

Wilson's: Believe in justice for all

HERE FOR GOOD

Response from Wilson Solicitors to the Call for Evidence for the Civil Legal Aid Review (written with the resource support of the Here for Good charity)

"I didn't find any solicitor for my case, can you help me....."

"I need your help. I need legal aid as well. I am jobless and homeless as well. I need some guidance as I am not well aware of everything. Can you please help me out? I hope I will hear from you soon....."

Introduction

[Wilson Solicitors](#) is a private practice solicitor partnership that provides legal services in family law, immigration law, public law, community care, actions against public authorities and human rights.

We provide services to private paying clients and to the Legal Aid Agency under the Standard Civil Contract.

We **believe in justice for all** and that is what motivates our 7 equity partners who own the business and our 110 staff who work in it.

We welcome the Call for Evidence. Because we can't help people like we used to.

Other organisations will be providing evidence in response to many of the questions asked in your call.

We believe the most useful evidence we can provide is evidence of how the **failure to uprate legal aid rates to account for inflation** has affected our organisation. It has forced us to pivot away from legal aid thus reducing our capacity to take on legal aid cases.

We still do legal aid but not in the same volume as we used to. And not in the volume that we would like to do – if only it was affordable.

This response seeks to answer the first question of your call for evidence:

Do you have any suggestions of changes that could improve civil legal aid – both short-term and longer-term changes?

It can also be read as a response to your questions on fees and your statement that:

“The Review aims to ensure that civil legal aid offers a financially viable business option for legal aid providers (both private and not-for-profit) and is an attractive career option.

Our suggestion is that for civil legal aid to be sustainable and to ensure that it offers a financially viable business option **the rates that are paid to providers must be reviewed regularly so that they do not lose their value.** Failure to do so makes legal aid work unaffordable to do and providers will pivot away to other affordable work.

In our response we provide the evidence of how that has happened at Wilson Solicitors and we then set out a number of options to address this.

A little bit of history

Wilson Solicitors was set up in 1989. It was set up as a “legal aid firm” in the sense that it wanted to help those on low incomes to access justice in our Tottenham community.

When we first set up we did all sorts of legal aid cases – criminal, housing, personal injury, welfare, family and immigration. We were referred cases from local community organisations, the CAB, and our local MP David Lammy. We took everything on. We served the community.

Legal aid work has always been low paid compared to the rates you can charge and be paid for by private clients. But we were willing to do legal aid because we believed in it and doing it is a vocation with a public service ethos that all of us at Wilsons have.

But in exchange for doing low paying work for the public good **we thought we had a deal** with government – we will provide a public legal aid service at low rates of pay so long as those low rates keep their value.

That deal was essential if we were to do our business planning for the longer term, planning in the knowledge that if inflation goes up then the rates will too and not lose their value.

For many years government kept to their side of that deal. The legal aid rates were annually reviewed on the 1st April and uprated in line with the uprating of welfare benefits. Small rises each year – 1% or 2% - but they kept pace with the cost of living.

The deal started to break down after the Labour Party came to power in 1997. They wanted to review legal aid and how it was organised and funded. That was done in good faith but the cost of running a firm and the effect of inflation seemed to be forgotten. They stopped uprating annually.

Inflation was fairly low at the time so it was not considered too much of a problem. But as the years passed with no increases the value of the rates we were paid began to fall and costs went up.

The government introduced franchising in 2007 and we got a franchise. There were some small increases for franchised firms in 2007 and then 2008. But nothing in the ten years before and no review of the rates again until 2011. In the meantime we gave up our housing and welfare benefits work. It was not affordable and we made a loss on it.

In 2011 the rates were reviewed and went down by 10%. This was part of a government wide austerity package. We were supposed to find efficiency savings even though the rates we were being paid had lost so much value since 1997.

Nevertheless we looked for 10% of efficiency savings. And found none.

We froze pay rises initially but that was not sustainable long term – you have to pay your staff adequately to keep them.

We cut back on the support staff but that was counterproductive. As the legal aid administration became more complex with the introduction of the myriad of fixed fees and different funding regimes we had to increase the number of billing staff we employed rather reduce them.

As IT developed we had to keep up with what was expected and spend hundreds of thousands on a new case management system with expensive annual maintenance costs. The only thing we have really saved on is the cost of paper and photocopying by going paperless but those savings are matched by the higher IT costs required to work electronically.

The one big unwelcome “efficiency saving” that was forced upon us by the 10% cut was the closure of our criminal department set up by our late founder Andrew Wilson. We had always done crime in volume and employed a number of criminal duty solicitors. The cost of their salaries and overheads could not be funded by the fees they were able to bring in. The fees paid under criminal legal aid were just too low and there was minimal opportunity for privately funded criminal work to pay a higher rate. We had to make the solicitors in the criminal department redundant and give up our criminal contract.

We decided to focus on three areas of civil law only – family, immigration and public law (incorporating community care, actions against public authorities and human rights). And we did that for a specific reason – all three areas had growth potential in privately funded or Inter Partes funded work. This would enable us to slowly pivot away from legal aid to survive.

Turn around the oil tanker and head to another port as we like to say at Wilsons.

And we needed to pivot away because of one thing – inflation, and the failure of successive governments to recognise its effect on legal aid providers.

Inflation – it’s a real thing

You would have thought it wouldn’t need saying, but inflation is a real thing. And it affects the costs of running a legal aid practice. Costs go up with inflation and if income doesn’t go up to cover those costs you have a problem.

And it is costly to run a law firm.

The salaries of all the staff are the biggest cost including pension contributions and employers national insurance.

Then you have rent, rates, heat and light, insurance, training, IT, subscriptions, staff welfare, cleaning, repairs, hire of machinery, and interest on the loans taken out to fund the business.

Because legal aid pays you in arrears for the work done a substantial amount of capital needs to be invested in the business to cover day to day costs. At Wilsons that is over £2 million invested by the equity partners and funded in the main by loans that they pay interest on.

For the purpose of this response we think it helpful to look at one 10 year period. We have chosen from 2013, soon after the 10% cut, through to 2023. This was a 10 year period when there was 0% increase in the civil legal aid rates. We have data for all these years. The “year” is the “financial year” which for us ends on 31st March each year.

All our costs have gone up with inflation over the last 10 years. The Table below shows that our non-salary costs have increased by 100% and our salary costs by 48%. We have grown staff numbers during that period but only by 37%.

Year	Increase in legal aid rates	Non-salary costs	Salary costs	Staff numbers
2013	0%	£701,896	£2,382,740	80
2023	0%	£1,400,639	£3,529,028	110
Total Increase	0%	100%	48%	37%

Those increases to our costs, not met by any increase in legal aid rates, was caused by inflation. So what rate has inflation been over the last 10 years? The Table below shows that according to the Consumer Price Index the rate of inflation has cumulatively been **31.9%** over the period 2013-2023.

Year	Increase in civil legal aid rates	Inflation (+ cumulative) [based on the CPI Consumer Price Index source Statista.com]	London Living Wage increase	National Minimum Wage increase
2011	-10% (a decrease)			
2013	0%	2.6% (2.6%)	£8.55 (0%)	£6.19 (0%)
2014	0%	1.5% (4.1%)	£8.80 (2.93%)	£6.31 (1.93%)
2015	0%	0.0% (4.1%)	£9.15 (3.97%)	£6.50 (3.01%)
2016	0%	0.7% (4.8%)	£9.40 (2.75%)	£6.70 (3.07%)
2017	0%	2.7% (7.5%)	£9.75 (3.72%)	£7.20 (7.46%)
2018	0%	2.5% (10%)	£10.20 (4.61%)	£7.50 (4.16%)
2019	0%	1.8% (11.8)	£10.55 (3.43%)	£7.83 (4.39%)
2020	0%	0.9% (12.7%)	£10.75 (1.89%)	£8.21 (4.85%)
2021	0%	2.6% (15.3%)	£10.85 (0.93%)	£8.72 (6.2%)
2022	0%	9.1% (24.4%)	£11.05 (1.84%)	£8.91 (2.17%)
2023	0%	7.5% (31.9%)	£11.95 (8.14%)	£9.50 (6.6%)
Total over 10 years	0%	31.9%	34.2%	43.8%

So since legal aid rates have increased by 0% they have **lost 31.9% of their value** over the same period.

Salaries – the biggest cost for the greatest asset

The CPI shows the inflationary costs of purchasing certain consumer items. Some of these are purchased by law firms. But the major cost that a law firm has are the salaries that it pays to its staff.

We are accredited as a Living Wage employer and each year we ensure that our most junior members of staff are paid at least the London Living Wage. As you can see from the Table above the London Living Wage has increased by 34.2% over the 10 year period.

And the government's own minimum wage has been increased by 43.8%.

With a 0% increase in legal aid rates how can we afford to keep up with these minimum pay rates unless we do less legal aid work and more work at higher rates?

It is often said that the staff of a business are its greatest asset. Well that is definitely the case at Wilsons.

And if it was thought appropriate that we should respond to a 0% increase in the legal aid rates by giving a 0% increase in the pay of staff you are not living in the real world.

If you do not attempt to give your staff inflation or near inflation pay rises each year you are letting them down and don't be surprised if they give up and leave.

Reviewing pay

Every year in July we undertake pay review for all our staff.

For the support staff we try to give an inflation pay rise.

For our lawyers we try to increase their pay to reflect both their experience, the cost of living, and their performance in meeting targets.

We have some fixed salaries for certain roles. And we try to review these regularly so that they do not fall in value due to inflation.

In the Table below we set out two of these fixed salaries – the salary that a Trainee Solicitor starts on, and the salary that a Newly Qualified solicitor starts on.

We reviewed these upwards on a number of occasions in the past 10 years. Usually because we wanted our salaries to be fair and competitive with other legal aid firms.

Over the 10 year period the Trainee Solicitor salary went up from £19,000 to £28,500 (49%) and the Newly Qualified salary went up from £28,000 to £34,750 (24%)

How did we pay for these pay rises? Not from legal aid because the 0% increase provides no extra funds for pay rises.

Year	Increase in civil legal aid rates	Trainee Solicitor starting Salary	Newly Qualified Solicitor starting Salary
2013	0%	£19,000 (0%)	£28,000 (0%)
2014	0%	£20,000 (5.2%)	£30,000 (7.1%)
2015	0%	£22,000 (10%)	£30,000 (0%)
2016	0%	£22,000 (0%)	£30,000 (0%)
2017	0%	£23,000 (4.5%)	£30,000 (0%)
2018	0%	£23,000 (0%)	£30,000 (0%)
2019	0%	£25,000 (8.7%)	£32,000 (6.6%)
2020	0%	£25,000 (0%)	£32,000 (0%)
2021	0%	£26,000 (4%)	£32,000 (0%)
2022	0%	£27,000 (3.8%)	£33,000 (3.1%)
2023	0%	£28,350 (5%)	£34,750 (5.3%)
Total over 10 years	0%	49.219%	24.10%

What about our other staff?

The Table below shows the increase in the **average salary** paid at Wilsons over the last 10 years. This is for all staff – lawyers and support staff.

The average salary was £25,202 in 2013.

In 2023 it was £36,286.

A **37.9%** rise.

The 37.9% increase over 10 years is broadly consistent with the CPI inflation rate (31.9%) and living wage increase rate (34.2%) set out in the Table above. It obviously bears no relation to the 0% increase in the legal aid rates. We had to pay for the rises by looking elsewhere for income.

Year	Increase in legal aid rates	Average Salary at Wilsons and number of employees as at July each year	% increase in average salary
2013	0%	£25,202	-
2014	0%	£25,778	2.28%
2015	0%	£27,789	7.8%
2016	0%	£27,514	-0.8%
2017	0%	£29,158	5.9%
2018	0%	£32,028	9.8%
2019	0%	£31,240	-2.4%
2020	0%	£31,254	0.04%
2021	0%	£32,460	3.85%
2022	0%	£34,213	5.4%
2023	0%	£36,286	6.05%
Total	0%		37.9%

The pivot away from legal aid

Any business that sells a product or a service will have to increase its prices if their own costs increase due to inflation. That is just basic maths.

And if customers won't pay the higher prices then the business will either have to close or develop products and services that other customers will be willing to pay for at higher rates.

The Legal Aid Agency is one of many clients. It is a big client in terms of potential volume.

But it is a client who insists on paying us the same low rate of pay they paid us for our service 25 years ago and usually not until the end of the case.

One of our senior family lawyers sums it up.....

Children Act proceedings are complex proceedings where there is a heavy reliance on supporting evidence. Legal advisors need to prepare the evidence forensically and consider all the evidence to date to ensure that there are no gaps in the evidence. Often the legal advisors are the first people that the client makes the disclosures of abuse to, including sexual and physical abuse. A significant amount of skill and time needs to be exercised when taking instructions of such nature from a client. The fixed fee, even if you escape this, and the hourly rate for this type of complex work are pitifully low making it increasingly difficult for service providers to make an attractive area of law for young professionals to enter.

Whilst we still want to do work for the Legal Aid Agency, because we believe in justice for all, we cannot afford to do it in the same volume.

We have looked for, and found, customers who will pay us a higher price. And a price that we don't make a loss on.

The Legal Aid Agency has fewer providers willing to do legal aid than it used to. But it does get new ones willing to sign up on the low rates of pay. You may think that must mean the rates are OK. That would be a foolish conclusion to reach.

Providers apply for legal aid contracts for all sorts of reasons – but primarily to have the opportunity to do a legal aid case when it makes sense to do it. When it is profitable. A few here and there. A loss maker if it might lead to a better paid case in the High Court. A myriad of reasons.

But one thing is clear from the statistics, many providers with legal aid contracts open few legal aid cases and those like ourselves, who do it in volume, are doing less.

Our pivot away from legal aid has taken us down a number of new and exciting paths.

Family Department

In **Family** we now take on lots more private paying clients. They pay our partners rates of up to six times the legal aid hourly rate. And they pay our trainee solicitors more than double.

We have developed our private client skills and have a growing reputation for financial work, international adoption, and child abduction. We have recruited solicitors to join us specifically to do just private work and no legal aid work.

Meanwhile the core of our team is doing important publicly funded work under legal aid – helping victims of domestic abuse, parents losing their children to the care system, and representing

children as their guardians appointed by the court. But that work is done at a loss – it is subsidized by the private client work.

Public Law and Human Rights Department

In **Public Law** we specialise in challenging unlawful decisions taken by public authorities.

Many of these cases can be funded by legal aid and we do apply for legal aid certificates where they are available.

However, our main aim is to win the cases for our clients and if we win the case we get paid at the Inter Partes rate – effectively a private client rate.

We win most of our Public Law cases so the Legal Aid Agency does not have to pay a penny of costs in the end, and we get paid a better rate than legal aid provides.

We do still do some low paid Legal Help work in Public Law, especially for community care, but we can only do a limited number because we make a loss.

Immigration Department

In **Immigration** the bulk of the work we have historically done is funded under Legal Help and Controlled Legal Representation (for appeals to the First Tier Tribunal). This is some of the lowest paid legal aid work.

We turn away over 100 clients every month wanting us to take on their immigration case under legal aid. Many of these are destitute asylum seekers who are entitled to a lawyer under legal aid but cannot find one.

It used to be the case that you could normally find a lawyer to take on your appeal under legal aid but that is no longer the case and there are a growing number of asylum seekers having to represent themselves.

We can only take on a small number of Legal Help and CLR cases because we usually make a loss on them. They can only be done by junior staff on the lower salaries. And when they are finished the cost of billing them – which is still manually intensive – erodes at least 5% of the already low hourly rate.

Private work

In Immigration and Family we have seriously pivoted to private work to subsidize the legal aid work. We now have partners and solicitors who are just doing private work at hourly rates of £175-£350. They generate private work for junior staff paying rates of £80 - £125 per hour, much more than for legal aid cases.

In recent years we have also been instructed on a private client basis to advise groups of people who have fallen through the net of legal aid and LASPO. We have been paid £100 an hour for a junior solicitor to advise street homeless by a national homeless charity and £250 an hour for a partner to advise the migrants whose living costs had to be funded by a local authority and get them status in the UK so they could be self-sufficient. Numerous social services departments across the country have paid us fixed fees to register children in their care as British – fixed fees that are five times the legal aid fixed fee for immigration.

What all these examples have in common is the recognition by the charity or local authority that it is in their best interests – from a cost point of view – to pay us to resolve the legal problem of their client group because once that problem is solved they can move on in their lives and become self-sufficient.

That is what lawyers can do – and what legal aid can potentially deliver if it was paid at a proper rate.

Partnerships with charities

Our main charity partner is [Here for Good](#). We first started working with the Here for Good charity following Brexit. They were concerned that there would be many EU nationals who would require legal advice to navigate the complex EU Settlement Scheme. The Legal Aid Agency had said that legal aid would not cover such advice because it would be out of scope. We were approached by Here for Good to see if we would enter into a contract with them to employ a solicitor who could work full-time advising EU nationals referred by the charity. We did that for 12 months successfully.

Then when the Ukraine war broke out there were many Ukraine nationals needing advice to navigate the scheme set up by the Home Office. Here for Good raised funds to provide an advice line and to pay for a caseworker to do casework under a second contract with us. And that is still ongoing.

We recently entered into a third contract to identify cases for strategic litigation of the EU Settlement Scheme. And we have had a number of small single project contracts.

Under all these contracts we agree a fee that we are paid by the charity. It is a “not-for profit” fee – so covers all the costs but does not contribute to profit. It is usually around £70 per hour which is still much higher than the £51-57 we would be paid for doing Legal Help or CLR work under legal aid. And we get paid quarterly for the work done and the administration of running the cases and the billing process is simple.

Charitable funding will never be sufficient to replace legal aid in volume but whilst the rates remain so low charities are having to fill the legal aid gap.

The point is this – if legal aid rates don’t go up for 25 years then legal aid providers will need to look for other sources of income that pay at a rate that keeps up with the costs of running a law practice.

The people who will suffer are those that need legal aid for their problem, are entitled to it, but cannot find a provider with capacity to take on their case because legal aid volume has to be restricted so that private work can be taken on to make ends meet.

What does our pivot away from legal aid mean in numbers?

The Table below shows the change in 10 years.

Over the last 10 years we have increased the number of staff by **37%**. We have added more solicitors dedicated to private work and we have added more junior staff on the lower salaries to do much of our remaining legal aid work.

Over the last 10 years the number of legal aid cases opened each year has fallen by **52%** and the number of private cases opened has increased by **80%**.

Our fees from legal aid income have increased only **7%** despite having 37% more staff.

Our fees from private work have increased by **200%** - and a significant amount of that increase goes to subsidize the loss making legal aid work.

Over the 10 year period there has been a **17%** reduction in the fees received from legal aid as a proportion of our total fee income and a corresponding **17%** rise in the fees received from private work as a proportion of our total fee income.

Year	Staff	Legal Aid cases opened	Private cases opened	Legal Aid fees received as a % of total fees received	Private fees received as a % of total fees received
2013	80	2,771	687	87%	13%
2023	110	1,341	1,238	70%	30%
	(+37%)	(-52%)	(+ 80%)	(-17%)	(+17%)

We did not want to make this pivot away from legal aid. It has been forced upon us by economic necessity. And ultimately it is the clients who suffer.

A senior lawyer sums it up nicely.....

Clients are not getting the representation their cases and experiences deserve. There is definitely a two-tier justice system in place, in fact I would say three tier. Wealthy private clients can have their pick of the best solicitors and barristers. Legal aid clients can sometimes be represented if they can find a provider with capacity and experienced staff, but they can't have an experienced barrister as most no longer do legal aid work. The remaining tier are those who fall between the cracks of eligibility for legal aid and those who would qualify but can't find a provider available to take on their case. They have to represent themselves. This really is a tragic situation. Justice should not depend on your income. Children and vulnerable women are the biggest casualties here in my mind.

Targets – a necessary evil

We know which legal aid work is loss-making because we have a well-oiled machine of targets that need to be met if the firm is to break even and hopefully achieve a (low) profit margin so there are funds available to reinvest into next year's pay rises.

We need all our legal staff – the fee-earners – to be recording 6 chargeable hours in a day.

That means 6 hours of legal work that can be legitimately charged to a client. It doesn't leave much time for anything else but it's the minimum we require if the firm is to be financially stable.

Of course our staff need time off for holidays, sick leave, training, and so on. So the annual target is based on a 42 week year – allowing 10 weeks for leave and training. Each year a full-time fee-earner needs to do 1260 chargeable hours.

Our junior staff need close supervision so the supervisors get discounts on their targets of 5-10% per staff member supervised.

And many of our Trainee Solicitors are on a Graduate Solicitor Apprenticeship scheme and have a study day a week at the University of Law (for which we pay them the London Living Wage). So their annual targets are reduced by 20%.

In addition to an hours target they all have a fees target of 2.8 times their salary. They need to bring in 1x their salary to pay for it, plus a further 1.8x to pay for their direct overheads and their share of all the overheads of the firm (including all the salaries of the support staff).

Once we have worked out the fees target for the year we then work out the average hourly rate that the person needs to work at during the year to meet their target.

For example, a solicitor on £35,000 who does not supervise will have a fee target of £98,000 and need to bring in on average £77 per hour ($£30,000 \times 2.8$ divided by 1260).

Any work they do for less than that is “loss making” in the sense that they will need to do some work at a higher rate above £77 an hour to make up for the work done at a value below their average.

We have a firm wide average hourly rate based on all the averages for all the fee-earners. That is **£92** per hour this financial year.

Any work done for less than that is potentially loss making if not made up by higher paid work done elsewhere in the firm.

Working at the right rate so as not to make a loss

The Table below sets out the different hourly rates that our staff can expect to be paid if they do different types of work.

The private rates are those that we set according to the market and they are rates that private clients are happy to pay.

They are very competitive.

We have increased them numerous times over the last 10 years to account for inflation and the need to cross subsidise the legal aid work.

Inter Partes rates are what we can expect to be paid if we win against an opponent in a Judicial Review or other court claim where costs are payable by the other side. Unfortunately that does not extend to local authorities in family cases or the Home Office in immigration Tribunal cases.

The Legal Help rate in the Table is that paid for immigration, public law and community care. The family Legal Help rate is even less at £48 per hour.

Rates for Preparation and Attendance	A Partner	B Associate	C Solicitor	D Trainee Solicitor or caseworker
Private	£ 300	250	175	80 - 125
Inter Partes – Guideline Hourly Rates	£ 282	232	185	129
Certificate (rates can attract enhancements)	£ 60 - 71	60 - 71	60 - 71	60 - 71
CLR	£ 57	57	57	57
Legal Help	£ 52	52	52	52
Fixed fee	£ 18-52	18-52	18-52	18-52

You can see from the Table above that the lowest paid work is fixed fee work. If we do lots of hours but don't escape the fixed fee we can end up being paid only £18 per hour.

A senior lawyer observed....

“The introduction of fixed fees in care proceedings has meant the service providers have seen a loss of earnings because of this. There are often cases taken on by the service providers that are outside of the fixed fee but have not gone exceptional. Thus, these cases fall in a grey area and have resulted in work undertaken by a fee earner not being paid. This is incredibly demoralising for the fee earner who is usually instructed by the most challenging of clients. It is difficult to encourage fee earners to take on this type of work when it is so poorly paid and often leads to the work undertaken by the fee earner not being paid in full”.

Fixed fees were meant to be set at a realistic level such that the fixed fee genuinely reflected the likely cost of doing the work.

There were meant to be swings and roundabouts so you lose on some cases and gain on others.

But our experience is that most Legal Help cases escape the fixed fee (64% last year) demonstrating that it has not been realistically set in the first place.

And where we don't escape the fixed fee we make a loss far more than we make a gain.

The Table below sets this out.

Fixed Fee Claims Month by Month				
Month	Total Claims	Escaped	Total Loss	Total Gain
Apr-22	21	12	766.46	491.64
May-22	22	10	2,030.09	77.88
Jun-22	24	14	1,125.88	659.01
Jul-22	36	17	2,651.85	449.29
Aug-22	42	23	2,323.43	1,043.18
Sep-22	35	25	902.62	780.43
Oct-22	45	32	921.66	862.43
Nov-22	30	23	1,854.09	-
Dec-22	34	25	2,825.27	-
Jan-23	38	22	2,770.43	177.57
Feb-23	40	26	2,284.62	421.04
Mar-23	57	43	2,009.58	1,055.35
Totals	424	272	22,465.98	6,017.82

So which of our fee-earners can still do legal aid cases and not make a loss?

The Table below shows the average hourly rate that different staff have to bring in to meet their targets.

None of our junior staff can do Legal Help work anymore in any volume without cross subsidising that work with higher paid work.

And once qualified as a solicitor our staff have to limit their funding type to Certificate work or private work.

Role	Salary	Average Hourly Rate to work at for salary	Work Type capable of meeting target
Trainee Cwk salary	£25,200	£54	Legal Help - No CLR - Yes Certificate - Yes Private - Yes
Ass Caseworker	£26,250	£57	Legal Help - No CLR - Yes Certificate - Yes Private - Yes
Sen Caseworker	£27,900	£60	Legal Help - No CLR - No Certificate - Yes Private - Yes
Trainee Solicitor	£28,350 - £30,450	£61 - £66	Legal Help - No CLR - No Certificate - Yes Private - Yes
Solicitor	£34,750 - £50,000	£75 - £107	Legal Help - No CLR - No Certificate - Yes, for High Court only Private - Yes
Firm wide average		£92	Legal Help - No CLR - No Certificate - Yes, for High Court only Private - Yes

What this all means for our legal aid capacity is that each fee-earner will be looking to take on work at their average hourly rate.

If the legal aid rate paid is below that rate they will only be able to take it on if they have some higher paying work to cross subsidise so they can meet their target and the firm can remain financially viable.

A senior lawyer describes the situation well.....

Legal help work is now undertaken exclusively by trainees and caseworkers, and overseen by solicitors. Non-qualified staff undertaking this work is the only way we can operate due to the very low rates of pay, and the application of fixed fees. A legal help file, which can be open for several months can be remunerated by a fixed fee as low as £86. Even if the matter meets the stringent conditions to escape the fixed fee, the hourly rate is £48.74 per hour. We cannot afford for our solicitors to work at this hourly rate when their private rate is likely to be between £200 and £300 per hour, depending on their experience. Our private rate is also very low compared to exclusively private firms. I've seen people I've trained who have moved to city firms, charge clients £500 an hour, when I'm being paid at legal aid rates, and have more experience than them.

Recruitment, Retention and the loss of legal aid expertise

There are committed people at the beginning of their careers who want to work in legal aid and are prepared to accept the low pay for the vocation they feel. We recruit a number each year as caseworkers or into our billing team.

They do face significant financial challenges in meeting the costs to qualify as a solicitor and in recent years we decided to meet those costs by setting up a Graduate Solicitor Apprenticeship scheme with the University of Law. In doing so we lose 20% of the fee income these junior staff could potentially generate when we pay for them to study for one day instead of fee-earning. But we think it is worth making this investment in the next generation of legal aid lawyers.

As people qualify as solicitors and their targets go up and they have to take on higher paying work, some look elsewhere for higher salaries and to work in a less intensive environment.

Those that have gained expertise in private client work can earn higher salaries elsewhere at firms that do not have legal aid caseloads that need cross subsidizing from the private fees earned.

Our partner in charge of family law sums up why people leave.....

The work is generally seen to be thankless and administratively over burdensome for very little reward. The reduction in rates simply strengthened this view and very many really talented practitioners decided that it was easier to work in private practice, with achievable time targets and a charge rate that would enable billing targets to be met, and usually a significantly better salary. The high cost of living in London has exacerbated this problem.

Those that remain dedicated to legal aid family work risk early burn out. They work incredibly long hours to stand a chance of meeting their billing targets. Those that don't meet target feel bad. The pressure is relentless. The role carries enormous responsibility as well; to your clients, to the court and to your employers, and this level of pressure is not sustainable or fair. If you don't hit your billing target (and it is necessary for the fee-earners to meet their targets for legal aid work to be viable at all) you are made to feel like a failure- even if you are really good at your job, have a great reputation and serve your clients brilliantly. That cannot be right. It is demoralising.

Whilst many of our best solicitors have stayed with us for decades and are partners or senior associates we have lost experienced legal aid solicitors to other sectors. In particular the Government Legal Department that offers starting salaries for newly qualified solicitors which are £10k more than what we can offer.

The Table below shows the number of solicitors (18) we have lost during the last 5 years and the destinations they have chosen – the vast majority outside of the legal aid sector.

Solicitors leaving Wilsons in the last 5 years (where the solicitor has worked at Wilsons for 2 years or more). Destination for new role.	Solicitor 0-3 years qualified	Associate Solicitor	Total	Still working in the legal aid sector.
Solicitors firm with legal aid contract		1	1	Yes
Solicitors firm with no legal aid contract	2	1	3	No
Charity with a legal aid contract	1	3	4	Yes
Charity without a legal aid contract		1	1	No
Local authority lawyer	1	1	2	No
Central government lawyer – GLD or MOJ	1	4	5	No
Academic or policy role	1	1	2	No
Average years worked at Wilsons	5.5	8.3	6.9	72% leaving legal aid sector
Average salary when leaving Wilsons	£36,000	£44,000	£40,000	84% went to roles paying a higher salary

There is little doubt that the failure to uprate legal aid rates with inflation, and the knock on effect this has for salaries and working conditions, has contributed to the loss of solicitors from the legal aid sector. This contribution from one of our legal aid care lawyers sums it up.....

“As a legal aid care lawyer, I personally feel disheartened and very low self-esteem when it comes to billing. The time and effort I put in is just not reflected in the money that I bring in and makes me feel like a failure. I feel I am being pushed away from doing the work I love because it is not profitable. It’s a very sad situation and I fear legal aid work is going to end up being left to junior and inexperienced trainees, paralegals and caseworkers because experienced solicitors will look towards more profitable work. I have seen this happening already when opponent advocates have very little, if any, experience of care work yet they attend to represent vulnerable clients in extremely serious proceedings concerning the future plans for their children. Ultimately the vulnerable client will suffer. It’s incredibly sad but the hard reality if there is no change made with the legal aid rates.”

Not all in it together

We all know that the 10% cut in 2012 was part of government wide austerity. It was not just legal aid providers who faced cuts.

But it is only civil legal aid providers who are **still** facing cuts – only civil legal aid providers who **still** have their rates frozen.

The Ministers of Justice, the judges, and the staff in the MOJ and LAA have all had pay rises after an initial period of austerity. And those rises made up some of the value lost through inflation.

The Table below shows the rises given since 2014. Between 2014 and 2017 judges and civil servants in the MOJ, Government Legal Department, and LAA had their pay increases restricted to 1%. Ministers joined in the austerity for one year in 2014 but then paid themselves 10.4% in 2015.

Between 2018-2020 judges and civil servants were given 2% a year before a collective year of austerity in 2021 when, for one year only, they and Ministers received the same rate as paid to legal aid providers throughout the 10 years – 0%.

In 2022 and 2023 rises were back for everyone in the legal system of between 2% and 7% - save once again for civil legal aid providers.

At least the criminal legal aid lawyers are now getting a 15% increase.

But why are civil legal aid providers treated so poorly?

Year	Increase in legal aid rates	Increase in MP salaries	Increase in Judicial salaries	Increase in Civil Servant pay
2014	0%	1%	1%	1%
2015	0%	10.4%	1%	1%
2016	0%	1.2%	1%	1%
2017	0%	1.4%	1%	1%
2018	0%	1.4%	2%	2%
2019	0%	2.7%	2%	2%
2020	0%	3.1%	2%	2%
2021	0%	0%	0%	0%
2022	0%	2.6%	3%	2-3%
2023	0%	2.8%	7%	5-7%
Total	0%	26.7%	20%	17-20%

We are told that it is because the resources are simply not there and a case needs to be made to the Treasury for more money. But is that in fact the case?

46% increase in the MOJ budget - crumbs for legal aid

The figures show that the Ministry of Justice has had a number of increases to its budget but it has chosen to spend the extra money on other parts of its department – most notably the prisons and the court service.

It has been given some more money by the Treasury for legal aid but that money has been spent on widening eligibility for legal aid rather than increasing the rates paid to providers to keep up with inflation.

Query the logic of that approach because it is unlikely there will be lawyers available to advise those newly eligible potential clients.

The Table below shows the movements in the Ministry of Justice *resource spending budget* since 2004.

It shows that since 2016 the budget has increased each year.

In the year 2023-2024 the budget is increasing by a further 7.62% to £10.879 billion with an additional £2.308 billion to be spent on capital projects.

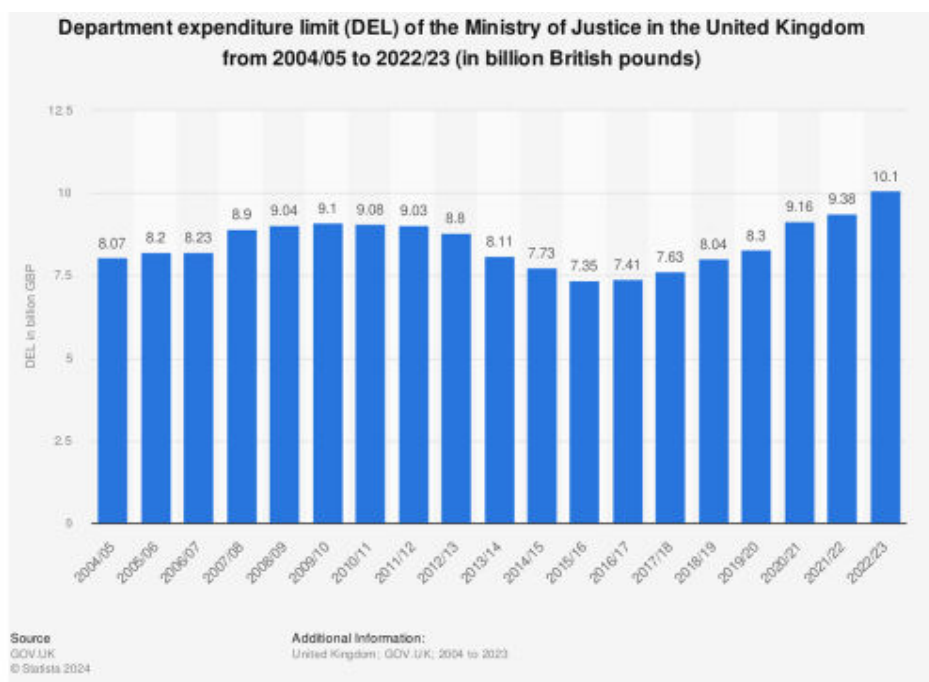
The total increase in the MOJ budget from **£7.41billion** in **2016-2017** to **£10.87billion** in **2023-2024** is a **46% increase** over an 8 year period.

Yet civil legal aid has had a 0% rise to the rates during that same period.

The money is there – political choices have been made to spend none of it on ensuring the rates paid to legal aid providers retain their value.

This is despite the MOJ having as one of its [three spending objectives](#) to “*deliver swift access to justice*”.

How is the delivery of justice swift to a person who cannot find a legal aid lawyer to represent them?



The Treasury has been saved a fortune by the cuts to the legal aid budgets and the absence of any uprating for inflation.

It should surely be possible for the Lord Chancellor to make a persuasive case to the Treasury that funding must be provided to cover the cost of at least maintaining the value of the legal aid rates.

Surely the Treasury understands the economics of running a business?

So what are the solutions we propose?

Suggested solutions

Everyone agrees about the importance of legal aid.

Everyone agrees that without legal aid the justice system will not work efficiently.

Everyone agrees that the legal aid system needs to be sustainable for the long term.

For it to be sustainable we need a mechanism whereby the legal aid fees paid to providers do not lose their value as a result of inflation.

The current position is that there is **no mechanism**.

There is simply the power available to the Lord Chancellor to increase the rates of remuneration if he or she deems it appropriate.

Despite inflation, and all the consequences for providers, successive Lord Chancellors of different political persuasions have chosen not to increase the rates. These are political decisions by politicians.

Political decisions on pay in the public sector are usually informed by Pay Review Bodies. Legal aid service providers are, when providing that service, part of the public service. Yet our “pay” is never reviewed by anyone independent of a politician.

There are currently eight PRBs that cover approximately 45% of the public sector.

- Armed Forces’ Pay Review Body
- Review Body on Doctors’ and Dentists’ Remuneration
- NHS Pay Review Body
- Prison Service Pay Review Body
- School Teachers’ Review Body
- Senior Salaries Review Body
- Police Remuneration Review Body
- National Crime Agency Remuneration Review Body

The PRBs are supported by a secretariat – the Office of Manpower Economics (‘OME’) – a non-departmental body sponsored by the Department for Business, Energy and Industrial Strategy (BEIS).

Is it time for a Legal Aid Providers Pay Review Body? What might it look like and what might it do?

Option 1 – a Judge led body – the Civil Justice Council example.

The Civil Justice Council set up a Steering Group to review the [Guideline Hourly Rates](#) to be paid by the losing party in litigation.

It was comprised of the Deputy Head of Civil Justice, a High Court Judge, a Designated Civil Judge, a King’s Bench Master, and a District Judge.

A wider working group was set up comprising of a Senior Costs Judge, a Regional Costs Judge, a Chancery Master, a Costs Barrister, a Defendant solicitor, a Claimant solicitor, a fellow of CILEX, representatives of the Association of Costs Lawyers, Consumer Interest, and the Legal Aid Practitioners Group, and an academic.

The Ministry of Justice had observer status. There was a secretariat of three officials to support the group in its work

The work of the group led to the publication by the Civil Justice Council of the [Costs Review Final Report 2023](#)

In that report the group recommended the setting up of a mechanism to have a regular Detailed Review of the Guideline Hourly Rates. The group recommended

*“Setting up a Working Group (probably Judge led ...) to consider the methodology to be used when carrying out the Detailed Review and the resources required..... thereafter, Detailed Reviews should take place every **5 years**”.*

Notably the group addressed the inflation issue and came up with a mechanism for uprating to ensure the rates did not lose their value:

*“We recommend that index linking should be on an **annual basis** (conducted on the 1 January each year).”*

The group also considered the most appropriate index to use for the index linking. They concluded that it should be the [SPPI \(the Services Producer Price Index\)](#) rather than the Consumer Price Index.

“We recommend that the general SPPI be used. This index is a measure of inflation for the UK services sector. It is constructed from quarterly surveys measuring the price received for selected services. The general SPPI index will be used by the MOJ in relation to the upcoming implementation of the extension of fixed recoverable costs....there is obviously sense in applying a consistent approach”.

The current Lord Chancellor accepted all these recommendations as being eminently sensible.

A similar judge led body could be set up to review the rates that should be paid for civil legal aid and make recommendations.

Option 2 – MOJ led initiative – Fixed Recoverable Costs uprating example

But you don't necessarily need a judge led body to make recommendations first. The MOJ could just decide to uprate. There is a precedent.

The Ministry of Justice decided that the SPPI should be used to uprate Fixed Recoverable Costs. In May 2023 the MOJ published a note on the new rules [Extending Fixed Recoverable Costs: a note on the new rules](#)

Fixed Recoverable Costs (FRC) are the amounts that litigants can expect to be paid if they win their case in certain court proceedings. They were introduced following the Jackson Report in 2017.

They stayed the same for 6 years and so lost value due to inflation. The Ministry of Justice recognised that this was not viable and agreed that the amounts of the FRC needed to be reviewed regularly to take account of inflation.

They recently updated the costs payable using the January 2023 SSPI and have committed to reviewing the rates every **3 years**.

The MOJ could take exactly the same approach to reviewing civil legal aid rates.

Option 3 – restore the link to the welfare benefits uprating

For many years prior to 1997 the legal aid rates were updated from 1st April each year in line with the % uprating decided by the Secretary of State for welfare benefits under Section 39 of the Social Security Act of 1971.

Under Section 39 Parliament imposed a duty on the Secretary of State to review the rates of social security benefits annually.

Section 39 requires that “in the course of a review of social security benefits... the Secretary of State shall consider... the extent to which current rates appear to him to have retained their value in relation to the general level of prices obtaining in Great Britainif on his review the Secretary of State concludes that current rates have not retained their valuehe shall prepare and lay before each House of Parliament....the draft of an order ...framed so as to increase the rates there mentioned at least to such extent as appears to him necessary to restore their value in accordance with his conclusions on the review”.

In recent years the Secretary of State decided to limit the welfare benefits rise to 1% and then freeze the rates for four years. He was able to do this but had to seek Parliament’s approval before so doing.

The old system of an annual increase in April each year linked to any welfare benefits uprating worked well.

Legal Aid providers knew that inflation would be taken into account and they could business plan accordingly. Having the certainty that the rates would go up more or less with inflation would enable them to plan expansions including perhaps establishing a presence in an advice desert.

We don’t need primary legislation to do this. Restoring the link and uprating the civil legal aid rates every April would be simple enough to do. But similar legislation to Section 39 for legal aid would ensure a review takes place and that there is Parliamentary scrutiny of any long term freeze such as the one we have had for too many years.

What might uprating look like?

It would probably make more sense for any regular uprating of legal aid rates to be based on the SSPI rather than the welfare benefits option.

This would guarantee consistency with the Fixed Recoverable Rates and Guideline Hourly Rates uprating regimes. We would then have one common index for all legal uprating regimes.

The Table below shows what those SSPI rates were over the last 10 years (22.7%) and contrasts them with the option of uprating in line with welfare benefits (18.4%).

Year	Increase in civil legal aid rates	Inflation (+ cumulative) [based on the SPPI Index]	Link to welfare benefits uprating
2011	-10% (a decrease)		
2013	0%	1.3% (2.6%)	1%
2014	0%	0.8% (4.1%)	1%
2015	0%	1% (4.1%)	1%
2016	0%	1.5% (4.8%)	0%
2017	0%	2.0% (7.5%)	0%
2018	0%	1.4% (10%)	0%
2019	0%	1.4% (11.8)	0%
2020	0%	0.7% (12.7%)	1.7%
2021	0%	3.5% (15.3%)	0.5%
2022	0%	5.5% (24.4%)	3.1%
2023	0%	3.6% (31.9%)	10.1%
Total over 10 years	0%	22.7%	18.4%

If legal aid rates were uprated in line with either the SSPI or welfare benefits uprating since 2013 then the new rates would look like those in the Table below (rounded up or down to the nearest £0.5).

These rates would still be low but they would mean that we could once again allow our junior staff to do Legal Help or CLR in more volume because the hourly rate achieved would be in line with the average hourly rate they need to be bringing in to break even on their work.

Rates for Preparation and Attendance	Current rates	Rates after uprating according to SSPI since 2013 – 22.7%	Rates after uprating according to welfare benefits uprating since 2013 – 18.4%
Certificate (rates can attract enhancements)	£60 - £71	£75 - £87	£71 - £84
CLR	£ 57	£70	£67.5
Legal Help	£ 52	£63	£61.5
Fixed fee	£ 18-52	£22- £63	£21- £61.5

But how would the Treasury pay for it?

As set out above the Ministry of Justice has been able to get increases to its budget from the Treasury every year since 2016 to the tune of 46% and £3.46 billion more.

If the MOJ made the case for a rise of 22.7% in line with the SSPI to recover the value lost over the last 10 years at least then surely the Treasury will give it some serious thought and see the case for it.

Based on current civil legal aid spend of **£926 million** a year and applying a **22.7%** increase would lead to a new civil legal aid budget of **£1.13 billion**.

That would require additional funds of **£220 million** a year.

One [report](#) from the Society for Labour Lawyers (see p27-37) has identified three methods of raising £100 million in additional funds.

Firstly a 1% levy on court fees, second for interest on client accounts to be held in trust for legal aid, and third, a 10% uplift on the costs awarded or agreed on an Inter-Partes basis payable to the legal aid fund by the losing party. These three measures alone would raise £100 million.

And there are many high earning city law firms that want to help. They dedicate many pro-bono hours to fill a legal aid gap. What is really needed is funds to pay legal aid lawyers properly. The total net profit of the 100 largest law firms in 2023 was £10.2 billion. A small levy on profits above a certain amount, which can be treated as deductible for tax, would raise millions of pounds for legal aid.

But the Treasury could also just fund it out of current taxation. Every £1 spent on legal aid is estimated to generate around £6 in commercial activity and government savings. And hence extra tax revenues which could pay for the increase to the rates.

And one final point to note, legal aid providers generate a lot of tax for the Treasury.

For every £100 paid to a legal aid provider the chances are that £20 will come back in VAT, and at least £30 in employee tax and national insurance.

The Treasury gets back half the money it spends.

Conclusion

The failure to uprate legal aid rates so that they keep their value is the reason why there are fewer legal aid providers doing smaller volumes of legal aid work.

Unless this is addressed by introducing a mechanism to regularly uprate the legal aid rates the system will not be sustainable regardless of what other reforms are made.

We believe in the **short term** there should be an **immediate** uprating of **22.7%** in line with the SPPI to restore the value lost over the last 10 years. That will be a start. And it needs to be done now –the Remuneration Regulations of 2013 simply need amending and then being laid before Parliament for 21 days. They could be in force by 1st April.

There should then follow in the **medium term** an evidence based review to identify whether that level of rate increase is sufficient to provide sustainability in the sector or whether there needs to be a further one off rise to fully account for value lost through inflation since 1997.

In the **short term** either the MOJ itself or a judge led body should decide the best permanent mechanism for uprating the rates regularly.

In our view an **annual** uprating mechanism based on the **SPPI** is the most likely to make the civil legal aid system sustainable in the long term.

It will allow firms such as ours to do more legal aid work and help more people who desperately need it.

Thank you for reading our response to your call for evidence. Can we give the final word to one of our brilliant and hard- working legal aid lawyers.....

I have always been a vocal advocate for legal aid. I have always recoiled at the suggestion that a legal aid solicitor would be any different in quality to a private client solicitor. I consider myself very good at my job. I am a Legal 500 recommended lawyer and a specialist panellist. Its hurts me as an experienced legal aid solicitor to now have to accept that necessity has meant that there is a shift to the more junior in the profession now dominating this area of work. I no longer work on legal aid cases 100%. My split of work is nearer 65% private work now. I am saddened about this and can see that in the future I may not be able to do any Legal aid work unless the government invests the funding where it is needed, in legal aid services. I sincerely hope the review is not just a box-ticking exercise and addresses the areas of immense need. I would like to see legal aid work an area of work that people aspire to work within again. Every client should have access to justice and quality representation, not just the rich.

Wilson Solicitors – Believe in Justice for All

21st February 2024

About us

This response was written by [Matthew Davies](#) a partner at Wilson Solicitors on behalf of the firm. He has been at the firm for over 30 years. He was managing partner for a three year term and responsible for the financial well-being of the business. He is now Deputy Managing Partner.

The preparation of this response would not have been possible without the assistance of [Here for Good](#) who paid for the research and writing time at the civil legal aid hourly rate. Other civil legal aid practitioners would not have had the resources to prepare a detailed response.

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