

Dear Convenor,

### **Re Civil Legal Aid Inquiry**

Thank you for giving Citizens Advice Scotland (CAS) and members of the Scottish Association of Law Centres (SALC) the opportunity to give evidence to the Committee in May. We remain grateful to the Committee for undertaking this inquiry, shining a light on strengths and weaknesses, and considering the need for and direction of reforms.

SALC and CAS are jointly writing to you now to focus on the experiences and justice journeys of rights-holders, as we are concerned that they have not received the attention they deserve. We are providing additional information including updated data for 2024/25 from CAS to ensure the Committee benefit from a comprehensive picture of the legal aid system as experienced by people whose access to justice depends on it. This partly responds to and complements evidence provided by SLAB, to more fully inform your inquiry recommendations.

From the evidence you received there is broad agreement that the legal aid system is essential to ensure that our rights are respected and upheld.

From the evidence we provided to the Committee **a sense of crisis in our legal aid system** is clear. For too many people supported by CAB and Law Centres, accessing legal aid is an uphill struggle, often particularly steep for the most vulnerable. People facing homelessness, women and children experiencing domestic abuse, those working in exploitative conditions or living in unsafe homes – we must ensure that legal aid support is accessible in reality for them, and the system supports those who may otherwise be unable to resolve their legal problems or address rights breaches.

**We believe from the evidence submitted to the Committee, that across Scotland there is a real desire to address longstanding issues with our legal aid system. Across different stakeholders we see agreement that:**

- **legal aid fees must be uplifted and reformed alongside structural reforms towards**
  - **embedding rights-holders' voices and needs within the legal aid system**
  - **effectively monitoring and securing legal aid supply to meet need**
  - **a more genuinely mixed delivery model to address longstanding barriers to people's access to justice**
- **the legal aid application processes should be simplified;**
- **financial eligibility thresholds need to be reviewed to assure that our legal aid system ensures that nobody is excluded from accessing justice because of who they are or their inability to pay;**
- **other elements of financial eligibility tests such as capital thresholds and contributions should be reviewed to ensure they do not act as barriers to accessing legal aid;**
- **automatic (non-discretionary) waiver of financial eligibility tests for particularly vulnerable individuals**

CAS and SALC support this inquiry and wish to see meaningful change to the civil legal aid system so those we support can truly access justice and uphold their rights.

Yours sincerely

Gillian Fyfe (Citizens Advice Scotland) and Aaliya Seyal (Scottish Association of Law Centres)

## **Additional submission from Citizens Advice Scotland (CAS) and Scottish Association of Law Centres (SALC)**

### **Barriers to accessing Civil Legal Aid**

This briefing provides additional evidence and re-emphasises many points previously highlighted to the Committee by SALC and CAS, focusing on the experiences of people our networks support. To aid the Committee's understanding of how people in our communities encounter and experience the legal aid system in practice, we begin with an in-depth case study from an individual Citizens Advice Bureau (CAB) of Sarah's<sup>1</sup> justice journey.

#### **Sarah's experience<sup>2</sup>**

"Sarah has come to her local CAB in the North of Scotland. CAB staff know her well having provided support to Sarah on various issues, from social security benefits to electricity bills, across more than fifteen years. On this occasion, Sarah, who is now close to pension age, is extremely distraught. She has received court papers informing her that the local authority applied for guardianship, which if granted allows the social work department to make significant decisions such as medical treatment and placing her in a care home. Sarah wants to challenge the application – she asserts there are many inaccuracies and errors in the court reports.

With less than two weeks until the hearing date and no local legal aid solicitors dealing with adults with incapacity cases, the CAB adviser contacts the Civil Legal Assistance Office (CLAO) on Sarah's behalf to urgently access legal support. The CLAO states they may help or try to find another solicitor to help. With CAB support, Sarah informs the court of her intention to object and explains that she is currently unrepresented, vulnerable, and digitally excluded and cannot participate in proceedings which are all conducted remotely. As Sarah does not have an email address, she asks that any communication regarding her case be sent to the bureau.

In the meantime, in face-to-face appointments lasting several hours, the CAB adviser supports Sarah, and a picture emerges of failures by public services to support her at different points in her life to navigate distressing and traumatic events.

When the CLAO informs Sarah after a week that they don't have capacity the CAB adviser contacts a law centre in the Central Belt. They are keen to help but the geographic distance makes this unfeasible in a guardianship case. Without any legal support Sarah, assisted by the CAB, submits a letter to court, setting out her views on the court reports and detailing her objection to the guardianship application.

Neither Sarah nor CAB received any notification from the Sheriff Court of a 5-week adjournment, which she only hears about in a phone call with Social Work. It takes further CAB emails to the Court for the bureau to be added to their system in line with Sarah's request.

A few weeks later the Sheriff appoints a curator ad litem to provide an independent report; again, neither Sarah nor CAB are made aware of this. The CAB provides Sarah with information

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<sup>1</sup> Not her real name.

<sup>2</sup> **Citizens Alerts** are based on a real-time case reporting system operated by the Citizens Advice network in Scotland. These qualitative cases are shared with us from individual CAB, which provide CAS with unique and unparalleled insight into the lived experiences, situations, and detriment which individuals seeking our support are facing. While Citizens Alerts represent individual client experience, they can also highlight patterns and structural issues which need to be addressed. We anonymise this data and compile and analyse it to effect change in policy, law, and practice.

about the curator ad litem's role and encourages her to engage with them. Over the following months, the CAB continues to support Sarah. The stress and worry about the guardianship proceedings take a toll and Sarah has a heart attack. Shortly after, the local authority withdraws their application and rehouses Sarah as she requested years ago. The curator ad litem notes to the volunteer CAB adviser that without her sustained intervention and support, there was a real risk that the guardianship application would have been granted without Sarah's voice being heard and against her will."

We are including this detailed case study here to show the harsh reality of how Sarah and many other CAB clients experience a lack of access to legal support; and to be clear about the impact current issues within the civil legal aid system can have on individual lives.

Sarah's case also highlights what administrative SLAB figures of legal aid applications and grants can't capture: the experiences of people who never got to the stage of applying for civil legal aid as they couldn't find a practitioner able to take on their case. The Civil Legal Aid Office working at capacity. Overstretched Law Centres and CAB keen to support but rarely sufficiently resourced to do so. And the importance of accessible support, community-based and person-centred which Law Centres and the Citizens Advice network strive to provide. In this instance, the local CAB was able to effectively support Sarah thanks to their long-term relationship and the commitment and expertise of a very experienced volunteer adviser.

In our written and oral evidence, CAS, the LSA, Shelter and JustRight have respectively provided evidence of barriers to accessibility and gaps in legal aid provision that we see across Scotland and how they disproportionately affect the most vulnerable. With data submitted indicating unmet legal need across the country. The following sections set out additional detail where the experiences of people we support provide a **sense of crisis in our legal aid system** that may not be clear from other data sets.

### **Legal aid supply – availability of legal aid solicitors**

Recently published analysis of SLAB data between 2014/15 – 23/24<sup>3</sup> reports an increase in civil legal aid grants, with legal aid matters related to adults with incapacity (AWI) being mainly responsible for the increase in civil legal aid grant figures.

We acknowledge and remain supportive of the broad scope and the demand led nature of the judicare element of civil legal aid that allows for a more generous provision of publicly funded legal support in Scotland than other parts of the UK. An overall increase in the number of civil legal aid grants over the past decade appears positive.

However, we must be clear that this figure cannot and does not capture unmet demand. As Sarah's case above illustrates, even in Adults With Incapacity (AWI) cases which are mostly automatically legally aided and where SLAB data shows increasing provision, individuals struggle to access a legal aid solicitor. CAB advisers, especially those outside the Central Belt, tell us the same is true for many people on the other side of guardianship applications, who can't access legal support when applying for a guardianship order for a family member. To be able to support their family member with significant life decisions, some have no option but to instruct a legal aid solicitor hundreds of miles away or pay privately for legal services despite financial challenges. Members of SALC also report a lack of practitioners focussing on AWI in Aberdeen and in remote areas of Scotland and are aware some practitioners may not offer to

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<sup>3</sup> Scottish Legal Aid Board (May 2025) [Civil legal aid Geographic trends analysis](#).

undertake work under Advice and Assistance and will charge for work until the grant of Civil Legal Aid. Given this more research may be required to consider the number of AWI applications that go through court and grant of legal aid applications in the same area to understand this picture further.

It was also clear from our previous evidence that people experience difficulties in finding a solicitor able and willing to take on their legal aid case in other areas of law, such as employment, family, immigration and asylum, social security and housing, and those with complex cases and/or additional support needs, and that this particularly affects but is not limited to people outside the Central Belt.

In the words of one adviser from an East of Scotland CAB,

this leaves too many people “to deal with difficult legal issues by themselves and unable to get representation. In most cases, this causes further stress and anxiety, seriously affecting the clients’ mental health. It also leads to missing deadlines or escalating issues which could have been resolved earlier, whilst people struggle to find a solicitor. Even when they do, they have to travel miles to see them.”<sup>4</sup>

### **Fall in number of civil legal aid applications**

We are concerned about the fall in the total number of civil legal aid applications between 2014/15 and 23/24 reported in SLAB data. This fall in application numbers contrasts with advice code data from across the Citizens Advice network in Scotland which shows year on year increases in demand for advice on legal aid between 2020/21 and 2024/25.<sup>5</sup>

In 2024/25, CAB provided more than 3,000 pieces of advice on legal aid. Similarly, advice provided by CAB in relation to solicitors and advocates has increased with close to 6,500 pieces of advice provided in 2024/25, with two thirds of advice demand in this category now relating to accessing/finding a practitioner.<sup>6</sup> This raises the question whether a lack of suitable legal aid solicitors in many parts of the country, and the complexity of the legal aid system alongside other factors such as decreasing financial eligibility for civil legal aid could be important factors contributing to the decrease in the number of legal aid applications, as our qualitative evidence suggested.

### **Geographic unevenness in legal aid supply**

Equally concerning is SLAB’s reported finding that the most deprived areas in Scotland by SIMD deciles saw decreases or little change in grants of civil legal aid for non-AWI cases since 2014/15. These areas where legal aid would likely be needed the most and which tend to have concentrations of people with protected characteristics and other intersecting disadvantages often lack private firms registered to provide legally aided services. More in-depth research is

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<sup>4</sup> This is taken from a Citizens Alert, where the client contacted solicitors from as far afield as 90 miles (180-mile return journey) but could not secure legal representation.

<sup>5</sup> Legal aid advice amounted to 6% of all legal proceedings advice in 2020/21; in 2024/25, this has increased to 8%, with 53% of legal aid advice relating to accessing a practitioner in 2024/25 (up from 50% in 2020/21).

<sup>6</sup> Advice on solicitors/advocates has increased from constituting 13% of all legal proceedings advice in 2020/21 to 16% in 2024/25. 66% of advice on solicitors/advocates related to access/finding a practitioner in 2024/25 (up from 59% in 2020/21).

needed to understand why non-AWI applications and grants have decreased here. Qualitative data from across the CAB network highlights that, in the aftermath of the Covid19 pandemic and given the ongoing cost of living crisis, many people we support are increasingly living in a near-constant crisis mode and hardly have the financial, emotional and mental resources to pursue legal claims or protect their rights.

SLAB figures also indicate a trend towards concentration of legal aid work with increasingly fewer but more active solicitors providing legal aid work. While the total number of civil legal aid grants (now covered by a smaller number of practitioners) has increased between 2014/15 and 2023/24, this trend of concentration of providers is not neutral but seems symptomatic of the geographic unevenness in the availability of legal aid services.

This seems to be borne out in SLAB findings showing that increased numbers of legal aid applicants are instructing solicitors outside their council area. In some cases, this may reflect positive developments such as increased access to remote services or proximity to adjacent council areas with available practitioners.

However, as highlighted in our previous evidence to the Committee, many of the people supported by Law Centres and CAB would prefer to access legal support locally. The need to seek help further afield often stems from a lack of legal aid practitioners in their immediate area. This can pose significant barriers for individuals with mobility or health issues, those facing financial constraints around transport, and people who are digitally excluded. While remote and cross-boundary provision plays a vital role in ensuring access to justice, it should complement- not replace- the availability of person-centred, specialist legal support within local communities.

### **The need for reform**

As highlighted in our letter to the convenor **we believe evidence provided to the Committee shows there is agreement that:**

- **legal aid fees must be uplifted and reformed alongside structural reforms towards**
  - **embedding rights-holders' voices and needs within the legal aid system**
  - **effectively monitoring and securing legal aid supply to meet need**
  - **a more genuinely mixed delivery model to address longstanding barriers to people's access to justice**
- **the legal aid application processes should be simplified;**
- **financial eligibility thresholds need to be reviewed to assure that our legal aid system ensures that nobody is excluded from accessing justice because of who they are or their inability to pay;**
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