How Immigration Legal Aid is Paid: Fixed fees and the Incentive to Do Less

Misaligned Incentives in the Immigration Legal Aid Scheme – Report 1

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September 2026

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Introduction

There is not enough legal aid to go around: demand for legal aid far outstrips supply, particularly for immigration and asylum law (the subject of this report).[1] So how is this scarce public funding distributed?

One of the factors that influences this[2] is providers' decision-making. Subject to eligibility rules and sectoral regulations, legal aid providers have a discretion about which cases they take on. Faced with overwhelming demand for their services, they are, in effect, performing a kind of social rationing: deciding who among the eligible population they take on as clients.

This report argues that that these choices may be influenced by the way that immigration and asylum legal aid providers are paid. It describes the central features of the Immigration Contract's[3] payment scheme – principally fixed fees – to explain how providers' decisions about which cases they take on can affect their bottom lines. This analysis will reveal that the Immigration Contract rewards providers for taking on as many cases as they can, while minimising the amount of time they spend on each. Providers are, accordingly, incentivised to operate a 'supermarket model' of provision: stack 'em high, sell 'em cheap.

As a result, providers have a commercial incentive to take on only the kinds of work that are administratively convenient. And when providers decide whether to take on a prospective client, they might face a tension between what is commercially attractive and what the client needs. The hierarchy of eligible work this creates is explored in more detail in the follow-up to this report – 'Assessing Eligibility for Immigration Legal Aid: Why Some Cases are Harder to Take On'.

This report is about the behaviour which is rewarded by the Immigration Contract. It is not an account of how providers actually behave. Legal aid providers are not purely profit driven (indeed many work not-for-profit). But the commercial reality of immigration legal aid is such that many providers cannot afford to ignore the financial incentives that operate on them – including when they decide which cases to take on.

The Report begins, in Section 1, by explaining the policy background to the fixed fee scheme – which is the central feature of how immigration and asylum legal aid is paid. Then, in Section 2, it explains the four key features of payment under the Immigration Contract. Section 3 turns these features into a simple profit model and, by doing so, identifies the best strategy for maximising income under the Immigration Contract. Finally, in Section 4, it assesses fixed fees against Ministry of Justice's policy objectives – and argues for their reform.

1. See, for example, Ministry of Justice (2025) 'Review of Civil Legal Aid: Summary Report' – Figure 2.
2. There are also other factors that also impact on distribution. For example, there is an existing body of evidence showing that it is harder to access legal aid in some parts of the country than it is in others – see, for example, Wilding, J. and Emberson, C. (2026) 'A geography of access to justice: mapping social welfare legal aid need and provision in England and Wales' Journal of Law and Society, 53(2), 187-210; and National Audit Office (2024) 'Government's management of legal aid' HC 514.
3. Throughout this report, 'Immigration Contract' is used to refer to the relevant parts of the Standard Civil Contract 2024: the Specification (general provisions); the Immigration and Asylum Category Specific Rules; the Standard Terms; and the Category Definitions.

Executive summary

Fixed fees are the central feature of payment under the Immigration Contract. This report shows that they incentivise providers to minimise the amount of time they spend on cases and maximise the number of cases they take on. The report describes this as a 'supermarket model' of provision: stack 'em high, sell 'em cheap.

The supermarket model is bad for clients. It rewards providers for prioritising administrative convenience rather than the needs of those eligible for legal aid – favouring cases that can be completed quickly and predictably over those that are complex, risky or time-consuming.

The Immigration Contract's fixed fee scheme does this because:

- The amount providers are paid often depends more on the type of work they have done than the amount of work they have done.
- Each fixed fee covers a wide range of work that can take variable amounts of time to complete.
- Cases which have taken a significant amount of additional work and hit a set threshold can be billed at hourly rates ('escape claims') – but providers can earn more per hour under fixed fees if they spend minimal time on a case.

The Immigration Contract attempts to safeguard against providers minimising the amount of work they do on cases by requiring that providers average a minimum quantity of work across their fixed fee claims. But the safeguard is of limited effectiveness: it is not based on an assessment of clients' needs; it is an average across claims; and the Legal Aid Agency ('LAA') are unlikely to detect inaccuracies in hours billed against fixed fee claims.

Escape claims (i.e. where a claim meets certain criteria for having taken a significant amount of additional work and hit a set threshold) are subject to more onerous compliance requirements than those fixed fee claims. For escape claims, LAA:

- Scrutinises time recordings more closely.
- Assesses every claim individually, rather than a sample of claims.
- Checks for patterns across claims.

Individual escape claims therefore present a greater compliance risk to providers than individual fixed fee claims. As a result, providers are disincentivised from taking them on.

The Immigration Contract's fee scheme also provides for additional fees that can be paid on top of the fixed fee: UK Visa and Immigration ('UKVI') interview[4] fees and advocacy services fees. They illustrate two strategies for limiting the incentive effects of fixed fees:

- UKVI interview fees have a limited scope, so limit the potential for providers to be paid too much or too little for work done under them.
- Advocacy services fees (which are normally paid to counsel) can be paid at repeat increments, effectively operating as a day rate.

4. i.e. eligible asylum screening and substantive interviews.

The report additionally concludes that the Immigration Contract's fixed fee scheme is of limited effectiveness in meeting its policy objectives:

- While it disincentives providers from performing unnecessary work in simple cases, it can incentivise them to perform additional work when approaching the escape threshold.
- It rewards cherry-picking simple cases rather than delivering services more efficiently.
- Although it reduces administrative burden for individual fixed fee claims, LAA's approach to sample reviewing fixed fee claims means that they are still subject to significant compliance risks.

These features are also likely to be in tension with client needs of: being able to access representation even where their case is complex and time-consuming; and ensuring that providers spend the time necessary to ensure their case is dealt with properly.

Therefore, Government should review the fixed fee scheme, particularly in light of its incentive effects – which are bad for clients. As part of this review, Government should give consideration to trust-based payments at hourly rates and refined fixed fees as alternative models.

Acknowledgements

Public Law Project would like to thank the anonymous interview participants whose contributions form case-studies in these reports and the following refugee support organisations for helping to arrange them:

- Bristol Refugee Rights
- Refugee Action
- Haringey Migrant Support Centre
- South Yorkshire Refugee Law and Justice

We would also like to thank Jawaid Luqmani, Tom Nunn, and Russell Blakely for reviewing and providing feedback on the reports' conclusions and recommendations; and Dr Jo Hynes for supporting the foundational research and planning of this project.

The views expressed in the report are those of Public Law Project, and not necessarily those of anyone named above.

Method

This report is an analysis of the contractual and regulatory framework for immigration and asylum legal aid (as in force in July 2026). Its aim is to assess what behaviour that scheme rewards by analysing the main features of the payment scheme.

The analysis is primarily of 'the Immigration Contract' or Standard Civil Contract 2024, made up of: the Specification (general provisions); the Immigration and Asylum Category Specific Rules; the Standard Terms; and the Category Definitions.[5] It also considers relevant parts of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ('LASPO')'s regulatory scheme. The main regulations are listed here.

The report reads these materials together as a payment system – which it turns into a simple model showing how the amount providers receive per hour billed changes according to the time spent on a matter. The simplifications made by the model are explained in Section 3.

Limitations:

This analysis does not aim to produce an empirical account of providers' behaviour under the Immigration Contract, nor does it assume that providers are purely profit-driven. Its purpose is to identify how different services are more or less profitable under the Immigration Contract and to consider whether this is aligned with service users' needs.

5. In practice, providers are also issued an individual schedule which confirms the categories of law, location and number of Controlled Work Matters they can act in – but these do not feature in the below analysis.

1. Fixed fees – policy background

Fixed fees are central to how immigration legal aid is paid. Therefore, it is helpful to begin by explaining why we have them. Fixed fees' policy aims will also provide a measure for assessing their efficacy and offer insight into providers' incentives under different payment models.

a. Ministry of Justice Objectives

The current system of fixed fees was introduced by LASPO.[6] But much of the fee structure was pre-existing, having been implemented in 2007 following the 2006 Carter Reforms.[7] Fixed fees were introduced for three main objectives:

Objective 1: to disincentivise providers from spending unnecessary time on their cases.

Fixed fees were introduced in response to what government identified as 'inflation' in the hours being claimed by providers (i.e. they thought providers were billing increasing amounts of time to do the same amounts of work).[8] One explanation of this inflation was that providers were inducing a level of demand for their services that was higher than the level of need (i.e. advising that legal aid clients would need more work done than privately paying clients would ask for).[9]

However, this explanation has been criticised for overestimating the extent to which providers can control the amount of time they spend on a given case. Increases in hours billed can also result from legislative changes that make immigration and asylum law more complicated; pressure on the Home Office to reduce asylum application success rates; and poor-quality decision making by the Home Office more generally.[10]

Whatever the respective merits of these different explanations for legal aid inflation, fixed fees were introduced with the aim of disincentivising providers from doing unnecessary work on their cases. Fixed fees aimed to do so by paying providers a lower effective hourly rate where they spent more time than average on a matter.[11]

6. Civil Legal Aid (Remuneration) Regulations 2013.
7. Set out in Department for Constitutional Affairs (2006) 'Legal Aid: a market-based approach to reform'; and in the consultation paper which followed – Department for Constitutional Affairs (2006) 'Legal Aid: a sustainable future', CP 13/06.
8. Department for Constitutional Affairs (2006) 'Legal Aid: a sustainable future', CP 13/06 - paragraph 2.28.
9. Most notably, Bevan, G., Holland, T., and Partington, M. (1994) 'Organising cost-effective access to justice', Social Market Foundation; Bevan, G. (1996) 'Has there been supplier-induced demand for legal aid?' Civil Justice Quarterly, 15(Apr), 98–114.
10. What Jo Wilding calls 'failure demand' - Wilding, J. 'The legal aid market: challenges for publicly funded immigration and asylum legal representation' (2021) Policy Press – Chapter 5.
11. Department for Constitutional Affairs (2006) 'Legal Aid: a market-based approach to reform' – page 131.

It should be noted, though, that fixed fees for immigration and asylum work did not replace hourly rates or, as in other categories of law, tailored fixed fees (which paid providers the average amount they had billed in the year prior to introduction).[12] Since 2004, Government had been operating a distinct scheme for immigration and asylum legal aid with the aim of saving money.[13] That scheme was characterised by a limit on the amount of time providers could bill for immigration and asylum cases. Thus, Objective 1 had already been baked into the immigration and asylum scheme's design.

Objective 2: incentivise providers to deliver services more efficiently.

Objective 2 is similar to Objective 1, but focuses on providers' potential to earn a surplus above the applicable rate, rather than a deficit below it (it focuses on the potential rewards of fixed fees, rather than their potential downsides).

When the scheme was proposed, the potential surplus was designed to "*enable efficient quality assured providers to benefit from their efficiency*."[14] It also introduced a risk: that providers might instead cherry-pick simpler cases to derive the same surplus.

Government explained that the new scheme would safeguard against this by setting "*a minimum standard of quality for all legal aid practitioners assured through peer review*."[15] It is not clear how any peer review system could prevent cherry-picking, setting aside any criticisms of the peer review system that exists today. This is because only cases that have been taken on can be peer reviewed. So, a peer review system is unlikely to detect a provider who is avoiding cases that are likely to take longer and therefore be less profitable.

Objective 3: reduce the cost of administering legal aid.

Paying providers the same for a matter regardless of how long they have spent working on it means that LAA does not have to scrutinise providers' time recordings as closely.[16] This has an advantage for all parties (government, providers and clients): it means that LAA can process claims more cheaply and quickly.

This was what was intended by the introduction of fixed fees: government praised fixed fees as "*enabling us to significantly reduce the cost of administering the legal aid fun*d."[17] It is also the principal difficulty that must be grappled with when reforming the Immigration Contract's fixed fee structure – as will be considered in Section 4.

12. See Legal Services Commission (2009) 'Original Tailored Fixed Fee' which explains how tailored fixed fees operated prior to the introduction of standard fixed fees.
13. See Department for Constitutional Affairs (2003) 'Proposed Changes to Publicly Funded Immigration and Asylum Work' which explains what measures were in place before the introduction of fixed fees.
14. Department for Constitutional Affairs (2006) 'Legal Aid: a sustainable future', CP 13/06 – paragraph 2.28.
15. Department for Constitutional Affairs (2006) 'Legal Aid: a market-based approach to reform' – page 3.
16. See Section 2.3 below.
17. Department for Constitutional Affairs (2006) 'Legal Aid: a sustainable future', CP 13/06 – paragraph 5.24.

b. Client objectives

The objectives above are the Ministry of Justice's objectives for the payment scheme. This report does not attempt to give a complete account of clients' objectives. But it takes two basic expectations as a benchmark: that clients should be able to access representation even where their case is complex and time-consuming; and that their provider should spend the time necessary to deal with their case properly. As the report will show, both may be in tension with the way immigration legal aid is paid. Samir's story illustrates why these objectives matter.

Case study: Samir:[18]

Samir came to the UK to study computer science. Before his studies were finished, political violence erupted in his home country. His family were forced to leave everything behind and flee. Samir presented to the Home Office to claim asylum.

Samir found a legal aid lawyer. He told me what a relief that had been, how he had arrived at the appointment with a long list of questions about the asylum process – and how disappointed he had been when his new lawyer brushed over his questions – *"he just asked me, what is the case? He didn't say anything, he didn't add up anything from his own.*"

That first appointment, Samir said, set the tone for their whole relationship. It was all rushed. Samir described how difficult he found contacting his lawyer, how there were *"mistakes on [the solicitor's] statement [...] he's not writing everything correctly"* and how after Samir tried to correct them *"[the solicitor] submitted his own statement."*

In the end, Samir's application was refused. *"[The solicitor] told me that he will give me an appointment"* Samir explained *"so I called him [around the day of the appointment], I don't remember. He didn't pick up the first time, and then I call him again, like, after two hours he picked up and he said that 'I'm not able to represent you because I don't have capacity.'"*

But Samir wasn't angry with his lawyer. *"I don't blame him because what has happened? We have very less legal aid solicitors available in the UK for asylum-seekers. The asylum-seekers are around what like 20,000? And if you look for the solicitors who take your case as a you know, who understand the asylum and immigration laws are really few."* It was probably only by rushing through Samir's case quickly that this lawyer was able to see him at all.

18. This case study was produced for the report published alongside this one – Summers, J. (2026) 'Assessing Eligibility for Immigration Legal Aid: Why Some Cases are Harder to Take On', Public Law Project. The participant's name has been changed and identifiable information has been removed. For a more detailed explanation of how it was produced see the methodology section of that report.

2. The Immigration Contract's payment scheme

As compared with legal aid contracts for other categories of civil law, the Immigration Contract is unusual because of how much it relies on fixed fees, and because of how complicated its fixed fee scheme is. The scheme can mainly be found in the Immigration Contract,[19] although fees' values are set separately by Regulation.[20] For the purposes of this report, it has four main characteristics:[21]

2.1. Providers are normally paid by fixed fee.

Whether work is paid by fixed fee depends first of all on whether it is 'Licensed Work' (which is paid by hourly rates)[22] or 'Controlled Work' (which may or may not be paid by fixed fees).[23] In immigration and asylum:

- **Licensed Work** is 'Legal Representation'[24] that is not Controlled Work.[25]
- **Controlled Work** is either:[26]

  (a) 'Legal Help' – which is a catch-all for work that does not involve court or tribunal proceedings.[27] Or

  (b) Legal Representation in the Immigration and Asylum Chamber of the First-tier Tribunal.[28]

The inclusion of Legal Representation within the Immigration and Asylum Controlled Work definition is unusual as compared with other areas of law. As a result, **most work carried out under the Immigration Contract is Controlled Work and may, accordingly, be paid fixed fees.**

19. Specifically, in the Standard Civil Contract 2024, Specification (general provisions) Section 3 (Carrying Out Controlled Work) and 4 (Payment for Controlled Work); and in Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum Part D.
20. The Civil Legal Aid (Remuneration) Regulations 2013 Schedule 1, Tables 4(a)-(d).
21. For an explainer of the whole Immigration Contract, see PLP's earlier report Rourke, D., Cripwell, E., Summers J. and Hynes, J. (2023) 'Adrift: An Explainer for Navigating the Immigration Legal Aid Framework', Public Law Project.
22. Standard Civil Contract 2024, Specification (general provisions) – paragraph 6.1.
23. Controlled work may be paid by fixed fees, graduated fees or hourly rates (Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.1). A graduated fee is a type of fixed fee. They do not exist for immigration and asylum work (Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.71).
24. i.e. representing someone or investigating the strength of their case in proceedings/contemplated proceedings – Regulation 9, Part 1, Civil Legal Aid (Procedure) Regulations 2012.
25. Regulation 29(2)(b), Part 4, Civil Legal Aid (Procedure) Regulations 2012.
26. There are other types of Controlled Work which are not applicable to the immigration and asylum category. See further Regulation 21, Part 3, Civil Legal Aid (Procedure) Regulations 2012.
27. Specifically legal help is the provision of civil legal services other than: acting as a mediator or arbitrator; issuing or conducting court proceedings; instructing an advocate in proceedings; preparing to provide advocacy in proceedings; or advocacy in proceedings – Regulation 4, Civil Legal Aid (Procedure) Regulations 2012.
28. Regulation 21(2)(e)(iii), Part 3, Civil Legal Aid (Procedure) Regulations 2012.

All Controlled Work carried out under the immigration contract is paid for by its fixed fee scheme unless expressly excluded.[29] The exclusions generally fall into one of three categories:

(i) Work excluded by design – matters that do not fit within the fixed fee structure:

- Matters that were started before the fixed fee scheme was introduced (in 2007).[30]
- Matters which arise where a case continues past the stages paid by fixed fees (appeals in the Upper Tribunal or higher).[31]
- Short initial advice which is insufficient to claim a fixed fee.[32]
- Covid contingency measures.[33]
- Matters which have exceeded the maximum amount of work that can be claimed under a fixed fee.[34]

(ii) Work excluded because of the client's circumstances – where the client's circumstances mean that they, in effect, need a different service to those which are covered by the standard fixed fees:

- The client is in detention.[35] In which case, the matter will usually be paid under a separate fixed fee scheme[36] for specially authorised providers.[37]
- The client is, or claims on reasonable grounds to be, a child.[38] In which case, the matter will usually be paid by the hour.

(iii) Work excluded as relating to a particularly sensitive area of policy:

- Counter-terror: where the client seeks to challenge a 'Terrorism Prevention and Investigation Measure,'[39] which can impose restrictions on, among other things, their freedom of movement if they are suspected of terror-related activity.
- National security: where the client appeals to the Special Immigration Appeals Commission,[40] which hears appeals to immigration decisions taken on national security grounds.

The 2019-24 Conservative Government also excluded services relating to its immigration policy priorities. Those exclusions remain in the Immigration Contract although the services to which they relate cannot actually be performed:

29. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.101.
30. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.101(a) and (b).
31. Ibid, paragraphs 8.101(c) (merits advice on an Upper Tribunal appeal where it hasn't already been provided); 8.101(e) (advice and applying for a determination that a client qualifies for Licensed Work); 8.101(i) (case remitted, reviewed or referred from an appeal to the FTT);
32. Ibid, 8.101(f) initial advice at the Asylum intake Unit and cease to be instructed; 8.101(p) 30 minutes of initial advice without
33. Ibid, 8.101(o).
34. Ibid, 8.101(g).
35. Ibid, paragraphs 8.101(d) (bail applications); 8.101(j) DDAS or DAC scheme; and 8.101(p) 30 minutes of initial advice without financial information to someone in prison.
36. Ibid, paragraphs 8.179-183 (the Detained Duty Advice Scheme); and 8.184-85 (Detained Asylum Casework).
37. Ibid, paragraph 8.5.
38. Ibid, paragraphs 8.101(h) (unaccompanied asylum-seeking children); 8.101(n) (separated children); and 8.101(r) (age assessment appeals).
39. Ibid, paragraph 8.101(k) Terrorism Prevention and Investigation Measures Orders.
40. Ibid, paragraphs 8.101(l) (in respect of Terrorism Prevention and Investigation Measures Orders); 8.101(m) (in respect of Special Immigration Appeals Commission work).

- Challenges to third country removal notices issued under section 8 of the Illegal Migration Act 2023[41] (which were repealed by section 38 of the Border Security, Asylum and Immigration Bill).
- Challenges to 'Priority Removal Notices'[42] which were not implemented.[43]

Work that is payable by fixed fees

The services that are not excluded (and therefore paid by fixed fees) are typical immigration and asylum matters:

- **Immigration matters:**[44] domestic violence[45] and trafficking leave.[46]
- **Asylum matters:**[47] asylum application, appeals, fresh claims etc.[48]

2.2. Under the terms of the contract what providers are paid often depends on the type of work they have done.

The Immigration Contract defines two stages of Controlled Work.[49] What a provider is paid for a matter usually depends on the stage it reaches and the fixed fee applicable under it:

- **Stage 1 – Legal Help:**[50] covers the early stages of the case such as initial advice, drafting of statements and representations, and determining whether a client qualifies for Stage 2.

  The fixed fee applicable in Stage 1 depends on whether the matter is categorised as an asylum matter or an immigration matter.[51]

- **Stage 2 – Controlled Legal Representation:**[52] covers Legal Representation in the First-tier Tribunal (including preparatory work), and advice following the Tribunal's decision.

  Which fixed fee applies at Stage 2 depends on two things:[53]

  (i) Whether the case has a substantive hearing.
  (ii) Whether the matter is as an immigration matter or an asylum matter.[54]

41. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.101(u) (Illegal Migration Act matters).
42. Ibid, paragraphs 8.101(s) (Priority Removal Notices) and 8.101(t) (associated follow-on work).
43. See Home Office (2026) 'Enforced removals: notice periods' – page 11.
44. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.8.
45. i.e. the services covered by paragraphs 28 and 29 of Schedule 1, Part 1 Legal Aid Sentencing and Punishment of Offenders Act 2012.
46. i.e. the services covered by paragraph 32 of Schedule 1, Part 1 §32 Legal Aid Sentencing and Punishment of Offenders Act 2012.
47. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum - paragraph 8.7.
48. i.e. the services covered by paragraph 30 of Schedule 1, Part 1 Legal Aid Sentencing and Punishment of Offenders Act 2012.
49. Reflecting the two limbs of Controlled Work relevant under the Immigration Contract per Regulation 21, Part 3, Civil Legal Aid (Procedure) Regulations 2012 (set out in Section 2.1 above).
50. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraphs 8.72; and 8.73-78.
51. The Stage 1 fee is currently set at £559 for asylum matters and £317 for immigration matters (applicable to cases opened after 22nd December 2025).
52. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraphs 8.72; and 8.79-86.
53. For cases started on or after 1 April 2023. Previously, it was also relevant whether the online procedure (HMCTS online service) was used. Now it must be used unless it is not reasonably practical to do so (Para 3.1 of the FTT (immigration and asylum) practice direction). The Immigration Contract is ambiguous as to which fixed fee applies where the online procedure is not used, but the case was started on or after 1 April 2023; however, Legal Aid Agency (2024) 'Immigration and Asylum Key card 4' clarifies that "*from 1 April 2023 all newly opened CLR cases subject to the Standard Fee Scheme (SFS), will use either 2(d) or 2(e) fees.*"
54. The Stage 2(e) fee (substantive hearing) is currently set at £1,219 for asylum matters and £1,033 for immigration matters. The Stage 2(d) fee (no substantive hearing) is currently set at £808 for asylum matters and £759 for immigration matters. Both are only applicable to cases opened after 22nd December 2025.

So, where a provider is paid a fixed fee, they are paid according to the type of case that they are claiming – and not according to the amount of time they have spent on a case.

This can be problematic for providers and their clients in different ways. Providers (who are effectively paid less for each additional hour they spend on a case under a fixed fee) are incentivised to avoid the situation where they do not get paid more for spending extra time on a case. Their clients, in contrast, will want to avoid the situation where the provider spends too little time on a case.

(a) The situation where providers do not get paid more for spending more time on a case.

There are two features of the Immigration Contract that safeguard against situation (a).

First, the fixed fee a provider receives can *indirectly* depend on the time they spend on a case because the fixed fee applicable to a matter can act as a proxy for time spent on it (i.e. matters which receive a higher fixed fee tend to require more time be spent on them). For example, although there is no requirement that a provider does more work to receive a (higher) Stage 2(e) fee than they do to receive a (lower) Stage 2(d) fee, a provider may need to spend more time on a case at Stage 2(e) because Stage 2(e) is paid where an asylum appeal has a substantive hearing, and the Stage 2(d) fee is paid where one does not.

However, the extent of this should not be overstated. Each fixed fee covers a broad range of work, so the amount of time it pays a provider for can vary. For example, the Stage 1 (asylum) fee is paid both for cases where a provider has simply advised someone that their case on appeals lacks merit to pursue further[55] and for cases where a provider has spent time preparing a complex asylum application[56] (the latter requiring much more work). It should also be noted that services relating to asylum applications under Stage 1 and services relating to asylum appeals under Stage 2 are billed separately,[57] so the mere fact that Stage 2 comes later than Stage 1 does not necessarily mean that more work will be done under it.

Second, and more significantly, if a matter meets certain criteria for having taken a significant amount of additional work and hit a set threshold,[58] it will 'escape' the applicable fixed fee and be paid at hourly rates.[59] In which case, situation (a) does not arise.

Situation (a) will therefore be limited to cases where providers have done work worth more than the fixed fee (if it had been paid under the applicable hourly rate) but which is less than is needed to escape.[60] This means that the harder it is for a case to meet the threshold to escape, the more likely it is for situation (a) to arise. This can result in providers actually being worse off when fixed fees are increased.[61]

55. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.74.
56. Ibid – paragraph 8.73(a).
57. Ibid – paragraph 8.25.
58. See Section 2.3 below.
59. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.95.
60. See Section 2.3 below.
61. Indeed, it was for this reason that the Immigration Law Practitioners' Association actually opposed an increase to fixed fees in 2020 – Immigration Law Practitioners' Association (2020) 'Statement on the new immigration and asylum fixed fee'.

Simplified example:

A provider has a claim worth £1100. Under a hypothetical fee scheme, claims can 'escape' the fixed fee if the provider bills more than double the value of the fee.

If the fixed fee is £500, the provider's £1100 claim is worth more than double – so they receive £1100. But if there is a higher fixed fee of £600, the claim is not worth more than double – so they only receive £600, and are £500 worse off under the higher fee.

This means that claims' potential to 'escape' can result in different claims being worth drastically different amounts of money, despite having required similar amounts of work.

(b) The situation where a provider spends less time on a case than they should but still gets paid the same.

The contractual safeguard against situation (b)[62] is Key Performance Indicator 3A:

KPI 3A: the effective hourly rate[63] a provider receives across their total fixed fee claims must not be more than 20% higher than if they had been paid at hourly rates.[64]

The effect of KPI 3A is to impose a minimum quantity of work for providers to record on average across their fixed fee claims. Its potential to prevent situation (b) is limited for three reasons.

First, it applies the same minimum threshold irrespective of an individual client's actual needs. If a client needs lots of a provider's time, then the provider could spend less time on the case than they ought but still do more than KPI 3A requires. The aim of KPI 3A is to ensure that providers take on an appropriate mix of cases[65]– and not to ensure that providers are conducting the appropriate amount of work for each individual case that they take on.

Second, KPI 3A measures the average time recorded against all of a provider's fixed fee claims. So, it can still be met when a provider records less than the minimum against an individual claim. What matters for KPI 3A is that the provider does not *consistently* fall below the minimum threshold. An individual claim falling below the minimum threshold will not be caught by KPI 3A where the provider makes proportionally enough claims above the threshold.

62. In the context of Controlled Work.
63. Here excluding non-billable time – the average amount a provider earns per hour worked under a fixed fee. For example, if a provider works 4 billable hours and receives a fixed fee of £200, their effective hourly rate will be £50/hr.
64. Standard Civil Contract 2024, Specification (general provisions) – paragraph 2.65.
65. Ibid - paragraph 2.64

Third, LAA is less able to detect fixed fee claims that 'round up' their time record. As is explained in more detail in Section 2.3. below, LAA normally only assess a sample of providers' fixed fee claims[66] and LAA cannot adjust the amount fixed fee claims are paid.[67] LAA does not consider whether the amount paid should be otherwise adjusted. As a result, LAA is less likely to detect inaccurate time recordings on claims which do not escape.

2.3. When a provider has done enough work to be paid by the hour (escape claims), they are subject to more onerous compliance requirements.

Providers can sometimes be paid by the hour for work that would normally receive a fixed fee. This will happen when a provider records that the claim meets the criteria to escape[68] – principally that they have done enough work on the file.

a. The escape criteria.

The escape criteria are different in different categories of law. Under the Immigration Contract, a fixed fee claim escapes where:[69]

(a) The value of the claim paid at hourly rates

Minus

(b) The value of any additional fees claimable[70]

Is greater than

(c) 'The escape threshold' – twice[71] *the value of the applicable fixed fee.*

Escape claims are paid at hourly rates and LAA assesses them differently from fixed fee claims.

b. More onerous compliance requirements for escape claims.

Escape claims are somewhat uncommon. In the financial year 2024-25 (the last year for which data is available), they accounted for only 4.5% of asylum Controlled Work claims and 20.2% of immigration Controlled Work claims.[72] To some extent, this can be explained by the risks associated with billing escape claims as compared with fixed fee claims.

LAA treats escape claims differently to fixed fee claims in three ways. First, LAA scrutinises escape claims' time recordings more closely. When assessing fixed fee claims, LAA will not reduce the amount they pay for a claim unless they reject it altogether.[73] In contrast, when assessing escape claims, LAA will additionally consider how much of the amount claimed is payable (and, if the amount is lower than claimed, whether the claim falls below the escape threshold and should be paid the fixed fee).[74]

66. A minimum of 20 fixed fee claims (Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.47).
67. Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.44.
68. Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.13.
69. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.99.
70. These are explained in Section 2.4.
71. For cases opened after 31 March 2023. Prior to this, the escape threshold was three times the value of the applicable fixed fee. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.98.
72. See LAA's response to Joseph Summers's Freedom of Information request, dated 13th July 2026.
73. Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.44.
74. Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.17.

Second, LAA assesses every escape claim a provider makes under the Immigration Contract, but only assesses a sample of their fixed fee claims. LAA has the right to individually assess fixed fee claims[75] but is *required* to do so in relation to escape claims made under the Immigration Contract.[76] In practice, this means that LAA tends not to assess any of a provider's fixed fee claims until a sample (of no fewer than 20)[77] is assessed when the provider is subject to LAA's 'assurance activities'.[78]

Third, LAA makes an overall assessment of a provider's escape claims but does not do the same for their fixed fee claims. Providers will be in breach of the Immigration Contract where LAA reduces the overall value of their escape claims by more than 10%[79] in a three-month period (or the period covering their 10 latest escape claims, whichever is longer).[80] This means that where LAA disputes the time recorded against an escape claim, providers will both be paid less than expected and be at risk of additional sanctions following LAA's overall assessment of their escape claims. Sanctions can be as severe as contract termination[81] and, even where a breach does not result in a sanction, LAA can take it into account when deciding whether to renew a provider's Immigration Contract.[82]

LAA does not make an equivalent overall assessment of fixed fee claims.[83] LAA assesses fixed fee claims by looking at a sample of a provider's claims and (potentially) by assuming that any mistakes made in the sample are replicated across the rest of their fixed fee claims. So, for example, if a provider is found to have claimed the wrong fixed fee for a portion of the sampled claims, then LAA can adjust the rest of the provider's claims accordingly.[84] Providers who have overclaimed fixed fee cases will not, however, be subject to the same sanctions as those who have overclaimed escape fee cases.

Individual escape claims therefore present a greater compliance risk to providers than individual fixed fee claims. This can be understood as an extra cost.

75. Standard Civil Contract 2024, Specification (general provisions) – 4.44.
76. Ibid, 8.94.
77. Ibid, 4.47.
78. Most likely in the context of Contract Management Activities (regular review by a Contract Manager) or a Cost Assessment Audit (used to assess the general accuracy of a provider's claims across a significant time period). See further: https://assets.publishing.service.gov.uk/media/67a616ce6006e4154dc498a6/LAA_List_of_Audit_and_Assurance_Activities_2025.pdf
79. Standard Civil Contract 2024, Specification (general provisions) – paragraph 2.61 (KPI 1); failure to meet a KPI is a breach of the contract (Standard Civil Contract 2024, Standard Terms – clause 11.1).
80. But never a period longer than 12 months – Standard Civil Contract 2024, Specification (general provisions) - paragraphs 2.53 (assessment period for KPI 1) and 2.55(a) (minimum case volume for KPI1).
81. Standard Civil Contract 2024, Standard Terms – clause 24.14.
82. Ibid, clause 11.6.
83. The only KPI applicable to immigration fixed fee claims is KPI 3A described above (Standard Civil Contract 2024, Specification (general provisions) – paragraph 2.65).
84. Standard Civil Contract 2024, Specification (general provisions) – paragraph 4.47.

2.4. Additional fees can be paid in limited circumstances.

Providers can sometimes be paid additional fees on top of fixed fees. The Regulations provide additional fees for:

(i) Attending UKVI interviews.[85]
(ii) Advocacy Services (although, in practice, these are usually paid to counsel).[86]
(iii) *Making referrals to the National Referral Mechanism ('NRM')– although the relevant provisions*[87] *of the Nationality and Borders Act 2022 were never commenced, so these* ***cannot be claimed except in very limited, historic circumstances***.[88]

In practice, these services are narrowly defined. So, although work paid by additional fees has no prospect of being paid by the hour,[89] they are unlikely to result in providers spending less time on cases.

(i) Attending UKVI interviews:

This service is only payable by an additional fee in limited circumstances, for two reasons.

First, attending a UKVI interview is normally out-of-scope for legal aid[90] – with three exceptions:

(a) The interviewee is a child (or is being treated as such).[91]
(b) The interviewee is being detained.[92]
(c) The interviewee lacks mental capacity.[93]

(b) and (c) only apply where the interview is not a screening interview.

Second, a provider can only claim an additional fee attending a UKVI interview where the matter would otherwise be paid by fixed fee.[94] This effectively limits the additional fee to interviews attended under (c).[95]

As a result, the scope of work payable by the UKVI additional fee is narrow – so the amount of time providers take to receive it is unlikely to vary significantly. So, provided the fee is properly calibrated, there is limited potential for providers to be paid too much or too little for their work.

85. Table 4(b), Part 1, Schedule 1, Civil Legal Aid (Remuneration) Regulations 2013.
86. Table 4(c) and Table 4(ca), Part 1, Schedule 1, Civil Legal Aid (Remuneration) Regulations 2013.
87. Sections 66 and 67, Nationality and Borders Act 2022.
88. Specifically, where providers carried out work after 1st April 2023 in reliance on LAA's communications that such fees were claimable but before LAA's communication to the contrary – see further Legal Aid Agency (2026) 'Nationality and Borders Act 2022: 2018 Standard Civil Contract Changes v.2.0'.
89. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum - paragraph 8.99(a).
90. Paragraph 30(3), Part 1, Schedule 1, Legal Aid, Sentencing and Punishment of Offenders Act 2012.
91. Regulation 3, Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012.
92. At a place specified in Schedule 2 to the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 – Regulation 4, Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012.
93. Within the meaning of section 2, Mental Capacity Act 2005.
94. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.68.
95. The following matter types are excluded from the standard fee scheme: UASC work (h); and separated children (n). Age assessment appeals are also excluded (n), although age-disputed individuals are not covered by (a) unless the Home Office exercises its discretion to treat the individual as a child for the purposes of the interview (Regulation 2(b), Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012) – Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum – paragraph 8.101.

(ii) Advocacy services:

Additional fees payable for advocacy services can be paid whether a provider performs the relevant services or instructs counsel to do so. Although it is more common for counsel to be paid advocacy fees, they are still useful to consider here because they are structured differently to UKVI fees.

Whereas UKVI fees indirectly control the amount of time that providers can spend on work provided under them by limiting the types of work they can pay for, advocacy fees do so directly. Advocacy fees are paid for advocacy in the Immigration Tribunal. If a substantive hearing goes on for more than one day, then additional fees are payable for each additional day.[96] In effect, therefore, advocacy fees function as day rates for appearances at the First Tier Tribunal. In this respect, they are more analogous to an hourly rate than a fixed fee. Further, unlike with standard fixed fees, the opportunity for providers to be paid a surplus (i.e. to be paid at a higher rate than the standard hourly rate) repeats. Thus, advocacy fees offer only a limited incentive to cherry-pick cases that are likely to have short hearings.

(iii) NRM referrals:

Although, in the end, additional fees payable for NRM referrals were never properly introduced, they had two unusual features which make them useful to consider here.

First, the NRM fee clearly prescribed the services that it was to pay for.[97] It was to be paid for the time spent by a provider explaining: what the NRM is; what support surrounds it; how it interacts with the immigration system; and how the referral process works.

Second, it explicitly replaced payment for any ongoing advice and support for a client going through the NRM process.[98] As a result, the additional payment for NRM referrals was to function as a payment for discrete work. Providers had limited discretion about what services they would have provided under it – and, therefore, were unlikely to be able to adjust their behaviour accordingly. Although it might have had that benefit, the exclusion of ongoing support from their scope might have resulted in providers declining to offer necessary support.

96. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum - paragraphs 8.87(b) and 8.104(b).
97. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum - paragraph 8.57.
98. Standard Civil Contract 2024, Category Specific Rules: Immigration and Asylum - paragraph 8.58(b).

What can be learned from the scheme's additional fees?

Additional fees provide a useful contrast with the fixed fees payable for Controlled Work. They demonstrate that the problem is not with fixed fees per se. Rather, their potential to pay providers too much or too little results from the fact that they cover a wide range of work. As a result, the effective hourly rate a provider receives from a standard fixed fee can be highly variable.

The Immigration Contract's additional fees show two ways of limiting this. First, additional fees can only pay for limited kinds of work. Thus, providers have a narrow range of cases to pick from when taking on work payable by additional fees – and they cannot reliably choose cases that are likely to be more profitable. Second, they can repeat. So, providers' potential to be paid in surplus or deficit above or below the standard hourly rate is limited.

These two strategies could be deployed to improve the functioning of Controlled Work fixed fees. However, the fixed fees policy objectives explained in Section 1 sit in tension with this: they were introduced to reduce the administrative burden of administering legal aid.[99] Introducing a 'menu' of different, narrowly defined, fixed fees would likely be more administratively burdensome than hourly rates.

Before that assessment can be made, though, it is helpful first to explore how providers are incentivised to act in response to the above characteristics of the Immigration Contract's fixed fee scheme.

99. Department for Constitutional Affairs (2006) 'Legal Aid: a sustainable future', CP 13/06.

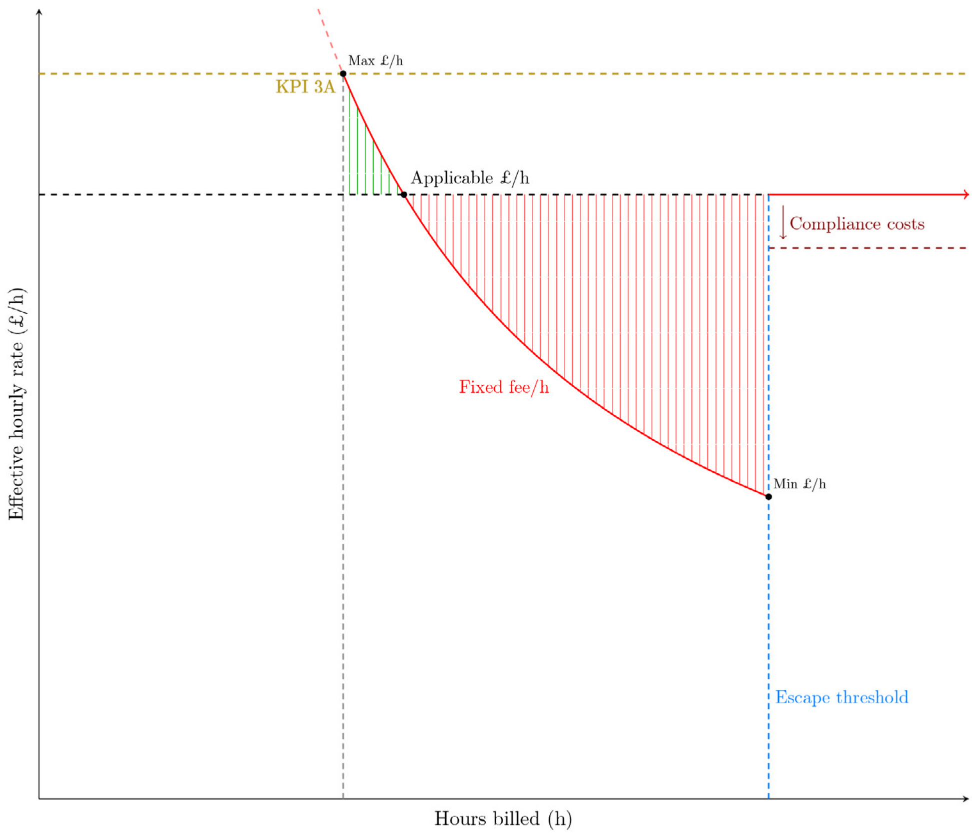
3. A Supermarket Model of Immigration Legal Aid

Section 2 made the following observations about the Immigration Contract's fee scheme:

- Most work under the Immigration Contract is paid by fixed fees.
- Providers are paid a diminishing effective hourly rate for their work under a fixed fee (i.e. the longer they spend on a case, the lower they will be paid per hour).
- The diminishing hourly rate is limited in two ways:
  (i) Providers must (on average) record a minimum quantity of work against claims (KPI 3A; and
  (ii) Individual cases can 'escape' and be paid at hourly rates if the provider spends enough time on it.
- Escape claims are subject to more onerous compliance requirements, which can be understood as an extra cost.
- Additional fees are paid for narrowly defined discrete services. They are billed separately and do not affect whether a provider receives a fixed fee or is paid by the hour.

These observations give rise to the following simplified fixed fee payment model (Figure 1). The hourly rate a provider receives for a given matter depends on whether they have spent enough time on it to reach the escape threshold (shown in hours by the blue line). Before hitting the escape threshold, the provider is paid a fixed fee. So, the amount they receive per hour worked decreases as they spend more time on a matter (shown by the red downwards-curve) – although they must spend enough time on the matter to meet KPI 3A (shown by the yellow line). After the provider hits the escape threshold, they are paid by the applicable hourly rates (shown by the flat red line).

Figure 1: the fixed fee payment model



The model in Figure 1 simplifies the fee structure in four ways:

(i) KPI 3A applies as a limit on each individual case, rather than as an average.
(ii) Additional fees are excluded (as they are from the escape threshold calculation).
(iii) One hourly rate is paid for work conducted on a case. In practice different rates apply for: (i) preparation and attendance; (ii) travel and waiting times; (iii) routine letters out and telephone calls; and (iv) advocacy.
(iv) The additional compliance requirements associated with escape claims are modelled as having the effect of reducing a provider's hourly rate (i.e. as a constant marginal cost). In practice, the discount effect of compliance might be greater closer to the escape threshold where a provider goes back to check work already done.

What does the fixed fee payment model show?

The solid red line shows the amount per hour a provider is paid ('effective rate') by hours billed on a file ('effective rate line'). A provider's effective rate will be maximised where a provider spends the minimum permissible time on a matter (shown at point *max £/h*). As the provider spends more time on a matter, their effective rate diminishes until they hit the escape threshold (shown at point *min £/h*). So, a provider's effective rate will be at its lowest where a provider comes close to, but falls short of, the escape threshold.

At a certain *h*, a provider's effective rate equalises with the applicable hourly rate ('the crossover point'). If a provider spends less time on a matter than that, then their effective rate is higher than the applicable hourly rate and they achieve a surplus (given by the distance between the effective rate line and the applicable rate line – shaded green). If a provider spends more time on a matter than *h(crossover point)*, then their effective rate is lower than the applicable hourly rate and they are in a deficit (given by the distance between the effective rate line and the applicable rate line – shaded red).

The applicable rate is less than the maximum effective rate. So a provider is better off minimising the time they spend on a matter than they are passing the escape threshold. This effect is compounded by the increased compliance costs for escape claims. As shown by the dark red line, increased compliance costs reduce the post-escape threshold effective rate line – meaning that the crossover point would shift along the effective rate line to a greater *h* (although the fixed fee would remain the same).

The generic model can be modified to show the effects of two features of the Immigration Contract:

(i) Higher rates apply in London (figure 2).
(ii) The escape threshold lowered in 2023 (figure 3).

Figure 2: the fixed fee payment model with a change in applicable hourly rate

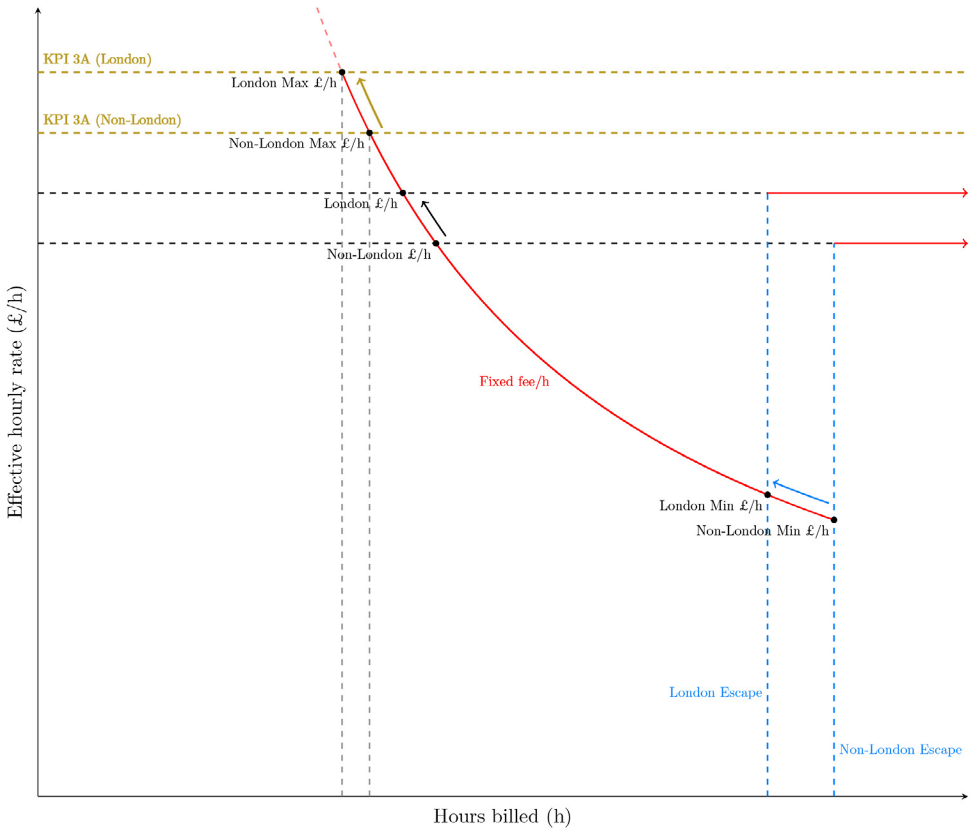


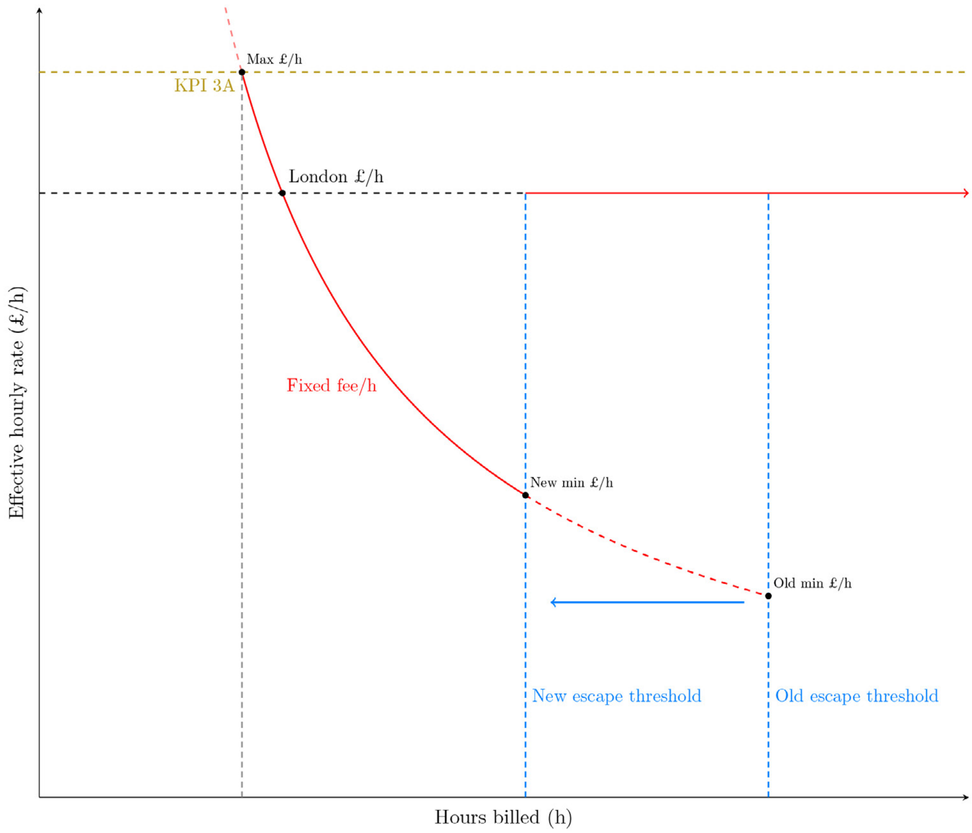
Figure 2 shows the effect of increasing the applicable hourly rate (for the same fixed fee).

The crossover point shifts inwards along the effective rate line, meaning that providers have less opportunity (in terms of time spent) to make a surplus under a higher rate. Similarly, both the minimum and maximum rate increase. The minimum increases because, under a higher applicable rate, providers will have to work for less time to reach the same escape threshold. The maximum increases because it is achieved where the effective rate line is equal to KPI 3A – which is a function of the applicable rate.

The rate of decrease of the effective rate line decreases as hours increase. This means that while the three points (crossover, minimum, maximum) shift in the same direction, their shifts have different effects. The maximum occurs where the curve is steepest; so, a small change in *h* billed can have a relatively large effect on the associated effective rate. The minimum, in contrast, occurs where the curve is shallowest; so, a larger change in *h* is required to attain an equivalent change in effective rate.

This leads to the following two differences between how the immigration legal aid fee structure operates in and outside of London – both of which advantage London providers. First, London providers can attain a higher maximum effective rate for a small reduction in hours billed (although the significance of this is limited given that they are paid the same fixed fee). Second, non-London providers have to bill more hours relative to their lower applicable rate to 'escape' the fixed fee. As a result, the scope for non-London providers to work at a deficit is greater than for London providers.

Figure 3: the fixed fee payment model with a change in escape threshold



From 1 April 2023, the escape threshold changed from three to two times the value of the applicable fixed fee. That change in escape threshold differs from the change in Figure 2 because the fees stayed the same.

Figure 3 shows how this benefitted providers. The change considerably reduced the scope for providers to work at a deficit. The dashed red line shows how providers used to work at a deficit for longer before their claim would exceed the escape threshold.

The supermarket model: predictions

The fixed fee payment model shows that providers can maximise profits by minimising the amount of time they spend on cases (subject to KPI 3A) and maximising the number of cases they take on.

This incentive persists despite claims' potential to escape and be paid at hourly rates. Hourly rates are lower than the effective rate which can be attained by minimising time spent on a matter. A provider can obtain a surplus above the applicable rate taking on simple matters which require minimal time. The opportunity to make a surplus is greater in practice because escape claims have higher compliance costs.

For a fixed number of hours billed, a provider will be better off if they bill multiple small matters than if they bill a single escape claim with a high number of hours worked.

This central prediction of the model is made more likely by the way legal aid is paid. Providers must perform work before they can bill it – and can have a long, indeterminate wait between work's completion and its payment.[100] As a result, providers can experience cashflow problems where they have had to pay the costs of completing work (wages, rental costs, bills etc.) but have not yet been paid for it. Taking on a big claim can make this worse – not only does it take more time to perform the work (i.e. before payment) but also the provider risks relying on a single payment, which may be delayed or disputed by LAA.

The Immigration Contract thus envisages a 'stack 'em high, sell 'em cheap' model of service delivery. In this way, the fixed fee payment model is a 'supermarket model'[101] of immigration legal aid.[102]

100. This is explained in more detail in the report published alongside this one – Summers, J. (2026) 'Assessing Eligibility for Immigration Legal Aid: Why Some Cases are Harder to Take On', Public Law Project - Section 4.3.
101. Hillary Sommerlad adopted the term to describe a model of legal services that produces standardised legal products (as distinct from an 'artisan' model) – Sommerlad, H. (1999) 'The Implemetation of Quality Initiatives and the New Public Management in the Legal Aid Sector in England and Wales: Bureaucratisation, Stratification and Surveillance' 6(3) International Journal of the Legal Profession 311.
102. Assuming that providers meet their obligation to act in their clients' best interests, the best strategy for maximising profits under the supermarket model is to cherry-pick simple cases. In practice, this assumption might not hold: providers might plausibly argue that a range of actions are consistent with a client's best interests; and some providers might simply prioritise profitability over their ethical obligations (see e.g. Migrants Organise (2025) 'Threadbare: The Quality of Immigration Legal Aid').

4. Should we replace fixed fees?

Fixed fees are deeply unpopular with immigration providers – there have been numerous calls for their abolition, including from representative bodies.[103]

Public Law Project has long called on government to reconsider their use.[104] This report's supermarket model analysis supports that conclusion. It additionally shows that the Immigration Contract's system of fixed fees is poorly calibrated for achieving fixed fees' policy objectives.

The first objective was to disincentivise providers from spending more time than necessary on their cases. In one way, the model suggests that the Immigration Contract's fixed fees do this: below the escape threshold, providers will always receive a high effective hourly rate if they decrease the amount of time they spend on a case (until they hit the minimum prescribed by KPI 3A). However, incentivising providers to minimise the amount of time they spend on individual cases is not quite the same thing as incentivising providers to spend no more time than necessary on each case. The same incentive that discourages providers from spending more time than necessary may also encourage them to spend less time than necessary.

The supermarket model also shows that where providers are close to the escape threshold, they have every incentive to cross it: their effective hourly rate will increase by much more if they spend more time on a case and reach the escape threshold, than if they spend less time on a case and do not. So, the model suggests that the Immigration Contract's fixed fees achieve Objective 1 in respect of simple cases – but actually have the reverse effect in respect of complex ones.

The second objective was to incentivise providers to deliver services more efficiently by enabling providers to obtain a surplus above the applicable hourly rate. Efficiency here means efficiency of business management – things like billing and installing IT software.[105] Delivering services more efficiently is one strategy which is consistent with the supermarket model. But it is not a very good one. Much billing and compliance work is not chargeable.[106] So, these core parts of the objective are not related to the fixed fee incentive. A better strategy is to cherry-pick simple cases and obtain the surplus that way.

The third objective was to reduce the cost of administering legal aid. Fixed fee claims were identified in Section 2.3 as being less administratively burdensome than hourly rates claims for the same work. In this respect, the Immigration Contract's fixed fee scheme has been a success. However, Section 2.3 also explained that to achieve this, fixed fee claims are subject to sample reviews – which are associated with a higher level of financial risk (because LAA can adjust all claims to reflect errors made in a few). So, although the direct cost of administering fixed fee claims may be lower, the risk factor associated with them might, in effect, change that.

103. See, for example Immigration Law Practitioners' Association (2024) 'ILPA Response to RoCLA call for Evidence'; Electronic Immigration Network (2024) 'Over 60 NGOs call for urgent changes to immigration legal aid' reporting on a group convened by Migrants Organise; and Wilding, J. (2024) 'A menu of civil legal aid policy options for a new government'.
104. See, for example, Public Law Project (2024) 'Public Law Project's response to the Ministry of Justice Review of Civil Legal Aid Call for Evidence' – paragraph 9.
105. Department for Constitutional Affairs (2006) 'Legal Aid: a sustainable future', CP 13/06 – paragraph 2.8.
106. Administrative work including opening files, time recording, and complying with the contract other than the direct provision of legal services to a client is not chargeable work (Legal Aid Agency (2024) 'Costs Assessment Guidance: for use with the 2024 Standard Civil Contracts' – paragraph 2.1).

The Immigration Contract's fixed fee scheme should be reconsidered. It introduces a significant incentive for providers to cherry-pick simple cases and has had questionable efficacy in meeting the policy objectives for which it was introduced.

Alternative Models

Replacing the fixed fee scheme could help mitigate the mis-incentives identified by this report, but would also require consideration of how well any alternative would achieve the above policy objectives. The following two options could act as a starting point for such a reconsideration:

(i) **Trust-based payment at hourly rates:** providers could face different compliance requirements based on their historic reporting accuracy. In the context of assessing payments at hourly rates, 'high-trust' providers could be subject to sample review whereas new or lower trust providers could be subject to case-by-case review. A trust-based model is in place in the Netherlands, but only applies to authorisation prior to work being carried out (whereas providers in England and Wales can self-certify for Controlled Work).[107]

(ii) **Refined fixed fees:** the core problem with fixed fees is that they cover a wide range of work, so providers need to choose between more and less profitable cases when taking on work. That range could be narrowed so as to better define the services that fixed fees pay for (as is the case with some additional fees). A possible advantage in this approach is that it could better define the outcomes that providers are expected to obtain in exchange for their payment. This might prove difficult, though. First, it could increase the administrative burden on providers. If there were lots of different fees associated with different kinds of work, providers and LAA would need to keep track of it all – and make sure that work is billed correctly. Second, outcome-based payments could make providers' income harder to predict. Even high-quality lawyers lose cases – it is rare for a case to be a sure-thing.

The case for reconsideration is made stronger by the effect of the supermarket model on how providers regulate access to their services - which is considered in detail in the follow-up to this report 'Assessing Eligibility for Immigration Legal Aid: Why Some Cases are Harder to Take On'.

107. Khan, D. and Parekh, N. (2024) 'Review of Civil Legal Aid in England and Wales: Comparative Analysis of Legal Aid Systems', Open Innovation Team – paragraph 7.1.

Conclusion

The way that immigration legal aid is paid incentivises providers to maximise the number of cases they take on while minimising the amount of time they spend on each case.

This is primarily because the scheme relies on payment by fixed fees – which reward providers for the kinds of work they take on, rather than the amount of time they spend on each case. As a result, simpler cases can be paid at higher hourly rates than more complicated ones – rewarding providers who adopt a 'supermarket model' of provision and cherry-pick the simplest cases.

Fixed fees were introduced with good intentions: to disincentivise providers from spending unnecessary time on a case; to improve the efficiency of providers' businesses; and, most importantly, to reduce the cost of administering the simplest kinds of work. But the Immigration Contract's fee structure is poorly calibrated for achieving these aims: it fails to safeguard against cherry-picking simple cases and it remains administratively burdensome.

The risk of this system is that it produces a distribution of legal aid which is based on administrative convenience rather than an assessment of need. Demand for immigration and asylum legal aid services far outstrips supply.[108] So, the providers of those services are being asked to perform a kind of social rationing: they are simply unable to help all their prospective clients secure the funding they are entitled to. And immigration and asylum legal aid providers are under intense commercial pressure. The reality for many is that they simply cannot afford to ignore financial incentives. So, more providers may seek to stack cases high and deal with them cheaply.

Providers formally determine who can access their services by applying the eligibility criteria for immigration legal aid. Their application of those criteria may be influenced by the commercial incentives set out in this report. The reasons for that are explored in a follow-up report, called 'Assessing Eligibility for Immigration Legal Aid: Why Some Cases are Harder to Take On'[109]– which examines the Immigration Contract's allocation of non-payment risk and administrative burden through the eligibility criteria.

In short, this report has shown that we need to look again at how immigration legal aid is paid. Providers should not be worse off for giving cases the time they need, nor should they be rewarded for cherry-picking simple cases. But as it stands, they are. Fixed fees reward providers for doing less.

108. See further Rourke, D., Cripwell, E., Summers J. and Hynes, J. (2023) 'Accessing Immigration Legal Aid in 2023: An Ocean of Unmet Need', Public Law Project.
109. Summers, J. (2026), Public Law Project.

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