that the status quo is a money saver and any increase in the availability of legal aid is a money loser. In many instances, cuts to legal aid have simply shifted costs to other public services and government departments.
29. PLP's research '[Immigration legal aid and value for money: Identifying the missing data](#)' sets out how cost-shifting can be measured in relation to immigration legal aid. It is summarised in detail in paragraphs 64 - 68 below.
30. Although MoJ has not gathered sufficient data to properly account for the costs shifted by legal aid cuts,²³ there is longstanding research indicating that being represented by a lawyer supports individuals to prepare effectively for litigation, navigate complex legal procedures, and reduce imbalances of power,²⁴ as well as encourage settlement, particularly in judicial review.²⁵
31. NAO has confirmed this in its 2024 report on the Government's management of legal aid.²⁶ NAO concluded that MoJ is unclear about the relative costs and benefits of cutting legal aid at particular stages of legal proceedings and that further work should be done to estimate these costs. That said, NAO agreed that there will almost certainly be additional costs, such

²¹ National Audit Office (2023) '[Government's management of legal aid](#)' HC 514 – paragraph 2.25.

²² This example is based on a PLP case, described in Public Law Project (2018) '[How to get Exceptional Case Funding for immigration cases](#)' – page 3.

²³ Public Accounts Committee (2024) '[Oral evidence: Value for money from legal aid](#)' HC 481 – Q70.

²⁴ Department for Constitutional Affairs (2006) '[Tribunals for diverse users](#)'.

²⁵ Public Law Project (2009) '[The Dynamics of Judicial Review Litigation: The resolution of public law challenges before final hearing](#)', Nuffield Foundation.

²⁶ National Audit Office (2023) '[Government's management of legal aid](#)' HC 514

as adjournments, supporting litigants in person, delays, and cases taking longer to resolve than they otherwise would.²⁷

32. In addition to this, PLP is currently undertaking research related to reform of the costs regime in judicial review. This will be published towards the end of 2025 or early 2026. PLP can share with the Committee the findings and recommendations of that report – including on an interim basis – when they are available later this year.

5. If limited funds were available, what would be the priority areas for spending?

33. Between July 2024 and January 2025, PLP completed a ‘Rule of Law Restoration Project’ with the Bingham Centre for the Rule of Law funded by Joseph Rowntree Reform Trust. This project identified the key ways in which the rule of law had been undermined in the past decade and made recommendations for repeal or reform.²⁸
34. PLP managed the working group of experts on access to justice, looking specifically at the impact of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The working group identified three priority areas to bring back into the scope of legal aid: employment; immigration; and welfare benefits.²⁹
35. Currently, legal aid for immigration is largely restricted to asylum and detention cases. However, out-of-scope immigration cases accounted for two-thirds of ECF applications in 2022-23, 87% of which were approved. NAO has found this to be both cost ineffective and a risk to access to justice.³⁰ Indeed, research by PLP estimates that bringing immigration back into the scope of legal aid could save LAA £382,785 a year in processing costs.³¹
36. Restoring the right to legal aid in immigration cases would also advance the Government’s goal of reducing the asylum appeals backlog, given the evidence that legal advice and representation supports claimants to resolve disputes more quickly, if not to avoid litigation altogether.³²
37. In the new Employment Rights Bill, the Government seeks to expand people’s workplace rights, including by removing the qualifying period on the right not to be unfairly dismissed. The near total exclusion of legal aid in employment cases could undermine the policy intentions underpinning this Bill by preventing people from enforcing their rights. The expansion of substantive rights in the Bill must, therefore, be accompanied by practical mechanisms for their legal enforcement, including the availability of legal aid, so that appropriate cases can be pursued via Employment Tribunals.

²⁷ Ibid – Figure 3.

²⁸ The project consisted of five working groups: ouster clauses; disapplication of the Human Rights Act 1998; undermining international law; disproportionate delegations of power to the executive; and access to justice.

²⁹ The working group comprised Lord Bach (Labour, House of Lords); Dr Jo Hynes (Post-Doctoral Research Fellow, University of Exeter); Nimrod Ben-Cnaan (Law Centres Network); Jennifer Blair (Migrants Organise and No 5 Chambers); Simon Cliff (Law Society of England and Wales); and Ellie Cronin (Law Society of England and Wales).

³⁰ National Audit Office (2023) ‘[Government’s management of legal aid](#)’ HC 514 – paragraph 12.

³¹ Pearce, S. Marshall, E. and Engle, S. (2024) ‘[Immigration legal aid and value for money: Identifying the missing data](#)’, Public Law Project.

³² Syal, R. (2024) ‘[Lack of legal aid lawyers poses threat to Starmer’s asylum pledge, experts say](#)’, the Guardian.

38. For welfare benefits, as the then Work and Pensions Secretary, Liz Kendall, has previously noted, it is a government priority to ensure that disabled people are treated equally and with dignity.³³ Access to welfare benefits for those who need them is fundamental to upholding human dignity and helping guarantee access to the essentials needed to maintain life, such as food and shelter. The very limited availability of legal aid for people to challenge adverse welfare benefits decisions places disabled people at great risk of their dignity and fundamental rights being violated.³⁴

8. How can advice, legal support or non-court dispute resolution, such as mediation and restorative justice, help the early resolution of disputes?

39. Given PLP's organisational expertise, we will focus specifically on non-court dispute resolution in the context of judicial review.³⁵ PLP's research suggests that in the context of judicial review – which normally relates to disputes between individuals and public bodies about what the law is and/or how it should be applied on the facts of a case – the value-add of non-court dispute resolution can be difficult to identify.
40. In 2011, PLP produced 'Mediation in Judicial Review: A practical handbook for lawyers'.³⁶ The Handbook argues that it is often easier to identify cases that will be unsuitable for alternative dispute resolution ('ADR'), such as:
- cases requiring the declaratory or remedial function of the court;
 - cases which are urgent and allow not enough time for ADR;
 - claims based on alleged ultra vires issues;
 - cases where points of law need to be decided;
 - cases raising issues of public interest;
 - cases where vindication of rights are at issue;
 - cases where entering into ADR prior to issue means that the parties will obtain no court order which can be published, with implications for other people benefiting from outcomes of these cases; and
 - cases concerning the requirement of proper and lawful decision making by public bodies.
41. There is no official data available on the settlement of judicial review claims before substantive hearing using ADR.³⁷ However, PLP has carried out two empirical research studies in 2009 on this question, namely 'The Dynamics of Judicial Review Litigation: The resolution of public law challenges before final hearing',³⁸ and 'Mediation and Judicial Review: An empirical research study'.³⁹
42. This research suggests that where a claimant is represented by a lawyer over half of judicial review claims are settled. In the sample of claims examined, settlement normally occurred at

³³ Kendall, L. (2024) '[Liz Kendall speech at Labour conference 2024](#)', the Labour Party.

³⁴ Clarke, S. (2019) '[Do benefit sanctions breach Article 3 ECHR?](#)', Legal Action Group. (Legal Action Group, 2019).

³⁵ Department for Constitutional Affairs (2006) '[Tribunals for diverse users](#)' DCA Research Series 1/06.

³⁶ Bondy, V. and Doyle, M. (2011) '[Mediation in Judicial Review: A practical handbook for lawyers](#)' Public Law Project, Nuffield Foundation.

³⁷ Graham, L., Marsons, M., Sunkin, M., and Tomlinson, J. (2020) '[A guide to reading the official statistics on judicial review in the Administrative Court](#)', Essex Constitutional and Administrative Justice Initiative.

³⁸ Bondy, V. and Sunkin, M. (2009) '[The Dynamics of Judicial Review Litigation: The resolution of public law challenges before final hearing](#)' Public Law Project, Nuffield Foundation.

³⁹ Bondy, V., Mulcahy, L., Doyle M. and Reid, V. (2009) '[Mediation and Judicial Review: An empirical study](#)' Public Law Project, Nuffield Foundation.

three stages: (1) following the letter before claim and prior to issue; (2) immediately after a claim had been issued; and (3) after permission had been granted but any time before a substantive hearing. Before a claim is filed, the data suggests that around 60% of claims are either settled or abandoned and 40% go onto be filed. As 'The Dynamics of Judicial Review Litigation' put it: *"for every ten threats of litigation, approximately six are resolved without proceedings being commenced."*⁴⁰

43. There were, however, significant differences between practice areas. In housing, for example, only 8-14% of potential claims were filed against local authorities, whereas in immigration all respondents reported a much higher filing rate against the Home Office.⁴¹
44. In the sample, once a claim was issued but before permission was granted, around one third of claims were settled and withdrawn. After permission was granted but before substantive hearing, over half (56%) were settled.⁴² Moreover, most settlements produced outcomes that favoured claimants. Of cases that settled pre-permission, in 46% the claimant obtained a particular benefit or service that had been sought and in a further 39% the defendant agreed to reconsider decisions or carry through a decision-making process that they had failed to complete.⁴³
45. PLP's research indicates that there are three categories of cases where ADR - and mediation in particular - may be appropriate in judicial review cases.
46. First is where the claimant desires an outcome that is beyond the range of remedies that a court could provide in judicial review proceedings. As the Handbook states: *"Judicial review offers a limited range of remedies which often leave the claimant in no better a position than they were before, e.g. when the successful challenge leads to a reconsideration of a decision, but with the same substantive outcome as before. In disputes over aspects of community care, for example, the court cannot engage with details of any services to be provided, whereas detailed provisions can be agreed in mediation."*⁴⁴
47. Second is where a relationship of distrust has developed between the parties but where, otherwise, there is broad agreement about where the dispute needs to go. The dispute is over details and practicalities in a specific case, rather than fundamentals of the legality of a scheme or policy. As the Handbook puts it: *"Mediation in judicial review would, therefore, be likely to be considered in cases in which both parties have an interest in reaching a settlement but are unable to do so because negotiations have become 'stuck'. As an independent neutral third party, a mediator is in a good position to assist where parties are in general agreement about the course of action required to resolve a dispute but need help to hammer out the detail, as well as to reduce or obviate oppositional dynamics in more conflictual situations."*⁴⁵
48. Third is where a claimant wishes to take a more active stance in their own case but would be prevented from doing so because of the logistics of judicial review. As the Handbook says: *"Judicial review requires, on the whole, little participation from the parties compared with*

⁴⁰ Bondy, V. and Sunkin, M. (2009) '[The Dynamics of Judicial Review Litigation: The resolution of public law challenges before final hearing](#)' Public Law Project, Nuffield Foundation – p.30.

⁴¹ Bondy, V. and Doyle, M. (2011) '[Mediation in Judicial Review: A practical handbook for lawyers](#)' Public Law Project, Nuffield Foundation – page 31.

⁴² Ibid – page 33.

⁴³ Ibid – pages 39-40.

⁴⁴ Ibid – page 21.

⁴⁵ Ibid – page 1.

other forms of litigation. The claimant's involvement is usually confined to giving instructions and signing statements drafted by their lawyers. They need not attend court at all, let alone give evidence. The arguments are often legal and technical."⁴⁶

9. What role is there for digital innovation and data collection in supporting access to justice?

Digital innovation: PLP's remote advice research

49. PLP's research '[Remote immigration and asylum advice: what we know and what we need to know](#)'⁴⁷ compares refugees' and asylum seekers' experiences of in-person and remote advice. It found:

- Remote advice can be more convenient, particularly for short consultations and for clients whose vulnerability makes travelling difficult.
- 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.
- Service users valued being able to make a meaningful, informed choice about whether remote or in-person advice was more suitable in their circumstances.
- Service users valued being able to establish a relationship of trust with their representative in-person because doing so made future remote interactions easier.
- Remote advice can make negative experiences of publicly funded legal services worse, for example, by making clients feel isolated from their advisor.

50. 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.⁴⁸ MoJ has not confirmed whether it will implement these changes.⁴⁹

51. 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.

52. At present, MoJ safeguards against the associated risks by asking providers to use their professional judgement as to whether remote provision is appropriate.⁵⁰ However, PLP's remote advice research presents two challenges to the effectiveness of that approach.

53. First, 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

⁴⁶ Ibid – page 22.

⁴⁷ Hynes, J. (2024).

⁴⁸ Ministry of Justice (2025) '[Civil legal aid: Towards a sustainable future](#)' CP 1268 – Chapter 2.

⁴⁹ Ministry of Justice (2025) '[Civil legal aid: Towards a sustainable future, consultation response](#)' CP 1333 – Chapter 3, Part 2.

⁵⁰ HM Treasury (2024) '[Response to Thirty-third report of Session 2023-24](#)' CP 1151 – paragraph 2.2.

improved by ‘cherry-picking’ simpler cases from a geographically wider pool. Therefore, increasing the incentive to conduct cases remotely risks sidelining the need to take proper account of a client’s individual needs.

54. Second, 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.

Data gaps: MoJ’s measurement of unmet legal need

55. In our response to Question 1 above, we provided data on unmet legal need for immigration and asylum matters. PLP gathered this data by engaging with other legal aid providers, civil society organisations, and academics.

56. 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.⁵¹ And NAO (following the conclusions of both the Westminster Commission on Legal Aid⁵² and the Justice Select Committee⁵³) recommended that MoJ should work with LAA to gather robust data on demand for and provision of publicly funded legal services.⁵⁴

57. The data MoJ gathered during its Review of Civil Legal Aid (‘RoCLA’) has enabled MoJ to produce a robust picture of the public’s legal needs. That data provides MoJ with the evidence it needs to improve access to justice in England and Wales; however, there is a risk that, if MoJ is too slow to act on it, this data will offer nothing more than an outdated snapshot in time. RoCLA did not establish any new means of ongoing data collection by government, and continued the trend of relying on providers, civil society, and academics’ submissions to gather data.

Data gaps: legal aid cuts’ cost-shunting onto other public services

58. In 2024, the Public Accounts Committee concluded that MoJ had still not made sufficient progress in identifying or addressing wider system costs of its legal aid reforms.⁵⁵ PLP has since published ‘[Immigration legal aid and value for money: Identifying the missing data](#)’ – a research briefing produced by academics at the University of Exeter,⁵⁶ which explained how MoJ can gather better data in respect of immigration legal aid’s value for money. This is set out in paragraphs 64 - 68 below.

10. How could the current system of legal aid be improved to provide a cost-efficient and cost-controlled service, with suitably remunerated legal practice across civil, criminal and family law?

Reduce the cost of burdensome administration

⁵¹ National Audit Office (2023) ‘[Government’s management of legal aid](#)’ HC 514 – paragraph 2.12.

⁵² Westminster Commission on Legal Aid (2021) ‘[Inquiry into the Sustainability and Recovery of the Legal Aid Sector](#)’ – page 79, recommendations G and H.

⁵³ House of Commons Justice Select Committee (2021) ‘[The Future of Legal Aid](#)’ HC 70 – page 54.

⁵⁴ National Audit Office (2023) ‘[Government’s management of legal aid](#)’ HC 514 – recommendation b.

⁵⁵ Public Accounts Committee (2024) ‘[Value for Money from Legal Aid](#)’ HC 481 – paragraph 5.

⁵⁶ Pearce, S., Marshall, E. and Engle, S. (2024).

59. Providers face a large, unremunerated administrative burden in maintaining a legal aid contract and the associated billing and audit processes. Complex files can be scrutinised repeatedly, at substantial cost to LAA, and significantly delaying payment. The legal aid scheme would be improved if providers did not have to spend as much time conducting cost-inefficient administration.
60. PLP's report '[Access to immigration legal aid in 2023: An ocean of unmet need](#)'⁵⁷ demonstrates how the administrative burden associated with providing legal aid funded services is unnecessarily large. One provider reported that they employed five full-time staff to administer and bill their legal aid work at a cost of around £200,000 annually.⁵⁸ Another provider described the legal aid billing process as a "*complete nightmare*", taking vast administrative resources to manage.⁵⁹ These overheads were not recoverable as the fees from the LAA barely covered the costs of employing the fee earning staff and administrative work could not be charged for.
61. In addition to the general administration and billing processes, LAA compliance activity can be disproportionate and punitive, resulting in unnecessary burdens and creating financial risk due to the sanctions which may be imposed for minor errors. Our research describes one provider who mixed up 'reporting codes' being pulled up by LAA at significant cost.⁶⁰ Another was fined £250,000 by LAA – only for this to be reduced to £2,500 on appeal due to auditors' mistakes.⁶¹
62. Reducing administrative burdens would mean that legal aid practitioners could spend more of their time supporting clients and undertaking chargeable work, which would contribute to addressing the problems of financial risk and unsustainability which providers face. It would also save government money, by reducing the spend associated with LAA's punitive approach to auditing.
63. The cost of administration could also be reduced by expanding the 'passporting' scheme applicable to those in receipt of means tested social security benefits, so that the state does not, in effect, double-up its assessment of them.
64. Finally, LAA compliance activity should reflect the peer review scores received by providers, so that those who receive the top two levels at peer review are audited less frequently. Ultimately, the LAA should adopt an approach which is proportionate, taking into account the low financial risk posed by minor errors, and the cost of requiring providers to comply with extensive compliance activities.

Assess how legal aid spending can reduce demand for other public services

65. As outlined in our response to Question 4 above, [research published by PLP](#)⁶² shows that reducing government spending on legal aid can result in cost-shunting onto other public

⁵⁷ Rourke, D., Cripwell, E., Summers, J. and Hynes, J. (2023) '[Access to immigration legal aid in 2023: An ocean of unmet need](#)', Public Law Project.

⁵⁸ Ibid – page 13.

⁵⁹ Ibid – 'Case study: South West Law', pp.29-32.

⁶⁰ Ibid

⁶¹ Ibid – 'Case study: South West Law', pp.29-32.

⁶² Sian Pearce, Emma Marshall and Samuel Engle, (2024) '[Immigration legal aid and value for money: Identifying the missing data](#)', Public Law Project.

services. It sets out four types of cost-shunting associated with cuts to immigration legal aid which are relatively easy to measure.

66. **Costs to MoJ:** the ECF scheme is associated with higher processing times. MoJ does not publish LAA's total expenditure on ECF administration, which makes estimating the cost-effectiveness of the ECF scheme difficult.
67. **Costs to HMCTS:** anecdotal evidence suggests that unrepresented parties in immigration appeals need longer hearings and more adjournments – which end up costing the taxpayer.⁶³ In oral evidence to the Public Accounts Committee, MoJ indicated that it only held limited data on the impact had by litigants-in-person.⁶⁴ 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.
68. **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.⁶⁵ No systematic data on these costs has been published.
69. **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-health⁶⁶ and that, after solicitors, people are most likely to go to a doctor for advice on a legal issue.⁶⁷ 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).

11. What has been the impact of the Legal Aid Agency cyber-attack, revealed in April 2025, on recipients and providers of legal aid work, and how have the Legal Aid Agency and Ministry of Justice responded?

70. The direct impact of the cyber-attack on PLP is not typical of a legal aid provider. PLP operates differently because our casework is subsidised by grant funding and generally operates at a low volume/high complexity. However, our combined casework and research expertise has informed the following three conclusions in relation to the breach.
71. **LAA's contingency measures are a significant burden on legal aid providers, who are already over-stretched.** For many providers, the major impact of the cyber-attack has been to significantly increase the time spent on administrative tasks associated with legal aid

⁶³ 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.

⁶⁴ Public Accounts Committee (2024) '[Oral evidence: Value for money from legal aid](#)' HC 481 – Q70 (data is held for private family cases).

⁶⁵ Wilding, J. (2023) '[It's a no-brainer': local authority funding for immigration legal advice in the UK](#)', Justice Together.

⁶⁶ Legal Services Board and the Law Society (2020) '[Legal needs of individuals in England and Wales](#)'

⁶⁷ Legal Services Board and the Law Society (2024) '[Legal Needs of Individuals in England and Wales Summary report 2024](#)'.

billing. As set out in our response to Question 10, providers are already overburdened by administration which impedes their ability to provide a cost-efficient service to their clients.

72. **It is not clear what efforts MoJ have made to directly inform individuals whose data might have been exposed.** [MoJ/LAA cyber-security incident FAQs](#) explain that providers are not obliged to tell clients about the breach, and that the breach might have affected individuals who accessed legal aid since 2010 – so might no longer be in contact with a provider; however, the Minister for Courts and Legal Services (Sarah Sackman MP) indicated that affected individuals should have been informed by their legal aid provider.⁶⁸ MoJ’s public notice is unlikely to reach all those affected (particularly those with low levels of digital literacy, who can be particularly vulnerable), and does not provide individuals with certainty.
73. **LAA’s inadequate digital systems should be replaced.** LAA’s digital systems have long been cited as a block on delivering policy.⁶⁹ In rectifying the cyber attack, MoJ should take the opportunity to address the wider inadequacies of LAA’s digital infrastructure.
74. The Legal Aid Practitioners’ Group (‘LAPG’) has been consulting its members, including PLP, to establish the impact had by the attack. PLP supports all of LAPG’s related recommendations. In particular, we are concerned that it might be too soon for the Committee to effectively scrutinise the full impact of the attack. Changes in the sector’s overall capacity can take time to show up in central statistics. PLP would therefore encourage the Committee to revisit this question in 6 months’ time, once a clearer picture about the overall effect of the attack has had time to emerge.

**Public Law Project,
September 2025**

⁶⁸ [HC Deb \(19 May 2025\) Vol 767, Col 775](#), saying that “the legal aid providers and, by extension, their clients—were informed”.

⁶⁹ For example, LAA systems’ limited functionality and lack of adaptability has delayed the implementation of the Means Test Review – Law Society (2024) ‘[Legal aid means test changed delayed until 2026](#)’.