



# Delivering positive change

Scottish Legal Aid Board  
Annual Report 2008-2009

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# The purpose of legal aid in Scotland is to provide access to justice for those people who are unable to pay for it on their own.

By providing people with access to assistance and representation at difficult times in their lives, we contribute to the Scottish Government's National Purpose: to create a more successful country where all of Scotland can flourish through increasing sustainable economic growth.

Legal aid makes a difference to people's lives: it can mean the difference between people ensuring future financial security when their family breaks down, or slipping into poverty; keeping their job or being unfairly dismissed; making them and their family safe, or continuing to live with domestic abuse. In doing so it can help improve people's lives and contribute to the creation of a more successful country.

Legal aid also helps the criminal justice system work fairly, efficiently and effectively by providing publicly funded legal services to ensure that those accused of crimes can defend themselves regardless of their financial circumstances.

The Scottish Government decides legal aid policy and the Scottish Parliament makes and changes legislation. The Scottish Legal Aid Board ("the Board") manages the legal aid system in Scotland within the scope of our governing legislation. To help us achieve our purpose, we have set three strategic aims.

## Our strategic aims:

- to provide access to a range of quality assured legal help in Scotland, when and where it is needed
- to obtain best value for the taxpayer through the delivery of efficient legal assistance services in Scotland
- to contribute to an efficient justice system in Scotland by providing an efficient legal aid system.

By achieving these aims, the Board contributes to the achievement of the Scottish Government's National Purpose and Outcomes.

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## Chairman's introduction



The work we do plays an important part in the delivery of justice in Scotland. Without legal aid, many people would not be able to get the legal help and advice they need.

I am proud of the work we have done to improve the delivery of legal aid in Scotland. 2008-2009 was a demanding year with many challenges and I am pleased with the way we have delivered substantial change for the benefit of the people of Scotland.

To facilitate the wider reforms to summary justice, we undertook the most wide-ranging reforms of summary criminal legal assistance in a generation. We worked well with our justice sector partners to deliver these changes. This built on the substantial consultation and development work we carried out in 2007-2008.

We developed proposals to improve financial eligibility for civil legal aid. The Scottish Government introduced these changes in April 2009 and we anticipate that they will provide access to civil legal aid to the wider population, which will be especially welcome to people in this difficult financial climate. We also delivered the first phase of our programme to simplify civil legal assistance, making civil legal aid easier for solicitors to use. The second phase of the programme began in spring 2009.

We drove forward the development of Legal Aid Online. This is key to delivering an efficient and modern legal aid service. I am pleased that solicitors are now using Legal Aid Online to submit around 70% of advice and assistance intimations and increases. We will be rolling out Civil and Criminal Legal Aid Online to solicitors from summer 2009 and subsequently developing facilities for law accountants and applicants.

One of our roles is to apply the tests for civil legal aid as set out in the Legal Aid (Scotland) Act 1986. In addition to financial eligibility, the case must have a legal basis (probable cause) and it must be reasonable for legal aid to be granted. Over many years, we have developed guidelines on how to apply the “reasonableness” test and a non-exhaustive list of factors to take into account.

Our job is not always easy and in 2008-2009, we received some adverse media coverage about a grant of civil legal aid to a former policeman convicted of sexual crimes against women. We understand the public’s revulsion at the crimes committed by some applicants for civil legal aid and we do not take such decisions lightly.

All the circumstances of each case are considered, including the views of any opponent. Having weighed up all the factors, we may be satisfied that an application passes the tests, even though that outcome may be unpalatable to the wider public. In many cases, there can be two or more viable legal arguments and it is not for the Board to take the role of the court and decide which has the most merit.

The year ahead looks just as busy as the last. We are committed to working with the Scottish Government to deliver their Efficient Government savings targets. Subject to decisions by Scottish Ministers, we hope to help the Scottish Government deliver regulatory changes to continue to deliver savings in the Legal Aid Fund. We will also continue to reduce administration costs and we have a programme of work to deliver savings in our administration budget, while continuing to deliver an excellent service and take on additional responsibilities, such as the granting of solemn legal aid and a grant funding programme.

We could not deliver such a challenging change agenda and high quality service without the hard work of the staff of the Board, ably led by Lindsay Montgomery, Chief Executive, who was honoured with a CBE for his services to the Administration of Justice in the Queen’s Birthday Honours List, an award which reflects the efforts of our whole team.

Also, I would like to thank my fellow Board members for their hard work and support over the last year and our sponsor team at the Scottish Government. We could not deliver the changes we need without their support for which we are grateful.

We look forward to a very challenging year, in light of the economic climate, to working with our partners in the public and advice sectors and the legal profession to deliver positive change and a good service to the people of Scotland.

**Iain A. Robertson CBE**  
Chairman

## Chief Executive's review of the year



In 2008-2009, we developed and delivered significant improvements to the legal aid system.

### Legal aid 2008-2009 – the key facts and figures

#### Expenditure

The total net cost of legal assistance to the taxpayer decreased by 3.2% to £150.2 million, on a cash basis.

#### Criminal

The summary justice reforms introduced from March 2008 and the subsequent reforms of criminal legal assistance from the end of June 2008 had a substantial effect on the operation of criminal legal assistance. However, it is difficult to compare current expenditure to previous years because of the fundamental changes that were made.

- Total expenditure on criminal legal assistance decreased by 6.6% to £103.2 million, following substantial increases in previous years.
- Expenditure on summary criminal cases (summary criminal legal aid plus ABWOR, excluding breach proceedings) was £52.3 million.
- The amount spent on solemn legal aid decreased by 6.1% to £38.5 million. The reduction in expenditure is partly a result of more drugs cases being prosecuted in the sheriff court.
- Expenditure on appeals increased by 1% to £3.4 million.

### Civil

Total net expenditure on civil legal assistance increased by 7.1% to £42.6 million.

- Expenditure on civil advice and assistance and civil ABWOR (“assistance by way of representation” – a form of advice and assistance) increased by 8.9% to £20.9 million.
- Net expenditure on civil legal aid increased by 5.3% to £21.5 million.

### Children’s

Expenditure on children’s legal assistance fell by 7.9% to £4.2 million. The reduction is mainly due to a substantial reduction in the amount of fees paid to counsel.

### Grants of legal assistance

#### Criminal

The volumes of the various types of criminal applications we receive have changed as a direct result of the summary reforms and the way that fees are charged.

The total number of grants of ABWOR (“assistance by way of representation” – a form of advice and assistance used mainly for guilty pleas) and summary criminal legal aid increased by 5.7% to 98,217. Under the new system, payment for advice provided at the start of a case is subsumed into any subsequent grant of legal aid or ABWOR for that case. This is the reason for the decrease in the number of grants by solicitors of criminal advice and assistance to 51,385.

Grants of solemn criminal legal aid (made by the courts in the most serious cases) decreased by 2.9% to 12,410. This decrease in court grants is consistent with decreases in other parts of the justice system.

### Civil

- Grants of civil advice and assistance increased by 4.4% to 89,571.
- Civil ABWOR grants remained virtually static at 4,141.
- The volume of civil legal aid applications increased by 12% to 17,738. Grants of civil legal aid increased by 3.1% to 10,981.

The volume of civil legal aid applications is at its highest for the last five years. We expect this trend to continue in 2009-2010. The largest increases were seen in family/matrimonial cases where the biggest areas of growth have been in children-related matters. There have also been significant increases in adults with incapacity cases and reparation.

### Children’s

The number of grants of children’s advice and assistance increased by 3.5% to 4,848. Grants of children’s legal aid by the courts increased by 9% to 4,566.

## Chief Executive's review of the year

### Reforming and improving criminal legal assistance

#### Reform of summary justice system and criminal legal assistance

From September 2007 to June 2008, the criminal justice system in Scotland underwent the largest and most far reaching reforms in a generation.

We developed changes to the legal aid system for criminal cases alongside the wider justice system reforms. This was an extremely challenging and major piece of work. We were asked to implement the new legal aid system and associated new computer systems in around three months and succeeded in implementing the reforms on 30 June 2008.

We worked in partnership with the Scottish Government, the Crown Office and Procurator Fiscal Service, the police, the Scottish Courts Service and the Law Society of Scotland to successfully implement the reforms. It was an excellent example of partnership working in the public sector delivering significant achievements.

The reforms illustrate the importance of legal aid in the wider justice system. Summary justice reform and summary criminal legal assistance reform complement each other and illustrate the potential of "whole systems" approaches to policy development for the delivery of clearly specified outcomes.

The legal assistance changes were specifically designed to support the main features of the wider reforms, such as the use of alternatives to prosecution, early effective preparation, early resolution of cases where appropriate and the intention to bring cases to court more quickly.

The changes to summary criminal legal assistance were designed to address a number of key issues to:

- appropriately reward solicitors for the work done in progressing the case
- encourage effective preparation
- facilitate early disposal of cases where appropriate
- remove what were seen as perverse incentives in the old system which provided for higher payments to solicitors whose clients pled not guilty
- avoid wasteful expenditure
- encourage early communication between Crown and defence, so that the accused could make informed decisions
- reduce bureaucracy by reducing the number and complexity of the forms that solicitors need to complete.

The new criminal legal assistance system is settling down and appears to be having the desired effect in that there are fewer changes of plea and more cases concluding at pleading diet. Guilty plea rates for all cases at first calling have risen by around 11%. This has led to a reduction in the volumes of summary criminal legal aid applications and an associated increase in grants of ABWOR.

In 2009, we are working with our justice sector partners to monitor the new system and identify any changes needed to make the system operate more effectively.

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**By working in partnership with justice system organisations and the legal profession, we developed and implemented substantial changes to the way criminal legal assistance operates to improve the operation of the justice system, reduce bureaucracy and achieve best value for the taxpayer.**

#### **Reform of solemn criminal legal aid fees**

In 2007, we introduced a new fee system for counsel in solemn legal aid cases. In 2008, we started to collate information on the impact of the new system to inform the negotiations, which started in 2009, between the Scottish Government, the Faculty of Advocates and the Society of Solicitor Advocates on changes that may be required to improve the operation of the fee system.

We also worked with the same bodies to develop a new table of fees for criminal appeal cases. This is likely to be introduced in autumn 2009.

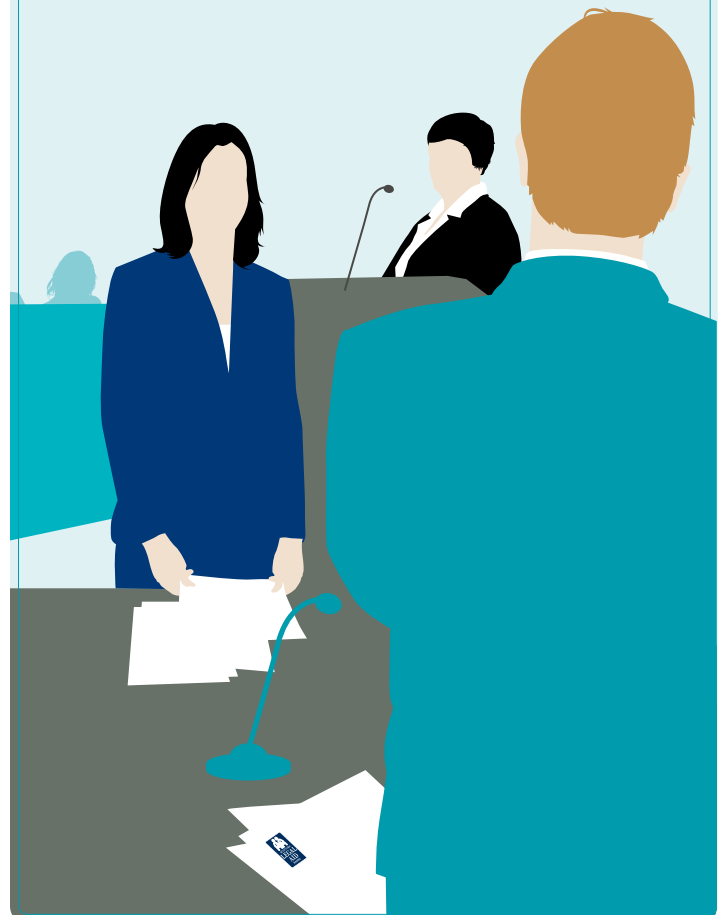
We expect the previously agreed system for solemn legal aid fees for solicitors to be implemented in autumn 2009, after the Scottish Government completes the regulations.

#### **Quality assurance for criminal legal assistance**

Alongside the introduction of a new fee system for solicitors in solemn cases, Scottish Ministers asked for a quality assurance, peer-review-based scheme to be set up for criminal legal assistance. A system is already in place for civil legal assistance and this assesses the quality of service provided by solicitors in civil cases.

We worked with the Law Society of Scotland to develop the scheme for criminal cases. The Board's Public Defence Solicitors' Office originally developed peer review criteria for use within their offices and the new scheme builds upon this work.

The quality assurance scheme is overseen by a committee made up of three representatives of the Board, three members of the Law Society of Scotland and three lay members. Peer reviewers were recruited from the solicitors' profession and, once training is complete and guidance has been issued to the profession, the new scheme will be introduced in late 2009.



## Chief Executive's review of the year

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### Public Defence Solicitors' Office

In 2008, the Scottish Government reported to the Scottish Parliament and concluded that the Public Defence Solicitors' Office (PDSO) has demonstrated that the provision of publicly funded criminal legal assistance by solicitors directly employed by us is feasible. The new offices opened last year are progressing well and in 2009, we will be working with the Scottish Government on reviewing the PDSO's objectives. The PDSO will also be doing further work to maximise its cost effectiveness. You can read more about the PDSO on page 20.

### Future developments in criminal legal assistance

#### Transfer of power to grant solemn criminal legal aid

The Legal Profession and Legal Aid (Scotland) Act 2007 transferred the power to grant solemn criminal legal aid from the courts to the Board. Due to the implementation of summary justice and criminal legal assistance reform in 2008, the transfer of the power to grant solemn legal aid to the Board was rescheduled to avoid introducing too much change to the justice system at the same time.

Following our consultation in autumn 2009 on the proposed financial eligibility test, we expect to begin granting solemn criminal legal aid in late 2009-2010.

### Duty solicitor scheme

In March 2009, a group of solicitors based in Glasgow raised an action in the Court of Session against us for judicial review of our decision to allocate further slots to the PDSO in the Glasgow sheriff and district court duty plans for 2009.

It included a motion for interim interdict to prevent us from implementing the 2009 plan, insofar as it related to the allocation of any further slots to the PDSO, and Lady Stacey refused the interim interdict.

After this decision of the court, the petitioners decided not to proceed with the action. Although we were confident of our position in the case, as a gesture of goodwill to the wider Glasgow Bar Association membership, we agreed not to seek expenses.

Before the case was raised, we identified the duty solicitor scheme as an area we wanted to review and began work to develop our approach. Our review aims to ensure that the scheme operates effectively, supports the courts and provides effective advice and representation to accused in the most cost-effective way. We are engaging with the profession, the courts, sheriffs and sheriffs principal and will consult on proposed changes in 2009.



**We worked in partnership with solicitors to reduce bureaucracy and achieve best value for the taxpayer by improving the operation of civil legal assistance. We also introduced changes to financial eligibility for civil legal aid to increase access to legal aid for around three quarters of the population.**

## Reforming and improving civil legal assistance

### Simplification of civil legal assistance

In 2008-2009, we worked to reduce the complexity of the civil legal assistance process for applicants and solicitors. We believe the system is now easier to use.

Following substantial consultation and development work with solicitors, we held roadshows around the country in 2009 and implemented the first phase of the reforms in March and April 2009. The main changes were:

- simplified and shorter civil legal aid forms
- templates to apply for sanction for certain types of experts
- a simplified process for reporting on progress in a case
- piloting supplier support.

The second phase of the project began in spring 2009. The main changes will be:

- roll out of Civil Legal Aid Online which allows solicitors to submit civil legal aid applications and accounts online, bringing benefits to solicitors and applicants
- improving the way we assess financial eligibility
- better arrangements for dealing with special urgency cases
- rolling out the supplier support scheme for solicitors – we have been piloting support methods with a selection of solicitors' firms to help them interact with us more effectively and assist them in dealing with their legal aid caseload.



## Chief Executive's review of the year

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### Extension of eligibility for civil legal aid

In 2008, we recommended to Kenny MacAskill, Cabinet Secretary for Justice, that changes should be made to civil legal aid financial eligibility levels to improve access to civil legal aid. In November 2008, the Scottish Government announced that the following improvements would be made:

- an increase in the upper limit for disposable income from the previous £10,306 to £25,000
- a system of tapered contributions – an assisted person may pay a contribution of up to 100% of the cost of a case. This change will help those with expensive cases who previously would not have qualified for civil legal aid.

We carried out considerable development work and changes to computer systems and successfully implemented the new system on 7 April 2009.

As a result of these changes, we estimate that around three quarters of the adult population are now potentially financially eligible for civil legal aid.

This opens up access to justice for more people and is of particular benefit in the current economic climate. We expect to make around 1700 more grants of civil legal aid a year to people who would previously have been ineligible for civil legal aid.

### Solicitors' fees for civil legal aid

In 2008, we made recommendations to Kenny MacAskill, Cabinet Secretary for Justice, to improve the civil legal aid fee system. He approved these and announced that the changes would include: an increase in the unit from £19 to £21, a 10.52% increase in detailed fees, additional provision for exceptional cases and the modernisation of the fee tables for summary cause cases.

The aim of the fee system is for solicitors to be paid fairly for the work they do and to achieve value for money for the taxpayer. We worked with the Scottish Government, the Law Society of Scotland, the Family Law Association and Shelter Scotland to develop the changes and the necessary regulations.

The Scottish Government introduced the regulations which came into effect on 22 June 2009 and the fee increase was backdated to 1 April 2008.

## Improving access to justice

### Launch of grant funding programme

As part of the Scottish Government's £3 million initiative, we will be running a grant funding programme for the first time from 2009. This will help meet additional legal needs resulting from the economic downturn.

The purpose of the grants programme is to:

- make advice and/or representation services at court more readily available across the national court structure for people affected by the economic downturn
- provide more legal advice and representation for people facing repossession and other problems related to the economic downturn
- complement and build on current provision, including that provided by solicitors working in private practice, solicitors employed by the Board, the existing in-court advice services and other advice agencies.

In 2008-2009, we developed proposals for operating the programme and a delivery strategy. In March and April 2009, we held information events to seek feedback from stakeholders on the proposed funding priorities and the application and assessment processes. We felt it was important to engage with possible applicant organisations at an early stage of the process and the feedback we received on this approach was very positive.

Bids for funding were made in May-June 2009 and grants will be made from summer 2009.



**To combat the economic downturn, the Scottish Government announced in 2008 that an additional £3 million is to be made available through the Board, over the next two years, to help provide legal advice and representation for people facing repossession and other problems related to the economic downturn, such as debt.**



## Chief Executive's review of the year

### Development of in-court advice projects

In general, in-court advisers are based in local courts and provide advice and a mixture of lay and solicitor representation for those who cannot get help elsewhere, generally for housing and repossession, debt and small claims cases. Each project is different as it meets the needs of the locality but they do not cover all of the courts in Scotland.

In 2008-2009, we began work with the project providers and project staff to increase capacity to deliver advice. As part of the Scottish Government's funding initiative, we took over funding of the eight existing in-court advice projects from 1 April 2009.

In 2009, we have been consulting with justice sector partners on the proposals and working with each of the projects to develop them in line with local needs and to ensure consistency in the availability and management of services.

### Employed solicitors – Civil Legal Assistance Office and Part V Service

We have responded to unmet need for legal advice in Highland and Islands by employing solicitors to work directly for the Board to provide legal advice through Part V of the Legal Aid (Scotland) Act 1986.

In 2007-2008, our monitoring highlighted the need for additional advice services in Highland and Islands. Kenny MacAskill, Cabinet Secretary for Justice, agreed to our proposals and in 2008 we established the Civil Legal Assistance Office – Highland and Islands, based in Inverness. The office was set up to help ensure people across Highland, Moray, Western Isles, Orkney and Shetland who are eligible for legal aid can access legal help in civil cases from a solicitor. It is the first of its kind in Scotland. The local MSP and Minister for Community Safety, Fergus Ewing, officially opened the new office in August 2008.

The office works in partnership, and not in competition, with local private firms of solicitors who provide legal aid services, and advice agencies. It refers clients to private solicitors' firms and advice agencies and can also help if someone is having difficulties finding legal representation by taking them on as a client.

In recent years, we have also employed solicitors in different innovative projects designed to improve the availability of services in specific parts of the country or areas of law. In 2008, we established the Part V Legal Outreach Team. It covers two main areas: prison advice and mental health advice.

In 2009, the Scottish Government gave us approval to recruit additional solicitors under Part V of the Legal Aid (Scotland) Act 1986 to work in areas where we know there is a lack of legal advice provision on housing and debt-related matters. They began work in Edinburgh, Aberdeen and Aberdeenshire, Inverness and Argyll and Bute from summer 2009. We continue to work with private solicitors' firms and advice agencies in these areas to agree how the service can fit into the existing forms of advice provision and enhance them. The employed solicitors enhance and complement existing coverage by firms and law centres and provide support to the in-court advice projects.

You can read more about the Civil Legal Assistance Office and Part V Service on page 22.

### Debt Action Forum

The Scottish Government asked us to join the Debt Action Forum. The Forum is chaired by Fergus Ewing, Minister for Community Safety and was convened to examine existing information and initiatives on debt relief, debt advice and repossession and supply options for a package of legislative and non-legislative measures to address debt problems.

The Forum focused on issues related to debt and bankruptcy and we are also members of a sub-group established to consider the operation of the Mortgage Rights (Scotland) Act.

The groups met between January and the end of May 2009 and the sub-group made a report to Scottish Ministers which was published on 9 June 2009. The Forum made a report to Ministers which was published on 23 June 2009.

We made a substantial contribution to the drafting of a report on access to advice which is included in the Forum's report. We were able to provide information about the way legal aid operates, particularly in Mortgage Rights (Scotland) Act cases; suggest ways of improving the number of people who apply for legal aid and encourage the adoption of a planned and co-ordinated approach to publicly funded advice in the longer term.

Depending on the decisions taken by Scottish Ministers, after consideration of the reports, we expect to be involved in further development and consultation work.

#### **Lord Gill's review of the civil courts**

In 2008, we contributed to the work of Lord Gill's review of the civil courts in relation to the operation of civil legal assistance. Lord Gill's review is due to report in summer 2009 and we will work with the Scottish Government on any legal aid or access to justice issues arising from the review's recommendations.

In 2008, we commissioned research in conjunction with Consumer Focus Scotland to explore the views of court users. The findings of this research will help inform the Government's response to Lord Gill's Review.

## Chief Executive's review of the year

### Legal Aid Online

We are reducing drastically our reliance on paper-based systems and looking to work more efficiently. By developing Legal Aid Online we are enabling our organisation and solicitors' firms to reduce bureaucracy and save time and resources.

From 2007, solicitors have been able to submit advice and assistance intimations, increase applications and accounts through the internet. We have received excellent feedback about the service. Solicitors have told us that they like the service so much, they would not go back to making paper-based applications. They said that it makes their life easier and saves time.

The volume of applications made through Legal Aid Online has continued to grow and currently almost 70% of advice and assistance intimations and increase applications are done this way.

In 2008-2009, we carried out substantial development work to create online systems that fit the needs of solicitors, applicants and us. In March 2009, we began piloting Civil and Criminal Legal Aid Online. In 2009-2010, this development work will come to fruition in the roll out of our main online systems.

Civil Legal Aid Online and Criminal Legal Aid Online will be rolled out from summer 2009. In 2009, we will develop Children's Legal Aid Online and systems to allow law accountants to submit accounts online. Also, in 2010, we will be developing online processes for legal aid applicants to allow them to send us information about their applications online.

In 2009-2010, we have continued our policy of setting shorter service standards for online applications. For example, we aim to process 97% of online advice and assistance accounts within 15 days compared to 30 days for paper accounts.

These developments are a major expansion to our online systems. By the end of 2010-2011, we expect virtually all legal aid business with solicitors to be online.

### Providing value for money

#### Value for money for the taxpayer

We have a responsibility to ensure that legal aid offers value for money to the taxpayer as well as providing access to justice. The controls we have in place result in significant savings for the taxpayer. We do this by:

- controlling access to legal aid in line with the tests for legal aid
- checking that applicants qualify financially for legal aid
- controlling the use of counsel, experts and unusual work
- scrutinising accounts submitted by solicitors and counsel.

Granting legal aid is only part of our job. In 2008-2009, we assisted people in over 500,000 live cases. We processed over 290,000 items of advice and assistance business, over 40,000 items of civil legal aid business and over 80,000 items of criminal legal aid business. We also dealt with over 300,000 accounts.

Once legal aid is granted, we authorise solicitors to employ experts or counsel or do unusual work if we think it is reasonable. In most cases, such requests are reasonable but we try to ensure that any costs are necessary and remain proportionate to the likely outcome of the case.

As part of our role to scrutinise the accounts submitted by solicitors and counsel, the Accounts Verification Unit checks with third parties such as Scottish Courts Service, tribunals, the police and prisons to verify claims in accounts.

As a result of the work we do in checking solicitors' and counsel's accounts, we refused to pay around £5.4 million claimed because we decided the work did not meet our tests for public expenditure: that it had been carried out reasonably, necessarily and with due regard to economy.

We carry out trends analysis to identify significant changes in expenditure, reviewing the average cost of cases and comparing individual firms' costs. As a result, we identify practices which may be an abuse of legal aid.

#### **Minimising fraud and abuse**

We have an important responsibility to minimise fraud and abuse of legal aid. To deter and detect inappropriate behaviour by solicitors' firms, we carry out audits of solicitors' firms to ensure they comply with the Code of Practice in relation to criminal legal assistance. We also carry out investigations of solicitors' practices. We believe that the vast majority of solicitors' firms do legal aid work honestly and professionally. However, we do find some solicitors who make incorrect claims or attempt to abuse or defraud the legal aid system.

As a result of the compliance audits and solicitor investigation work, we recovered £321,000 from solicitors' firms for incorrect or inappropriate claims and a further £57,000 is due to be paid.

Our solicitor compliance and investigations work also leads to changes in solicitor practices which result in substantial reductions in future legal aid expenditure.

Our work to minimise fraud and abuse of legal aid also applies to applicants for legal aid. We investigate representations made to us about applicants' financial circumstances by other parties in a case and we can check with banks and employers to verify information the applicant gives to us.

For the types of legal aid we have the power to grant, where an applicant fails to tell us about an important change in their financial circumstances or makes a false disclosure about their financial circumstances, we can refuse legal aid, or if legal aid has already been granted, we can withdraw it. Depending on the severity of the issue, we can also issue warning letters to the applicant and reassess their financial eligibility.

As a result of the work we did in investigating applicants, we withdrew legal aid in 64 cases which, in addition to other proactive checks of financial eligibility, led to us recovering or preventing losses estimated at over £500,000. In the most serious cases, we report the person to the procurator fiscal. In 2008-2009, we made 25 reports to the procurator fiscal where applicants did not tell us about properties they owned or money they had in bank accounts. In such cases, in addition to repaying the cost of their legal aid, the outcomes could include convictions for fraud or warnings or fines.

#### **Future developments**

We will conduct a programme of best value reviews of the areas covered by legal aid to ensure that the legal aid system is operating in the most cost-effective way. For example, in 2009-2010, we will review mental health, immigration and asylum and prison advice to ensure that the legal aid system effectively supports the court and tribunal structures and provides good value for money.

## Chief Executive's review of the year

### Improving efficiency, cutting bureaucracy

#### Reducing bureaucracy

We have introduced a number of initiatives to significantly reduce bureaucracy for solicitors.

#### Legal Aid Online

Solicitors can send us advice and assistance and ABWOR accounts online. Where we need further information from a solicitor to process an account, the solicitor receives an immediate electronic notification, reducing processing time and paying solicitors faster.

#### Summary criminal legal assistance reform

Through summary criminal legal assistance reforms, we reduced bureaucracy for solicitors:

- As criminal advice and assistance work is subsumed into subsequent grants of criminal legal aid or ABWOR, solicitors complete 50% fewer advice and assistance intimations.
- We removed the need for a separate account or supplementary account for advice and assistance and ABWOR in a large number of cases. We estimate solicitors will produce and send us approximately 87,000 fewer advice and assistance and ABWOR accounts a year.

#### Simplification of civil legal assistance

- Template-style increases for advice and assistance allow solicitors to seek increases for work in common types of cases by simply ticking a box for the items of work they intend to do.
- Following the first phase of the project to simplify civil legal assistance, we expect the changes to the stage report process will mean we ask for approximately 9,000 fewer stage reports a year.
- Simpler and shorter civil legal aid forms, specific to family and non-family cases.

- We introduced templates for civil sanction requests; this means that solicitors only have to tick a box to request different types of experts and can ask for more than one expert in one form. Solicitors will, therefore, no longer have to complete separate sanction forms and we expect to see approximately 1,000 fewer sanction application forms a year.

#### State benefit income checks

To reduce the risk of fraud by applicants, we now verify directly with the Department for Work and Pensions (DWP) the passported state benefit declared by an applicant for advice and assistance.

In 2008, we worked in partnership with the Legal Services Commission (LSC) for England and Wales and the DWP to develop and implement a direct electronic link with the DWP to verify whether an applicant for advice and assistance receives a passported state benefit. Previously this had been a manual process. When we receive an intimation of advice and assistance or ABWOR and the applicant declares they receive a passported state benefit, the DWP verifies this using its records and tells us whether this is the case.

This reduces the risk of fraudulent claims for legal assistance and helps solicitors satisfy themselves that the applicant is eligible for advice and assistance.

#### Expenditure

We are committed to continuing to contribute to the Scottish Government's Efficient Government Plan.

#### Legal Aid Fund

We work jointly with the Scottish Government to continue to deliver efficiencies by modernising legal aid.

In 2008-2009, we focused on the legislative and regulatory changes required to implement the summary justice reforms. These changes contributed greatly to the 2008-2009 savings. The overall reduction in the number of summary cases in the courts, the increased use of ABWOR rather than summary criminal legal aid and the subsuming of advice and assistance,

all lead to a reduction in criminal legal assistance expenditure. The savings from summary justice reform will continue to contribute substantially to the achievement of the Efficient Government savings package. We anticipate that the residual savings from schemes implemented in the earlier Efficient Government package, combined with savings from the summary justice reforms and other regulatory changes will yield £5.2 million savings in 2008-2009.

#### Administration resources

The Scottish Government has capped the Grant-in-Aid element of our administration budget at £12.7 million for the three year period. We have to live within this budget but continue to develop and modernise the administration of legal aid, take on new responsibilities and meet inflationary costs. We developed an efficiency programme around activities with the greatest potential to provide savings within our administration expenditure, namely:

- the development of technology to streamline administration
- improved procurement, with a greater focus on collaborative procurement
- improved space utilisation.

For 2008-2009, the savings generated through these projects were £0.4 million. By 2010-2011, their contribution will exceed £1 million per annum.

#### Future developments

In 2009, we will review how we can reduce the Legal Aid Fund's carbon footprint and consider how we will comply with our new duties under the Climate Change Bill.

## Corporate developments

### Freedom of information

The Freedom of Information (Scotland) Act 2002 encourages openness and accountability in the public sector. The Board, as a public body, complies with the provisions in the Act. We received 67 requests for information this year, compared to 89 requests last year.

Of the 68 requests we dealt with, we provided the information free of charge in 41 cases and issued no fee notices. We did not hold the information in five cases, and part-provided and part-refused the information in nine cases. We refused the information in eight cases on the basis of the exemptions under the Freedom of Information (Scotland) Act, and a further four because the projected cost was over the prescribed amount of £600. In one case, there was no response to a request for clarification.

Two appeals were made to the Scottish Information Commissioner. One appeal was withdrawn and the other appeal has not yet been decided. In addition, one appeal was carried over from the previous year and the Commissioner upheld the Board's original decision.

### Complaints

We encourage people to send us their views about our service. Their input allows us to improve the way we do things.

In 2008-2009, we received 72 formal new complaints, four more than in the previous year.

Of the 84 complaints that we completed dealing with this year, we considered 17 to be justified, compared with 18 in the previous year. We considered 16 to be partially justified compared to 19 last year.

One complaint was made to the Scottish Public Service Ombudsman and this was not upheld by the Ombudsman.

## Chief Executive's review of the year

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### Data protection

We received nine requests for personal data under the Data Protection Act. We provided the information for eight of the requests and refused to provide it in one case under section 29 of the Data Protection Act 1998 as the information was the subject of an investigation.

### Equality

We take our equality duties very seriously and all our newly recruited staff received equality training in 2008-2009. In 2008, we developed and published our Single Equality Scheme, covering the period 2008-2011. The scheme brings together our previously published race, disability and gender equality schemes and outlines our strategic equalities policy. This allows for a co-ordinated approach to the equality duties by linking common themes of action.

The scheme outlines a three-year plan of action for the Board. Our obligations for non-discrimination in relation to the equality strands of age, sexual orientation and religion or belief are reflected within the scheme. We await publication of the Single Equality Bill in 2009, which looks likely to widen the public equality duties to include the areas of age, sexual orientation and religion or belief. Many aspects of our work already consider these areas, in particular our equality impact assessment processes.

Good progress has been made through our membership of the Justice Disability Steering Group (JDSG). This group seeks to establish a shared effective and efficient approach to the involvement of disabled people in policy and practice development across the justice sector. Membership of the group includes the Scottish Court Service, Association of Chief Police Officers in Scotland, the Crown Office and Procurator Fiscal Service and the Law Society of Scotland. We expect to jointly commission a major event in 2009 to examine the specific issues and barriers people with impairments can face across the justice system and how to remove these barriers or reduce their impact.

### Research

The Board set out a programme of research for 2008-2009. We worked in collaboration with other justice sector partners to commission and publish research, including:

#### Views and experiences of civil sheriff court users

We worked with Consumer Focus Scotland to commission and publish research to understand the nature and drivers of civil litigants' views and experiences of sheriff courts. The Civil Courts Review consultation paper had called for opinions from members of the public about their experiences of the civil court system to ensure that their interests were central to any recommendations made. Our research was in response to this recommendation.

A clear message from the research is the need for greater information provision and clear communication for litigants. This should offer practical and comprehensive information on what to expect during legal proceedings and how litigants can best seek advice and progress their case effectively.

The emerging findings were shared with the Civil Courts Review team and the final report will help inform the Scottish Government's response to Lord Gill's report.

#### Recruitment and retention of trainees

On behalf of the Board, the Scottish Government and the Law Society of Scotland, we commissioned research to explore the nature and extent of current recruitment and retention practices across the legal profession. The main aims of the research were to identify whether, where and why recruitment and retention difficulties may occur across the profession.

The results help us to understand and compare the experiences, perceptions and aspirations of trainees and solicitors who do and who do not do legal aid work. The survey reveals interesting and useful findings about if, how and when trainees and recently qualified solicitors consider working in different areas of law, including those that may fall under legal aid, and their general perceptions around working under legal aid arrangements. A significant proportion of the trainee solicitors interviewed indicated an interest in doing legal aid work in future.

However, the majority of trainees work with large firms where the type of work they experience tends not to include areas of law which are legally aided. Assistant solicitors are likely to show an interest in working for a small or rural firm in the future, if such an opportunity arose.

We therefore need to find better ways of ensuring that trainees and assistants are exposed to legal aid or areas of law where legal aid applies early in their careers. We, the Government and the Law Society need to look at how we might help achieve this and become more proactive in this area. We also need to look at how we can ensure sufficient traineeships are available to produce legal aid solicitors for the future and consider how the economic downturn might have impacted on some of the issues explored in the research.

#### **Legal aid applicants**

In 2008-2009, we started a survey of civil legal assistance applicants. We will survey over 700 people who have applied and publish the report in 2009.

We are also considering the range of potential ways to reach and seek views from applicants for criminal legal aid. The method used for the criminal survey will depend on the contact details in our applications data and will take into account the circumstances of the criminal applicant client group.

#### **Helping people access legal aid**

##### **Telephone helpline**

Our telephone helpline provides information to the public about legal aid, how to apply for it and how to find a solicitor. The helpline includes an out-of-hours service, which operates from 5pm to 11pm each night and from 7am to 11pm on weekends. The helpline received around 9,300 calls in 2008-2009, an increase of over 50% on the previous year.

##### **Developing new leaflets**

We published a new leaflet designed and written for children to help them understand how they can get help through legal aid. We also updated our civil legal assistance leaflets to reflect legislative changes and made them easier for applicants to use. We are developing a new and more user friendly criminal legal assistance leaflet for the public in 2009.

##### **Developing staff**

Our commitment to the lifelong development of our employees includes access to free e-learning in our on-site Learndirect Scotland branded learning centre. We believe it is important, so that we can deliver an improved service, to equip our staff with knowledge and understanding of the justice system in which legal aid plays a key part. Our ongoing commitment to provide access to paralegal certificated courses each year is one example of this. During 2008-2009 a further 26 staff studied towards a paralegal qualification in criminal law and civil law, meaning that 147 current staff hold at least one of the eight paralegal certificates we offer.



**Lindsay Montgomery CBE**  
Chief Executive

## Public Defence Solicitors' Office (PDSO)

The small network of Public Defence Solicitors' Offices across Scotland offers people a greater choice of criminal defence services. We employ 14 solicitors in the PDSO, working alongside around 1,350 private sector criminal legal assistance solicitors.

Solicitors in PDSO are paid an annual salary directly by us, rather than being paid case by case as private solicitors are. Each office comprises a small team of legal and administrative staff.

PDSO provides criminal legal advice, assistance and representation to anyone entitled to legal aid.

PDSO allows us to learn more about the operation of the justice system and it brings a different approach to dealing with clients who face criminal charges.

It also acts as a test bed for new developments. For example, the peer review quality assurance system for all criminal solicitors, which will be introduced in late 2009, was first developed within the PDSO. The PDSO also provides the Board, the Government and other justice agencies with a different perspective on the operation of legal aid, the courts and wider justice system. Because it is a national network of offices, PDSO can comment helpfully on differences in the operation of the criminal justice system in different parts of the country. This input has been welcomed by the judiciary and prosecution as it offers both a defence and public service-orientated view of the system.

### Report to Parliament

Under the legislation that created the PDSO, Scottish Ministers were required to report to Parliament by the end of 2008 on progress with the PDSO as a "feasibility study".

In December 2008, Ministers made a report to Parliament. It stated that the PDSO has provided legal advice and representation from suitably qualified staff on a wide range of criminal matters from driving offences to murder.

90% of PDSO's clients rated the quality of the service provided by PDSO solicitors as "good" or "very good". The PDSO's relationships with other agencies are positive. The report commented that providing criminal legal assistance in this way also enables Scottish Ministers to direct provision of services to areas where there is insufficient provision or market failure.

The report concluded that the PDSO has demonstrated that the provision of publicly funded criminal legal assistance, by solicitors directly employed by us, is feasible. As a result, Ministers intend to remove the status of "feasibility study" from the PDSO.

## Facts and figures

The PDSO dealt with 1,701 cases in 2008-2009. The number of solemn cases slightly increased to 79 cases from 75 in the previous year, against a reduction in the number of solemn prosecutions in Scotland. The number of High Court cases handled by PDSO increased and PDSO Glasgow quadrupled the number of solemn cases it dealt with, including three cases indicted to the High Court.

The PDSO represented accused in a number of serious High Court cases, including the high profile prosecution in the “Orkney waiter” murder trial.

PDSO Dundee was the sole duty solicitor in Stonehaven Sheriff Court until January 2009 as both local private solicitors withdrew from the duty solicitor plan because of concerns over fee rates. Both solicitors have since rejoined the duty solicitor plan. In summer 2008, following a request to the Board from the Sheriff Principal for Glasgow and Strathkelvin, Kenny MacAskill, Cabinet Secretary for Justice, asked that PDSO help cover the Glasgow duty solicitor scheme when Glasgow Bar Association members decided to work to rule.

The PDSO employed a Polish-speaking paralegal and this has increased the number of Polish clients who instruct the PDSO. The Polish Consul to Scotland believes it has increased access to justice for that community.

The PDSO reviewed its expenditure to identify savings. The new premises found for PDSO Edinburgh, will reduce the running costs for that office. On a cash basis PDSO running costs, including case-related costs, were £1.456 million.

## Civil Legal Assistance Office and Part V Service

Through Part V of the Legal Aid (Scotland) Act 1986 we can employ solicitors to provide civil legal assistance direct to clients and address unmet legal need.

The service we run is designed to address unmet legal need in different ways, works in partnership with other agencies, and is complementary to the services provided by solicitors in private practice.

### The Civil Legal Assistance Office – Highland and Islands

The office opened in February 2008 and helps the people of the Northern and Western Isles, Highland and Moray from an Inverness base. Since the office opened, it has been inundated with people wanting help and the number of people using the service has continued to grow.

Where possible it acts as a referral agency, referring clients who are eligible for civil legal assistance to a solicitor in private practice who is willing and able to do the work. If no such solicitor can be found, then the service will take the case on if it has the expertise and capacity to do so.

The office has referred 180 clients to solicitors in private practice, and has taken on around 300 cases, more than 100 of which were referred to it by solicitors in private practice. The office also has close working relationships with Women's Aid and with Citizens Advice Bureaux across the service area and it provides second tier consultancy and training for their staff.

### The Part V Argyll and Bute Advice Network Service

The office works in partnership with the Argyll and Bute Advice Network in delivering both second tier legal support to other advice agencies in Argyll and Bute, and also acts directly for clients on a wide range of general civil casework.

### The Part V Legal Outreach Team

The office is based in Edinburgh and the Lothians and focuses on advice and representation for those in prison and those with mental health issues. It provides second tier support to partner agencies and acts directly for clients in civil cases where there is unmet legal need.

- Prison advice – we work in partnership with private solicitors' firms, the Public Defence Solicitors' Office (PDSO), the Scottish Prison Service and advice agencies such as SACRO, Families Outside and Apex Scotland to help resettle offenders and provide advice and representation on civil matters.
- Mental health advice – we aim to take a co-ordinated cross-agency approach to improving the availability, quality, efficiency and effectiveness of legal advice for clients with mental health problems. We are working with mental health agencies, advice agencies and local solicitors' firms to improve working relationships, with a view to increasing and improving referral.

Clients have had excellent outcomes and client satisfaction is consistently high. The service has also been well received by local solicitors in private practice. They recognise that the service provides a source of business by referring clients to solicitors who are interested in, or have expertise in, the relevant type of work. Similarly, if work is not of interest or within a solicitor's expertise, that solicitor can refer the client to the service.

Family law and social welfare law (including housing and employment) generally are the prominent areas in which the services are called upon to assist, although a broad range of civil work can and does arise. In the future, the main challenge is to cope with the demand for services, which currently significantly outstrips supply.

In 2008-2009, we began recruitment of additional solicitors to work in areas where we know there is a lack of legal advice provision on housing and debt-related matters. The new solicitors will work in Edinburgh, Aberdeen and Aberdeenshire, Inverness and Argyll and Bute.

## Our performance

We have performance targets for making correct decisions within set timescales. This section tells you how we performed against target.

Our main roles include taking decisions on legal aid applications and assessing and paying the accounts of solicitors and counsel. We set performance indicators and targets to provide a measure of our performance. Our targets are agreed by Scottish Ministers annually.

The key measures of our performance are our headline indicators, which combine individual timeliness and accuracy targets for each legal aid type. They are weighted equally so that we achieve an appropriate balance between the measures for speed of processing and the quality of decisions.

For 2008-2009, we hit all eight of our headline performance targets and performed better than target in six of the eight areas covered.

The headline performance indicators combine sub-indicators for accuracy and timeliness for each broad type of legal aid. For the first time, in 2008-2009 we separately measured our accuracy in relation to children's legal aid applications, taking the number of sub-indicators to 16. We achieved all of these targets, exceeding 13.

The accuracy and timeliness indicators are themselves the product of combining the results for our performance against detailed targets for accuracy and timeliness for each type of legal aid application or account. For 2008-2009, we increased the number of individual targets from 62 to 67 to ensure that the headline indicators to which they contribute reflect more fully the range of work we undertake. The most significant addition is a suite of separate indicators for the accuracy and consistency of our decision making in children's legal aid cases.

We have also created separate targets for processing templated and non-templated requests for increases in authorised expenditure. Templated increases provide standardised levels of expenditure for most common types of case, largely replacing the need for solicitors to make

several detailed requests during the lifetime of a case. We have undertaken to process templated requests more quickly than detailed requests: in five days for requests submitted on paper or two days for online requests, as opposed to the equivalent paper and online standards for detailed requests of seven days and four days respectively.

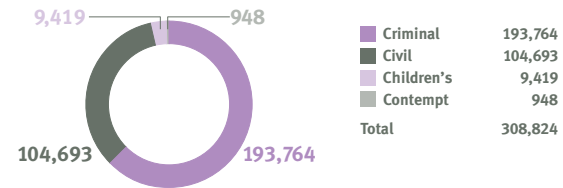
Of the existing targets, we made 12 of these tougher, either by shortening the timescales within which we aim to process applications (our service standards), by increasing the percentage of cases in which we aim to meet our service standard, or both. In particular, we reduced the timescales within which we undertake to process most types of applications relating to civil legal aid. For example, we now undertake to process 96% of initial civil legal applications within 32 days, a significant improvement on our previous target of processing 94% within 35 days.

Our performance hit or bettered 56 of the 67 detailed targets, including all of those that had been made tougher for 2008-2009.

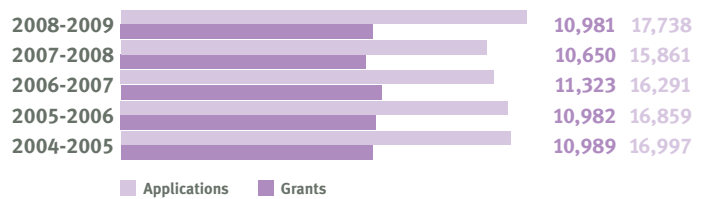
We introduced an entirely new computer system for handling criminal legal aid business at the start of the financial year and then further revised this system to handle the new structure, application forms and processes for summary criminal legal assistance introduced in June 2008. Despite this major upheaval, we met our headline indicators for criminal legal aid and advice and assistance, as well as the accuracy and timeliness sub-indicators for each. We also bettered our detailed timeliness and accuracy targets for initial summary criminal legal aid applications, the most significant single aspect of criminal legal aid by volume. We did however miss a number of the timeliness targets relating to some of the other elements of criminal legal aid. Most of these were missed very narrowly as a result of small numbers of applications not being processed within the tight timescales we set for ourselves. Despite this, we believe that our performance at a time of very significant change remained impressive and have every confidence that we will meet our targets for the coming year.

## Facts and figures overview

Total legal assistance grants 2008-2009



Civil legal aid applications and grants 2004-2009



### Grants of legal assistance in 2008-2009

Civil legal assistance grants:

- civil advice and assistance (excluding ABWOR) rose by 4% to 89,571
- civil ABWOR remained at the same level at 4,141
- civil legal aid grants rose by 3% to 10,981.

Criminal legal assistance grants:

- total grants relating to summary cases (including ABWOR and legal aid grants by the Board and the courts) rose by 3.5% to 90,524
- criminal advice and assistance (excluding ABWOR) fell by 51% to 51,385
- solemn grants by the courts fell by 2.9% to 12,410.

Children's legal assistance grants:

- children's advice and assistance rose by 3.5% to 4,848
- children's legal aid grants rose by 9% to 4,566.

Contempt of court legal assistance grants fell by 15% to 948.

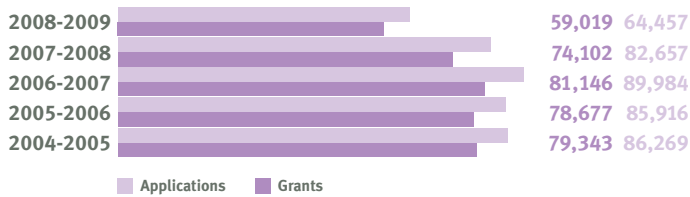
### Overall costs in 2008-2009

The total net expenditure from the Legal Aid Fund on a cash basis was £150.2 million in 2008-2009 – a decrease of 3.2%, or £4.9 million, on the year before.

The total gross cost of civil legal assistance including the cost of Part V solicitors employed by the Board was up 1.1% to £53.2 million. The total net cost of civil legal assistance was up 7% at £42.6 million:

- civil advice and assistance (excluding ABWOR) fell by 3.4% to £16.0 million
- civil ABWOR rose by 86% to £4.9 million
- civil legal aid (gross) was down 3.4% at £32.0 million
- income in civil legal aid cases (contributions, expenses, and recoveries from property recovered or preserved) was down 17% at £10.5 million
- the resulting net cost of civil legal aid was up 5% at £21.5 million
- the cost of the Board's Part V solicitors was £0.3 million.

**Summary criminal legal aid applications and grants 2004-2009**



**Solemn criminal legal aid grants by the courts 2004-2009**



The cost of criminal legal assistance fell by 7%, to £103.2 million:

- criminal advice and assistance (excluding ABWOR) fell by 43% to £4.3 million
- criminal ABWOR rose by 214% to £11.1 million
- summary criminal legal aid fell by 19% to £42.9 million
- solemn criminal legal aid fell by 6% to £38.5 million.

**Expenditure on legal aid 2003-2009**

Over the last five years, expenditure has increased by 2.9% – a rise of £4.2 million. Most of the increase has been because of a 6.3% or £2.5 million rise in the net costs of civil legal assistance. This is counter to the pattern seen over the last few years.

Criminal legal assistance expenditure (including duty solicitors and PDSO) has risen by £0.7 million, or 0.6%.

Expenditure on children’s legal assistance has increased by 32%, £1.0 million, all of this coming from a rise in children’s legal aid.

Contempt of court legal assistance and miscellaneous payments have increased by £0.1 million or 41%.

## Facts and figures overview

Net total legal assistance expenditure 2004-2009 (£000s)

Year	Civil	Criminal	Children's/contempt/miscellaneous	Totals
2008-2009	42,623	103,160	4,383	150,166
2007-2008	39,806	110,506	4,753	155,065
2006-2007	38,976	106,622	4,571	150,169
2005-2006	39,530	103,997	4,324	147,851
2004-2005	39,917	109,031	3,470	152,418

Payments made for legal assistance 2004-2009 (£ million)

Year	Counsel	Solicitor	Outlays	Totals
2008-2009	18.6	122.0	18.3	158.9
2007-2008	21.6	126.4	18.1	166.2
2006-2007	20.8	122.0	18.2	160.9
2005-2006	18.3	122.7	16.8	157.8
2004-2005	18.8	127.3	17.7	163.8

## Payments for legal assistance

### Amounts paid for all legal assistance

Last year the amounts paid for legal assistance from the Legal Aid Fund were:

- £122.0 million to solicitors, a decrease of 3.5%, or £4.4 million, compared to 2007-2008
- £18.6 million to counsel (advocates and solicitor advocates), a decrease of 14%, or £3.1 million
- £18.3 million on outlays, 1.2% more than the year before.

Over the last five years, payments made for legal assistance overall have increased by 1.3% or £2.1 million:

- payments made to solicitors over this period have fallen by 0.8%, or £0.9 million
- payments to counsel have increased by £0.7 million, a rise of 4%
- the cost of outlays has increased by 14%, or £2.3 million.

### Amounts paid for civil legal assistance

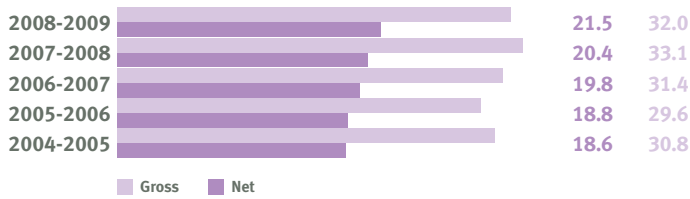
Last year the amounts paid for civil legal assistance were:

- £35.0 million to solicitors, an increase of 0.4%, or £0.1 million
- £5.1 million to counsel (advocates and solicitor advocates), a decrease of 10%, or £0.6 million
- £12.8 million on outlays, an increase of 8%, or £1.0 million. Outlays include the costs incurred where a solicitor from elsewhere in the country instructs an Edinburgh solicitor to conduct a case in the Court of Session.

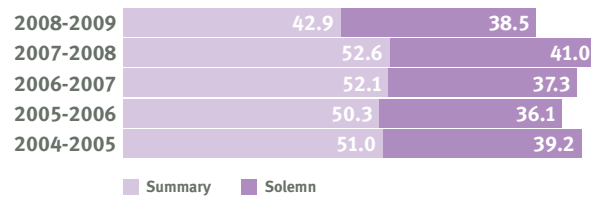
Over the last five years, payments made for civil legal assistance work overall have increased by 3% or £1.6 million:

- payments made to solicitors over this period have fallen by 5%, or £1.8 million
- payments to counsel have increased by £0.9 million, a rise of 23%
- the cost of outlays for civil legal assistance has increased by 25%, or £2.5 million.

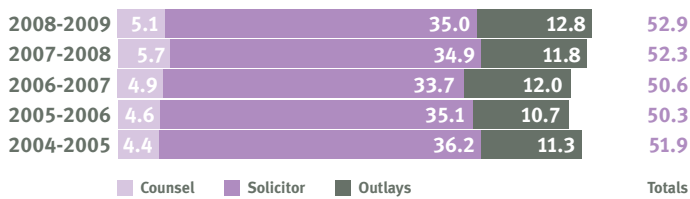
Civil legal aid expenditure 2004-2009 (£ million)



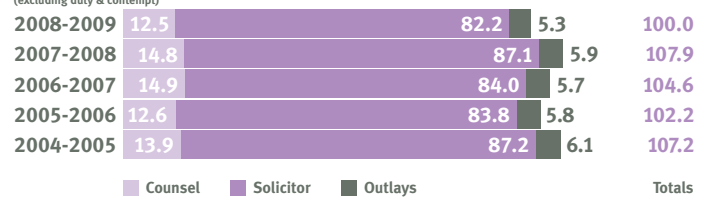
Criminal legal aid expenditure 2004-2009 (£ million)



Payments made for civil legal assistance 2004-2009 (£ million)



Payments made for criminal legal assistance 2004-2009 (£ million)  
(excluding duty & contempt)



Amounts paid for criminal legal assistance

Last year the amounts paid for criminal legal assistance work, excluding duty solicitors and PDSO, were:

- £82.2 million to solicitors, a decrease of 6% or £4.9 million
- £12.6 million to counsel (advocates and solicitor advocates), a fall of 15%, or £2.3 million
- £5.3 million on outlays, a decrease of 11%, or £0.7 million.

Over the last five years, payments for criminal legal assistance work have decreased by 1.1%, a fall of £1.1 million:

- payments to solicitors fell by £0.3 million, a decrease of 0.3%
- payments to counsel (advocates and solicitor advocates) have fallen by 4% or £0.6 million
- payments for outlays decreased by 5%, or £0.3 million.

## Civil legal assistance

### Civil advice and assistance and ABWOR

#### Grants

In the last year the total number of civil advice and assistance and ABWOR grants increased by 4%, to 93,712 grants, halting the reductions we have seen in previous years. The overall reduction over the last five years is now 32%, compared to 40% for the five years to 2007-2008. Much of the reduction over recent years reflects the intended effects of significant reforms to civil advice and assistance made in May 2007. These reforms encourage solicitors to focus on the types of work on which they are best placed to advise.

The increase in civil advice and assistance we have seen in the last year relates at least in part to the economic downturn. Employment cases have increased by 31% (an additional 465 cases); hire purchase/debt by 8% (597 cases); state benefits by 6% (344 cases); and recovery of heritable property (which includes eviction and repossession-related matters) by 17% (619 cases). Contact cases have also increased considerably, by 1,504 cases (15%).

In ABWOR, where the solicitor can represent people in certain types of tribunal and other hearings, the number of grants has remained static at 4,141. The total number of grants is 0.6% higher than five years ago. The number of immigration and asylum cases rose 12% to 1,664; however, mental health appears to have peaked after the increases of recent years – ABWOR intimations dropped 8% to 2,117.

Requests for increases in authorised expenditure in advice and assistance have risen by 8% to 76,117 this year. The number of increases granted rose by 14%.

#### Expenditure

The overall cost of civil advice and assistance (including ABWOR) has increased 9% (£1.7 million) from the previous year at £20.9 million, although it is 3% lower than five years ago. Within this, the cost of civil advice and assistance itself has fallen by 3.4% to £16.0 million in 2008-2009. This percentage reduction is less than the percentage fall in the number of accounts paid, because there have been fewer lower-value cases following the removal of minimum fees in 2007 – the average case cost has actually increased 5% to £210.

There was an 86% increase in the total cost of ABWOR cases to £4.9 million, partly due to a 43% increase in the number of cases paid and partly due to a 30% increase in their average cost. These increases are due to the large rise in the number and cost of mental health tribunal cases in recent years. The Board is keen to ensure that this increase in expenditure represents good value for the taxpayer and will review the operation of this area in the coming year.

## Civil legal aid

### Applications and grants

There were 17,738 applications for civil legal aid in 2008-2009, 12% more than the previous year. This increase has reversed the trend of the last 10 years. The fall over the last five years is now just 2.4%.

Over half of the increase results from a 10% increase (967 cases) in the number of family/matrimonial cases. The biggest areas of growth have been children-related matters such as contact, residence and parental rights and responsibilities (a total increase of 439 cases, or 11%) and divorce (up 6% or 185 cases).

There have also been significant increases in adults with incapacity and reparation. The increase in adults with incapacity cases has continued the steady growth observed since the introduction of the Adults with Incapacity (Scotland) Act in 2000. The last financial year saw a 42% increase in the number of applications on the previous year, an additional 400 cases.

Reparation applications have seen an increase this year, in part due to a further wave of “slopping-out” and other cases from current or ex-prisoners.

Whilst there has been a large increase in applications for civil legal aid the number of grants has not shown as significant a change. At 10,981, there were 3% more grants of civil legal aid than in 2007-2008 – with most of the increase coming from adults with incapacity grants. These have a very high grant rate as there is no means test. Other areas actually saw a fall in grants despite an increase in applications – for example family/matrimonial with 30 fewer grants and reparation with 281 more applications but only 63 more grants.

In part, this is likely to be due to a time lag between the increase in applications being received and decisions being made. However, there was also a change in the proportion

of cases being granted: of all new cases we decided in 2008-2009, 80% were granted in some form, this being 2% lower than the previous year. Changes in the grant rate such as this tend to relate to shifts in the types of applications received. For example, a higher proportion of reparation cases submitted by prisoners will have been refused as a compensation scheme was introduced by the Scottish Prison Service, making court action unnecessary in most “slopping-out” cases.

Where cases were refused, in 88% of cases this was to do with the Board believing that the merits of the case were not sufficient; and 12% because applicants had too much disposable income or savings, compared to 11% the year before.

### Sanction

Solicitors need to apply to the Board in some cases for sanction before incurring unusual or high costs in a case or if they want to employ an expert or counsel (an advocate or solicitor advocate). The number of applications for sanction rose by 5% in 2008-2009 to 6,319.

This was made up of 1,990 requests for counsel, 7% more than the previous year, and 4,268 requests for experts or unusual or high costs, up 3.3%. We also saw 61 “templated” sanction requests as templates were introduced for certain types of standard experts and for mediation in civil cases in March 2008.

Slightly more applications for sanction for counsel were granted in 2008-2009 than in 2007-2008 but there were also a third more refusals. This caused a fall in the proportion of all sanction requests (including those for experts or unusual expenditure) that were granted, from 82% to 77% in 2008-2009.

Requests can be refused for a number of reasons – much will depend on the information provided by the solicitor to justify incurring the additional expense of having counsel act in the case or the contribution an expert might make.

## Civil legal assistance

### Trends in civil legal aid

The picture over the past five years for civil legal aid is that applications have fallen by 2% and grants by 11%. It remains to be seen whether the turnaround in application volumes this year is the start of a new trend, or a one-off impact of the economic downturn. The previous peak for civil legal aid applications coincided with the recession of the early 1990s. There are several possible explanations for this.

The first is that difficult economic conditions result in greater need for legal assistance. This certainly seems true of advice and assistance, where the subject matters that have seen the greatest increases are clearly related to the wider economy. It is less obviously true of civil legal aid; while there has been a 13% increase in applications relating to housing matters such as rent arrears and mortgage rights, the number of additional cases is very much smaller than in some other areas. There is also some evidence to suggest that there are more family problems during a recession. A further explanation may be that, with rising unemployment and problem debt, more people become eligible for legal aid. Finally, solicitors may be more willing to take on legal aid cases as other parts of the business may have been affected by the downturn, and in particular the decline of the housing market.

### Expenditure

There has been a 3.4% decrease in the total gross cost of civil legal aid compared to the previous year, to £32.0 million.

Some of this spending is offset by the income we receive in civil legal aid cases. This is made up of contributions payable by assisted persons, expenses paid by their opponents or amounts that we recover from any property won or kept as a result of a case funded by legal aid.

In 2008-2009, we received £10.5 million in income, which was 17% less than the year before. This fall was primarily due to a fall in the income from reparation cases (mostly expenses from opponents in reparation cases) from £8.8 million last year to £6.6 million income this year. This means that the net cost of civil legal aid rose to £21.5 million, up 5% on the year before. This was the highest net cost since 1998-1999.

Sheriff court cases make up around three quarters of all gross civil legal aid costs. This cost fell by £0.2 million last year, or 0.7%, mirroring the very slight reduction in the average cost of a case. There was no change in the number of cases paid.

Within this relatively stable picture, there was some shift in the balance between different categories of case and different heads of expenditure. While the cost of both solicitors' fees and counsel fell (by 2.9% and 7% respectively), the cost of outlays grew by 6% with most of this growth in family cases. This contributed to an increase in the share of all sheriff court spending accounted for by family cases, which grew from 69% to 71% despite very little change in the number of cases.

In the Court of Session, there was a 21% increase in the number of cases paid. However, much of this increase has been seen in relatively low cost categories such as immigration and asylum. Overall, the increase in case numbers has been more than offset by a 28% reduction in the average cost of a case, from £10,567 to £7,583. This has resulted in a 13% fall in gross expenditure, to £7.7 million. The reduction has been seen fairly even across the different heads of expenditure – that is, solicitors' fees, counsel and outlays.

However, the reduction has not been consistent across case categories. Reparation is by far the most significant category of case in the Court of Session, accounting for almost two thirds of gross expenditure in 2007-2008. That share has reduced in the last year, to 54%, due to a 28% fall in the gross cost of reparation and growth in the cost of several of the smaller categories. The reduction in reparation expenditure is driven in part by a 9% fall in the number of cases paid and a 20% fall in the average case cost.

As in previous years, one of the key factors in the change in expenditure is the impact of a small number of very expensive cases, where the costs are over £50,000. In 2008-2009 there were 32 such cases, costing a total of £2.5 million, compared to 36 cases the previous year costing a total of £3.2 million. The majority of these expensive cases are heard in the Court of Session and relate to reparation.

#### Amounts people pay towards the cost of civil legal aid

Where civil legal aid is granted, this does not always mean that the taxpayer has to meet the whole cost of the case. Someone granted civil legal aid may have to pay a contribution based on their income or capital. Or, if their case is successful, their opponent may be ordered to pay their expenses, and we will use this to pay for their legal aid. If these expenses do not meet their legal aid costs, they may have to pay from any money they win or keep in their case – for example, in damages cases. This is often called “property recovered or preserved” or “clawback”.

The percentage of grants where the assisted person had to pay a contribution towards the cost of their case has fallen again, by 2%, to 21% in 2008-2009. This is a new low for recent years; however, the figure is now expected to rise with the introduction of tapering in the assessment of financial eligibility for civil legal aid. This new mechanism has broadened eligibility for civil legal aid and is aimed at widening access to assistance, where required, with tapered contributions. We can therefore expect to see more people making contributions to the cost of civil legal aid in the future.

The average contribution payable is 2% higher than the previous year at £1,050. This figure has varied very little over the last few years, but will be expected to increase as a result of tapered eligibility making legal aid available to those with higher potential contributions to pay.

#### Amounts recovered

In 2008-2009 we received a total income from amounts recovered of £10.5 million, 17% less than the year before. This means that we recovered 33% of the total spent on civil legal aid cases, compared to 39% in 2007-2008.

The amount of income we collect can vary significantly from year to year as a small number of expensive cases can influence the overall total. It can also be influenced by changes in the proportion of different case types and their success rates. For example, in civil legal aid reparation cases, 82% of the amount spent was recovered, while only 12% of the amount spent on family and matrimonial cases was recovered. The proportion of reparation cases within civil legal aid as a whole is currently falling.

The income we received in civil cases was made up of:

- contributions of £1.2 million collected from people who had been granted civil legal aid, which was 11% higher than the previous year
- expenses of £8.1 million from opponents, 22% lower than the year before
- £1.3 million from property recovered or preserved, 5% less than the year before.

## Criminal legal assistance

As described on page 6, fundamental changes were made to the structure of summary criminal legal assistance last year. These changes, which were designed to support a programme of reforms in the wider summary justice system, radically affected advice and assistance, assistance by way of representation (ABWOR) and summary criminal legal aid. As a result, the volumes and costs of each type of legal aid have changed hugely, making comparison with previous years difficult.

### Summary criminal legal assistance

#### Grants

Solicitors made 51,385 grants of advice and assistance in relation to criminal matters, not including ABWOR. This is a reduction of 51% on the previous year, and 62% lower than five years ago. This reduction was a direct and immediate result of the summary criminal legal assistance reforms. Under the new system, payment for advice provided at the start of a case is subsumed into any subsequent grant of legal aid or ABWOR for that case. Where a solicitor knows that another type of legal aid will be granted, there is now no reason for them to make a separate grant of advice and assistance. As solicitors have needed to make over 50,000 fewer grants of advice and assistance, the administrative burden on them has reduced hugely.

The most significant change has been the arrangements for ABWOR. This form of aid allows solicitors to represent clients when they intend to plead guilty. As part of the reforms, the payment level for this type of work was increased very significantly and other rules were changed to allow solicitors to represent their own existing clients when they were appearing in court from custody. Previously, only the duty solicitor could have acted in these circumstances.

Coinciding with these changes to legal aid, reforms elsewhere in the justice system mean that solicitors have access to better information about their client's case at an earlier stage in the process. This means that they are in a better position to advise their client as to the appropriate plea and are not financially penalised if their client intends to plead guilty. As a combined result of these changes, the number of grants of ABWOR has increased by 124% from 2007-2008 to 38,801.

Not all ABWOR cases relate to pleas of guilty – there was also, as expected, a 42% increase in the number of grants of ABWOR in relation to proceedings such as breach of community service orders, or breach of probation. However, most of the ABWOR increase is in relation to guilty pleas.

To balance this increase in ABWOR, there has been a 22% year on year reduction in applications to the Board for summary criminal legal aid, to 64,457.

Grants of summary legal aid by the Board fell 20%, in parallel with applications, to 59,019.

The courts may also grant summary criminal legal aid in a limited number of defined circumstances, mainly where the court is considering a prison sentence where the accused has not previously been in prison. Grants of summary criminal legal aid by the courts fell by 73% to 397. Again, this was a result of the reforms, as solicitors can now provide ABWOR in situations that might previously have resulted in a grant of legal aid by the court.

A better picture of the overall change between 2007-2008 and 2008-2009 can be obtained by combining figures for the various types of legal aid that are available in summary cases. Excluding ABWOR for the various types of breach, the combined total for ABWOR and both court and Board-granted summary criminal legal aid was 90,524, a 3.5% increase on 2007-2008. In other words, the fall in summary grants has been more than offset by the rise in ABWOR grants in the year.

### Expenditure

Expenditure on criminal advice and assistance fell by 43% to £4.3 million. The average cost of a case under advice and assistance rose by 4%, from £69 to £72.

The cost of criminal ABWOR rose by 214% to £11.1 million. This considerable rise was due to the large increase in both the number of cases (up 88% to 28,375) and the average cost of a case (up 67% to £391), both of which flow from the summary justice reforms. When breach proceedings are excluded, the cost of ABWOR shows an increase of 352%, or £7.3 million.

In line with applications and grants, summary criminal legal aid spending decreased 19% in 2008-2009 compared to 2007-2008, to £42.9 million. This is not quite as large a decrease as for applications and grants due to the time difference in accounts being submitted and paid, which means that there is not as much of an effect from summary reforms yet.

The system of fixed payments for these cases means that the average cost per case has changed very little over the last ten years. The 2% increase in 2008-2009, to £659, is a result of more of the most straightforward cases now being dealt with under ABWOR. A slightly higher proportion of summary criminal legal aid cases will now involve extra payments for trials, resulting in a slightly higher average cost.

Total expenditure on summary criminal cases (summary criminal legal aid plus ABWOR, excluding breach proceedings) has fallen by 4.4%, or £2.4 million, to £52.3 million.

## Criminal legal assistance

### Criminal legal aid in solemn cases

#### Grants

The courts grant legal aid in more serious cases. This is known as solemn criminal legal aid. There was a 2.9% reduction in solemn grants made by the courts compared to 2007-2008, to 12,410. This figure is lower than the previous two years, although over the last five years the number of grants by the courts for solemn criminal legal aid has increased by 9%, or 1,011 cases.

#### Expenditure

Total expenditure on solemn cases fell by £2.5 million (6%) compared to 2007-2008, to £38.5 million. While this reduction appears entirely consistent with an overall 6% fall in the number of accounts paid and a static average cost per case, there are significant differences in the detailed patterns of expenditure.

The number of cases paid in the sheriff court fell by 2.4%, but there was an 8% increase in the average cost of a case, leading to a 6% rise in expenditure to £21.2 million. By way of contrast, there was a 34% reduction in the number of cases paid in the High Court, the lowest number for many years. The reduction in expenditure was 17%, significantly less than the volume reduction, as there was a 26% increase in the average cost of a case.

These figures suggest that a group of cases that might previously have been heard in the High Court are now being heard in the sheriff court. As these are likely to have been cases at the less serious (and less expensive) end of the High Court spectrum, the result is that the profile of cases remaining in the High Court will be on average more serious, and more expensive. Conversely, the average cost of a sheriff court case would be expected to increase as the type of cases that have moved are now likely to be at the upper end of the sheriff court in terms of seriousness and average cost.

Analysis at the category level suggests that this trend is particularly apparent in relation to drugs offences, with the number and average cost of sheriff court drugs cases rising by 17% and 6% respectively, while the number of High Court drugs cases has gone down by 55%. For drugs cases remaining in the High Court, the average cost has increased by 70%, from £11,048 to £18,785.

A further, related factor is the continuing reduction in the number of very high cost cases, defined as those costing more than £50,000. In 2008-2009 there were 32 such solemn cases, 3 fewer than in 2007-2008 and 15 fewer than in 2006-2007.

The total cost of these cases was £2.6 million, compared to £3.5 million in 2007-2008 and £4.4 million in 2006-2007. The main change was a reduction in the number of very expensive murder cases, which has fallen from 23 in 2007-2008 (at a total cost of £2.4 million) to 16 in 2008-2009 (at a total cost of £1.4 million). Similarly, the number of cases costing more than £100,000 has reduced, from 10 to six, with a total value falling from £1.9 million to £0.9 million.

#### Other criminal legal aid work

##### Appeals

There were 1,783 grants of criminal legal aid for appeals, a decrease of 5% on the previous year, continuing the trend for the last nine years. The number of appeals has fallen by 32% over the past five years.

The cost of appeals was £3.4 million, a 1% increase on the previous year. The total cost of appeals has increased by 40% over the last five years. The average cost of an appeal case was £1,585, a decrease of 1.9% on the previous year.

### Duty solicitor

Anyone taken into custody (regardless of their financial circumstances) has the right to use the duty solicitor. A duty solicitor is available at every sheriff and district (or JP) court in Scotland. Duty solicitors can represent accused people at their first appearances in court and, if they plead guilty, deal with any follow-up hearings until the end of the case. Duty solicitors made 28,785 appearances for people on criminal matters in 2008-2009, 20% fewer than the previous year. This is due to the introduction, as part of summary criminal legal assistance reform, of the ability for appointed solicitors to represent known clients from custody – thereby reducing the need for duty solicitors.

The reforms also substantially increased fees for appearances by duty solicitors. The cost of the duty solicitor scheme increased by 27% compared to 2007-2008 to £1.7 million.

### Sanction

Where a solicitor wishes to appoint counsel (an advocate or solicitor advocate) or employ an expert to advise on a case, they may, in some circumstances, have to ask the Board for sanction to do so in advance.

The majority of sanction applications occur in three main areas: counsel in High Court solemn cases and expert witnesses in solemn and summary sheriff court cases.

At 9,317, there were 9% (963) fewer sanction applications, in total, in criminal cases in 2008-2009 than in the previous year. This figure is not unexpected given the overall decline in applications for criminal legal aid.

## Children's and contempt of court legal assistance

### Children's legal assistance

This section is specifically about children's legal assistance, which means legal assistance before and after children's panel hearings and for related court proceedings. Civil or criminal legal assistance, as opposed to children's legal assistance, may be available for children involved in other civil or criminal legal proceedings.

#### Children's advice and assistance

The number of grants of advice and assistance by solicitors rose by 3.5% to 4,848. The number of increases rose 14% to 1,567.

#### Children's legal aid

The number of grants of legal aid by the courts rose by 9% compared to the previous year, to 4,566. The Board-granted five appeals, two fewer than the previous year.

#### Expenditure

The total cost of children's legal assistance fell by 8% to £4.2 million. Within this total, the cost of children's advice and assistance fell by 7%. The total paid for legal aid for children fell by 8%, to £3.8 million.

The decrease was due to a 7% fall in the number of cases paid; the average case cost of children's legal aid also fell by 7% to £1,021.

The total cost of counsel in children's cases decreased by 19% between 2007-2008 and 2008-2009 to £0.9 million. There was also a 34% drop in outlays to £0.2 million.

We have seen fewer very expensive children's legal aid cases this year, although they continue to make up a very substantial share of overall expenditure. In 2008-2009, there were eight cases costing more than £50,000, compared to 12 the previous year. These cases cost in total £1.0 million, or 27% of total expenditure on children's legal aid. This compares to a total cost for expensive cases of £1.2 million in 2007-2008, or 29% of total expenditure.

### Contempt of court legal assistance

Grants by the courts for contempt of court proceedings increased by 18% to 597 in 2008-2009. This figure has almost tripled in the past five years. Expenditure on contempt of court legal aid has not increased quite as much, only by 66% since 2003-2004. In the past year it has actually declined 2.9% to £0.1 million.

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### Payments made

– Information on payments made to all solicitors' firms, advocates and solicitor advocates in 2008-2009 for legal assistance work is available on our website [www.slab.org.uk](http://www.slab.org.uk)

# 1. Key statistics 2003-2009

## 1.1 Initial applications for legal assistance

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	% change on	
							2007-08	2003-04
<b>Civil</b>								
Civil advice and assistance	134,143	125,029	114,285	105,694	85,802	89,571	4.4%	-33.2%
Civil ABWOR	4,115	3,915	3,316	3,520	4,144	4,141	-0.1%	0.6%
Civil advice and assistance and ABWOR	138,258	128,944	117,601	109,214	89,946	93,712	4.2%	-32.2%
Civil legal aid	18,175	16,997	16,859	16,291	15,861	17,738	11.8%	-2.4%
<b>Total civil legal assistance</b>	<b>156,433</b>	<b>145,941</b>	<b>134,460</b>	<b>125,505</b>	<b>105,807</b>	<b>111,450</b>	<b>5.3%</b>	<b>-28.8%</b>
<b>Criminal</b>								
Criminal advice and assistance	135,752	131,097	124,738	123,211	104,220	51,385	-50.7%	-62.1%
Criminal ABWOR	22,922	20,648	19,946	19,017	17,308	38,801	124.2%	69.3%
Summary criminal legal aid (Board granted)	82,999	86,269	85,916	89,984	82,657	64,457	-22.0%	-22.3%
Summary and ABWOR	105,921	106,917	105,862	109,001	99,965	103,258	3.3%	-2.5%
Appeals	2,782	2,736	2,620	2,260	2,012	1,920	-4.6%	-31.0%
<b>Total criminal legal assistance</b>	<b>244,455</b>	<b>240,750</b>	<b>233,220</b>	<b>234,472</b>	<b>206,197</b>	<b>156,563</b>	<b>-24.1%</b>	<b>-36.0%</b>
<b>Children's</b>								
Children's advice and assistance	5,728	5,687	5,681	5,868	4,682	4,848	3.5%	-15.4%
Children's legal aid (including appeals)	3,654	3,668	3,986	4,461	4,199	4,566	8.7%	25.0%
<b>Total children's legal assistance</b>	<b>9,382</b>	<b>9,355</b>	<b>9,667</b>	<b>10,329</b>	<b>8,881</b>	<b>9,414</b>	<b>6.0%</b>	<b>0.3%</b>
<b>Contempt of court</b>								
Contempt of court advice and assistance	350	424	519	538	591	333	-43.7%	-4.9%
Contempt of court ABWOR	9	5	5	9	20	18	-10.0%	100.0%
Contempt of court legal aid	206	227	300	472	506	597	18.0%	189.8%
<b>Total contempt of court legal assistance</b>	<b>565</b>	<b>656</b>	<b>824</b>	<b>1,019</b>	<b>1,117</b>	<b>948</b>	<b>-15.1%</b>	<b>67.8%</b>

### Note

1. Before 2007-2008 contempt of court advice and assistance and ABWOR include criminal intimations only.

### Throughout this statistics section:

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year
- in tables showing accounts paid, unless otherwise stated, outlays include all payments other than fees paid to solicitors and advocates – for example, expert witnesses.

# 1. Key statistics 2003-2009 continued

## 1.2 Grants of legal assistance

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	% change on	
							2007-08	2003-04
<b>Civil</b>								
Civil advice and assistance	134,143	125,029	114,285	105,694	85,802	89,571	4.4%	-33.2%
Civil ABWOR	4,115	3,915	3,316	3,520	4,144	4,141	-0.1%	0.6%
Civil advice and assistance and ABWOR	138,258	128,944	117,601	109,214	89,946	93,712	4.2%	-32.2%
Civil legal aid	12,322	10,989	10,982	11,323	10,650	10,981	3.1%	-10.9%
<b>Total civil legal assistance</b>	<b>150,580</b>	<b>139,933</b>	<b>128,583</b>	<b>120,537</b>	<b>100,596</b>	<b>104,693</b>	<b>4.1%</b>	<b>-30.5%</b>
<b>Criminal</b>								
Criminal advice and assistance	135,752	131,097	124,738	123,211	104,220	51,385	-50.7%	-62.1%
Criminal ABWOR	22,922	20,648	19,946	19,017	17,308	38,801	124.2%	69.3%
Summary criminal legal aid (Board granted)	75,414	79,343	78,677	81,146	74,102	59,019	-20.4%	-21.7%
Summary criminal legal aid (court granted)	1,142	1,153	1,374	1,540	1,480	397	-73.2%	-65.2%
Total summary criminal and ABWOR	99,478	101,144	99,997	101,703	92,890	98,217	5.7%	-1.3%
Solemn criminal legal aid (court granted)	11,399	10,967	11,811	13,898	12,782	12,410	-2.9%	8.9%
Automatic legal aid	193	539	1,007	1,110	946	1,184	25.2%	513.5%
Appeals	2,629	2,551	2,453	2,134	1,874	1,783	-4.9%	-32.2%
Duty solicitor appearances (including PDSO)	31,163	32,843	32,210	34,713	36,041	28,785	-20.1%	-7.6%
<b>Total criminal legal assistance</b>	<b>280,614</b>	<b>279,141</b>	<b>272,216</b>	<b>276,769</b>	<b>248,753</b>	<b>193,764</b>	<b>-22.1%</b>	<b>-30.9%</b>
<b>Children's</b>								
Children's advice and assistance	5,728	5,687	5,681	5,868	4,682	4,848	3.5%	-15.4%
Children's legal aid (including appeals)	3,654	3,668	3,986	4,461	4,206	4,571	8.7%	25.1%
<b>Total children's legal assistance</b>	<b>9,382</b>	<b>9,355</b>	<b>9,667</b>	<b>10,329</b>	<b>8,888</b>	<b>9,419</b>	<b>6.0%</b>	<b>0.4%</b>
<b>Contempt of court</b>								
Contempt of court advice and assistance	350	424	519	538	591	333	-43.7%	-4.9%
Contempt of court ABWOR	9	5	5	9	20	18	-10.0%	100.0%
Contempt of court legal aid	206	227	300	472	506	597	18.0%	189.8%
<b>Total contempt of court legal assistance</b>	<b>565</b>	<b>656</b>	<b>824</b>	<b>1,019</b>	<b>1,117</b>	<b>948</b>	<b>-15.1%</b>	<b>67.8%</b>
<b>Total grants of legal assistance</b>	<b>441,141</b>	<b>429,085</b>	<b>411,290</b>	<b>408,654</b>	<b>359,354</b>	<b>308,824</b>	<b>-14.1%</b>	<b>-30.0%</b>

### Notes

- 2006-2007 figures for civil and criminal A&A and ABWOR figures have been restated.
- Before 2007-2008 contempt of court advice and assistance and ABWOR include criminal intimations only.

## 1.3 Total payments for administration and Legal Aid Fund

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	% change on	
	£000	£000	£000	£000	£000	£000	2007-08	2003-04
<b>Grant-in-Aid</b>								
Staff costs	-	7,542	8,001	8,499	9,000	9,248	2.8%	-
Running costs	-	3,333	3,720	3,717	3,899	4,008	2.8%	-
Capital	-	383	537	610	294	285	-3.1%	-
<b>Total Grant-in-Aid</b>	<b>10,910</b>	<b>11,258</b>	<b>12,258</b>	<b>12,826</b>	<b>13,193</b>	<b>13,541</b>	<b>2.6%</b>	<b>24.1%</b>
Legal Aid Fund (gross expenditure)	157,280	164,621	158,655	161,837	167,826	160,714	-4.2%	2.2%
Less civil legal assistance income received	11,350	12,203	10,804	11,668	12,762	10,548	-17.3%	-7.1%
<b>Total net legal aid expenditure</b>	<b>145,931</b>	<b>152,418</b>	<b>147,851</b>	<b>150,169</b>	<b>155,065</b>	<b>150,166</b>	<b>-3.2%</b>	<b>2.9%</b>
<b>Total administration and legal aid</b>	<b>156,841</b>	<b>163,676</b>	<b>160,109</b>	<b>162,995</b>	<b>168,258</b>	<b>163,707</b>	<b>-2.7%</b>	<b>4.4%</b>

### Note

- A breakdown of the Grant-in-Aid figure for 2003-2004 is not available.

## 1. Key statistics 2003-2009 continued

### 1.4 Number of cases paid

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	% change on	
							2007-08	2003-04
<b>Civil legal assistance</b>								
Civil advice and assistance	120,179	112,413	104,164	93,047	82,645	76,149	-7.9%	-36.6%
Civil ABWOR	3,855	3,729	3,626	2,756	2,998	4,282	42.8%	11.1%
Civil legal aid	12,721	12,253	11,570	11,891	12,685	12,866	1.4%	1.1%
<b>Total civil legal assistance</b>	<b>136,755</b>	<b>128,395</b>	<b>119,360</b>	<b>107,694</b>	<b>98,328</b>	<b>93,297</b>	<b>-5.1%</b>	<b>-31.8%</b>
<b>Criminal legal assistance</b>								
Criminal advice and assistance	130,314	130,175	118,394	117,857	103,387	59,335	-42.6%	-54.5%
Criminal ABWOR	19,099	19,261	17,688	16,519	15,100	28,375	87.9%	48.6%
Summary criminal legal aid	75,227	78,945	77,963	80,790	81,477	65,014	-20.2%	-13.6%
Solemn criminal legal aid	10,178	11,087	11,395	11,528	13,618	12,775	-6.2%	25.5%
Appeals	2,496	3,011	2,910	2,173	2,064	2,123	2.9%	-14.9%
Duty solicitor (see note 1)	30,233	31,701	31,150	34,116	34,493	27,734	-19.6%	-8.3%
<b>Total criminal legal assistance</b>	<b>267,547</b>	<b>274,180</b>	<b>259,500</b>	<b>262,983</b>	<b>250,139</b>	<b>195,356</b>	<b>-21.9%</b>	<b>-27.0%</b>
<b>Children's legal assistance</b>								
Children's advice and assistance	4,952	5,014	5,076	5,147	4,473	3,945	-11.8%	-20.3%
Children's legal aid	2,557	2,897	3,357	3,535	3,764	3,706	-1.5%	44.9%
<b>Total children's legal assistance</b>	<b>7,509</b>	<b>7,911</b>	<b>8,433</b>	<b>8,682</b>	<b>8,237</b>	<b>7,651</b>	<b>-7.1%</b>	<b>1.9%</b>
<b>Contempt of court legal assistance</b>								
Contempt of court advice and assistance	-	-	-	-	587	320	-45.5%	-
Contempt of court ABWOR	-	-	-	-	3	9	200.0%	-
Contempt of court legal aid	184	182	227	345	430	461	7.2%	150.5%
<b>Total contempt of court legal assistance</b>	<b>184</b>	<b>182</b>	<b>227</b>	<b>345</b>	<b>1,020</b>	<b>790</b>	<b>-22.5%</b>	<b>329.3%</b>
<b>Total legal assistance</b>	<b>411,995</b>	<b>410,668</b>	<b>387,520</b>	<b>379,704</b>	<b>357,724</b>	<b>297,094</b>	<b>-16.9%</b>	<b>-27.9%</b>

#### Notes

1. Duty solicitors' number of appearances on behalf of accused persons.
2. Before 2007-2008 advice and assistance for contempt of court is included within criminal and civil advice and assistance.

# 1. Key statistics 2003-2009 continued

## 1.5 Total cost to the taxpayer of legal assistance

	2003-2004 £000	2004-2005 £000	2005-2006 £000	2006-2007 £000	2007-2008 £000	2008-2009 £000	% change on 2007-08 2003-04	
<b>Civil legal assistance</b>								
Civil advice and assistance	18,925	18,664	18,174	17,304	16,545	15,985	-3.4%	-15.5%
Civil ABWOR	2,546	2,636	2,532	1,912	2,624	4,886	86.2%	91.9%
<b>Total civil advice and assistance and ABWOR</b>	<b>21,472</b>	<b>21,299</b>	<b>20,706</b>	<b>19,216</b>	<b>19,169</b>	<b>20,870</b>	<b>8.9%</b>	<b>-2.8%</b>
Civil legal aid gross expenditure	29,994	30,821	29,627	31,428	33,133	32,002	-3.4%	6.7%
Less civil legal assistance income received	11,350	12,203	10,804	11,668	12,762	10,548	-17.3%	-7.1%
<b>Civil legal aid (net cost)</b>	<b>18,644</b>	<b>18,618</b>	<b>18,823</b>	<b>19,760</b>	<b>20,372</b>	<b>21,454</b>	<b>5.3%</b>	<b>15.1%</b>
Part V	-	-	-	-	265	299	12.8%	-
<b>Total civil assistance gross expenditure (including Part V)</b>	<b>51,465</b>	<b>52,120</b>	<b>50,334</b>	<b>50,644</b>	<b>52,568</b>	<b>53,171</b>	<b>1.1%</b>	<b>3.3%</b>
<b>Total net civil legal assistance</b>	<b>40,116</b>	<b>39,917</b>	<b>39,530</b>	<b>38,976</b>	<b>39,806</b>	<b>42,623</b>	<b>7.1%</b>	<b>6.3%</b>
<b>Criminal legal assistance</b>								
Criminal advice and assistance	9,012	8,989	8,088	8,132	7,451	4,267	-42.7%	-52.7%
Criminal ABWOR	3,444	3,940	3,730	3,724	3,534	11,104	214.2%	222.4%
<b>Total criminal advice and assistance and ABWOR</b>	<b>12,456</b>	<b>12,929</b>	<b>11,818</b>	<b>11,856</b>	<b>10,984</b>	<b>15,371</b>	<b>39.9%</b>	<b>23.4%</b>
Summary criminal legal aid	48,859	50,990	50,320	52,134	52,604	42,855	-18.53%	-12.3%
Solemn criminal legal aid	37,457	39,174	36,147	37,254	40,954	38,454	-6.1%	2.7%
Appeals	2,413	4,141	3,888	3,310	3,334	3,366	1.0%	39.5%
<b>Total criminal legal aid</b>	<b>88,729</b>	<b>94,306</b>	<b>90,355</b>	<b>92,698</b>	<b>96,892</b>	<b>84,676</b>	<b>-12.6%</b>	<b>-4.6%</b>
Duty solicitor appearances	945	969	1,031	1,203	1,308	1,657	26.7%	75.4%
Public Defence Solicitors' Office (PDSO)	376	827	793	864	1,321	1,456	10.2%	287.2%
<b>Total criminal legal assistance</b>	<b>102,506</b>	<b>109,031</b>	<b>103,997</b>	<b>106,622</b>	<b>110,506</b>	<b>103,160</b>	<b>-6.6%</b>	<b>0.6%</b>
<b>Children's legal assistance</b>								
Children's advice and assistance	426	455	457	458	419	388	-7.3%	-8.9%
Children's legal aid	2,733	2,906	3,759	3,980	4,110	3,784	-7.9%	38.5%
<b>Total children's legal assistance</b>	<b>3,159</b>	<b>3,361</b>	<b>4,216</b>	<b>4,439</b>	<b>4,529</b>	<b>4,172</b>	<b>-7.9%</b>	<b>32.1%</b>
<b>Contempt of court legal assistance</b>								
Contempt of court advice and assistance and ABWOR	-	-	-	-	31	27	-15.0%	-
Contempt of court legal aid	87	67	77	102	149	145	-2.9%	65.7%
<b>Total contempt of court legal assistance</b>	<b>87</b>	<b>67</b>	<b>77</b>	<b>102</b>	<b>180</b>	<b>171</b>	<b>-5.0%</b>	<b>96.4%</b>
Miscellaneous payments	63	42	31	31	43	40	-7.0%	-36.5%
Legal Aid Fund (gross expenditure)	157,280	164,621	158,655	161,837	167,826	160,714	-4.2%	2.2%
<b>Total cost of legal assistance to the taxpayer</b>	<b>145,931</b>	<b>152,418</b>	<b>147,851</b>	<b>150,169</b>	<b>155,065</b>	<b>150,166</b>	<b>-3.2%</b>	<b>2.9%</b>

### Note

1. Before 2007-2008 advice and assistance for contempt of court is included within criminal and civil advice and assistance.

## 1. Key statistics 2003-2009 continued

### 1.6 Average case cost

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	% change on	
	£	£	£	£	£	£	2007-08	2003-04
<b>Civil legal assistance</b>								
Advice and assistance	157	166	174	186	200	210	4.8%	33.7%
ABWOR	660	707	698	694	875	1,141	30.4%	72.9%
Civil legal aid	2,358	2,515	2,561	2,643	2,612	2,487	-4.8%	5.5%
<b>Criminal legal assistance</b>								
Advice and assistance	69	69	68	69	69	72	4.2%	4.2%
ABWOR	180	205	211	225	234	391	67.2%	117.4%
Summary criminal legal aid	649	646	645	645	646	659	2.1%	1.6%
Solemn criminal legal aid	3,680	3,533	3,172	3,232	3,007	3,010	0.1%	-18.2%
Appeals	967	1,375	1,336	1,523	1,615	1,585	-1.9%	63.9%
<b>Children's legal assistance</b>								
Advice and assistance	86	91	90	89	94	98	5.1%	14.5%
Children's legal aid	1,069	1,003	1,120	1,126	1,092	1,021	-6.5%	-4.5%
<b>Contempt of court legal assistance</b>								
Advice and assistance	-	-	-	-	83	82	-1.1%	-
ABWOR	-	-	-	-	33	54	64.7%	-
Contempt of court legal aid	474	370	340	295	346	314	-9.4%	-33.8%

**Note**

1. Before 2007-2008 advice and assistance for contempt of court is included within criminal and civil advice and assistance.

# 1. Key statistics 2003-2009 continued

## 1.7 Payments made

	2003-2004 £000	2004-2005 £000	2005-2006 £000	2006-2007 £000	2007-2008 £000	2008-2009 £000	% change on 2007-08 2003-04	
<b>Civil legal assistance</b>								
Advocates	4,157	4,384	4,605	4,929	5,666	5,067	-10.6%	21.9%
Solicitor advocates	2	3	0	7	0	32	-	1,529.5%
Counsel	4,159	4,388	4,605	4,936	5,666	5,099	-10.0%	22.6%
Solicitors	36,852	36,183	35,068	33,668	34,864	35,012	0.4%	-5.0%
Outlays	10,236	11,294	10,661	12,039	11,772	12,761	8.4%	24.7%
<b>Total</b>	<b>51,246</b>	<b>51,864</b>	<b>50,334</b>	<b>50,643</b>	<b>52,303</b>	<b>52,872</b>	<b>1.1%</b>	<b>3.2%</b>
<b>Criminal legal assistance</b>								
Advocates	10,714	11,501	10,390	12,100	12,106	9,996	-17.4%	-6.7%
Solicitor advocates	2,400	2,448	2,201	2,761	2,698	2,543	-5.8%	5.9%
Counsel	13,114	13,948	12,591	14,861	14,804	12,539	-15.3%	-4.4%
Solicitors	82,491	87,235	83,803	83,984	87,129	82,225	-5.6%	-0.3%
Outlays	5,580	6,051	5,779	5,709	5,944	5,282	-11.1%	-5.3%
<b>Total</b>	<b>101,185</b>	<b>107,235</b>	<b>102,173</b>	<b>104,554</b>	<b>107,877</b>	<b>100,046</b>	<b>-7.3%</b>	<b>-1.1%</b>
<b>Children's legal assistance</b>								
Advocates	548	422	1,128	932	1,120	909	-18.8%	65.8%
Solicitor advocates	0	0	0	0	0	0	-	-
Counsel	548	422	1,128	932	1,120	909	-18.8%	65.8%
Solicitors	2,625	2,920	2,780	3,126	3,051	3,026	-0.8%	15.3%
Outlays	204	275	308	380	358	237	-33.9%	16.1%
<b>Total</b>	<b>3,377</b>	<b>3,617</b>	<b>4,216</b>	<b>4,438</b>	<b>4,529</b>	<b>4,172</b>	<b>-7.9%</b>	<b>23.5%</b>
<b>Contempt of court legal assistance</b>								
Advocates	26	9	12	8	20	17	-15.9%	-35.2%
Solicitor advocates	5	5	8	11	25	18	-25.5%	262.7%
Counsel	31	14	20	19	45	35	-21.2%	13.4%
Solicitors	53	49	0	0	131	132	0.6%	149.1%
Outlays	3	5	0	0	5	4	-6.8%	34.5%
<b>Total</b>	<b>87</b>	<b>67</b>	<b>77</b>	<b>103</b>	<b>180</b>	<b>171</b>	<b>-5.0%</b>	<b>96.4%</b>
<b>Duty solicitor appearances</b>								
Advocates	1	1	1	2	1	1	-3.4%	-16.3%
Solicitor advocates	0	0	0	1	1	1	35.6%	199.8%
Counsel	1	1	1	3	2	2	16.2%	45.1%
Solicitors	920	942	996	1,166	1,267	1,605	26.7%	74.5%
Outlays	24	26	34	35	40	50	26.0%	113.5%
<b>Total</b>	<b>945</b>	<b>969</b>	<b>1,031</b>	<b>1,204</b>	<b>1,308</b>	<b>1,657</b>	<b>26.7%</b>	<b>75.4%</b>
<b>Total legal assistance</b>								
Advocates	15,446	16,317	16,135	17,972	18,913	15,989	-15.5%	3.5%
Solicitor advocates	2,408	2,456	2,209	2,779	2,724	2,595	-4.8%	7.8%
Counsel	17,854	18,773	18,344	20,751	21,638	18,584	-14.1%	4.1%
Solicitors	122,940	127,329	122,702	122,026	126,442	122,001	-3.5%	-1.0%
Outlays	16,047	17,650	16,785	18,165	18,118	18,334	1.2%	14.3%
<b>Total</b>	<b>156,841</b>	<b>163,752</b>	<b>157,831</b>	<b>160,942</b>	<b>166,197</b>	<b>158,919</b>	<b>-4.4%</b>	<b>1.3%</b>

### Notes

1. Fees paid to solicitors, advocates and solicitor advocates include VAT.
2. In this table payments made to counsel are the sum of amounts paid to advocates and solicitor advocates.
3. Before 2007-2008 advice and assistance for contempt of court is included within criminal and civil advice and assistance.

### Throughout this statistics section:

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year
- in tables showing accounts paid, unless otherwise stated, outlays include all payments other than fees paid to solicitors and advocates - for example, expert witnesses.

## 2. Our performance

### Calculating our performance

Targets and outcomes in this section are rounded to the nearest whole percentage point. Where standards are shown these are for the most recent year shown. Some standards may have changed from the previous year. Before 2008-2009 children's timeliness performance figures were included as part of the criminal figures.

#### 2.1 Headline targets and performance 2004-2009

Headline target	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Advice and assistance applications	96%	97%	97%	97%	97%
Civil legal aid applications	92%	93%	94%	95%	95%
Criminal legal aid applications	99%	99%	99%	99%	99%
Children's legal aid applications	–	–	–	99%	99%
Advice and assistance accounts	96%	96%	96%	97%	97%
Civil accounts	95%	96%	97%	97%	97%
Criminal accounts	97%	97%	97%	97%	97%
Children's accounts	–	–	–	97%	97%

Headline performance	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Advice and assistance applications	99%	99%	98%	98%	99%
Civil legal aid applications*	93%	95%	98%	99%	99%
Criminal legal aid applications	99%	99%	100%	100%	99%
Children's legal aid applications	–	–	–	99%	99%
Advice and assistance accounts	99%	99%	99%	99%	98%
Civil accounts	98%	99%	99%	99%	98%
Criminal accounts	99%	99%	99%	99%	99%
Children's accounts	–	–	–	100%	99%

\*A new civil applications computer system was introduced in the summer of 2005. Performance figures shown for 2005-2006, are for the 6 months from 1 September 2005.

## 2. Our performance continued

### 2.2 Headline targets and performance

Applications	Target 2008-2009	2008-2009	Actual 2007-2008
Timeliness advice and assistance applications	96%	98%	96%
Accuracy advice and assistance applications	98%	99%	99%
<b>Headline advice and assistance applications</b>	<b>97%</b>	<b>99%</b>	<b>98%</b>
Timeliness civil legal aid applications	95%	99%	99%
Accuracy civil legal aid applications	96%	99%	99%
<b>Headline civil legal aid applications</b>	<b>95%</b>	<b>99%</b>	<b>99%</b>
Timeliness criminal legal aid applications	99%	99%	100%
Accuracy criminal legal aid applications	98%	99%	100%
<b>Headline criminal legal aid applications</b>	<b>99%</b>	<b>99%</b>	<b>100%</b>
Timeliness children's legal aid applications	99%	99%	99%
Accuracy children's legal aid applications	98%	100%	-
<b>Headline children's legal aid applications</b>	<b>99%</b>	<b>99%</b>	<b>99%</b>

Accounts	Target 2008-2009	2008-2009	Actual 2007-2008
Timeliness advice and assistance accounts	97%	98%	99%
Accuracy advice and assistance accounts	97%	98%	98%
<b>Headline advice and assistance accounts</b>	<b>97%</b>	<b>98%</b>	<b>99%</b>
Timeliness civil legal aid accounts	97%	99%	99%
Accuracy civil legal aid accounts	97%	97%	98%
<b>Headline civil legal aid accounts</b>	<b>97%</b>	<b>98%</b>	<b>99%</b>
Timeliness criminal legal aid accounts	97%	100%	99%
Accuracy criminal legal aid accounts	97%	98%	99%
<b>Headline criminal legal aid accounts</b>	<b>97%</b>	<b>99%</b>	<b>99%</b>
Timeliness children's legal aid accounts	97%	100%	100%
Accuracy children's legal aid accounts	97%	99%	100%
<b>Headline children's legal aid accounts</b>	<b>97%</b>	<b>99%</b>	<b>100%</b>

### 2.3 Corporate targets

	Standard	Target 2008-2009	2008-2009	Actual 2007-2008
Complaints handling	within 28 days	100%	92%	93%
Payment for goods and services	within 30 days	98%	91%	95%
Collection of contributions	percentage due	90%	104%	95%

## 3. Civil legal assistance

### 3.1 Intimations of civil advice and assistance and ABWOR by subject matter

Subject matter	2008-2009	2007-2008
<b>Civil advice and assistance</b>		
Adults with incapacity	1,130	849
Aliment/Child Support Agency	981	820
Antisocial Behaviour Orders (ASBO)	383	383
Breach of contract	703	737
Children (Scotland) Act	1,943	1,855
Civil appeal	169	136
Complaints against professional bodies	788	847
Contact	11,452	9,948
Conveyancing	145	167
Criminal Injuries Compensation Authority	1,595	1,698
Discrimination	96	82
Divorce	6,961	7,203
Employment	1,983	1,518
Family/matrimonial – other	3,397	3,061
Hire purchase/debt	7,955	7,358
Housing	4,096	4,180
Human rights	160	79
Immigration and asylum	6,066	6,352
Interdict/harassment/non-harassment	5,056	4,917
Judicial review	576	985
Medical negligence	710	586
Mental health	905	1,022
Power of attorney	798	554
Recovery of heritable property	4,196	3,577
Reparation	7,430	7,085
Residence	2,628	2,408
Separation	4,698	4,365
State benefit	6,377	6,033
Wills/executory	2,170	1,951
Other	4,024	5,046
<b>Total civil advice and assistance</b>	<b>89,571</b>	<b>85,802</b>
<b>Civil ABWOR</b>		
Bankruptcy/petition by debtor	19	45
Employment tribunals	265	219
Immigration and asylum	1,664	1,491
Mental health	2,117	2,306
Sequestration	25	66
Other	51	17
<b>Total civil ABWOR</b>	<b>4,141</b>	<b>4,144</b>
<b>Total civil advice and assistance and ABWOR</b>	<b>93,712</b>	<b>89,946</b>

#### Note

1. The subject matter groupings have been refined in 2008-2009. The figures for 2007-2008 have been restated to reflect these changes including the removal of contempt of court to its own section.

## 3. Civil legal assistance continued

### 3.2 Civil legal aid applications

Proceedings	Sheriff court		Court of Session		Other courts		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008	2008-09	2007-08
Family/matrimonial	10,681	9,672	58	101	1	0	10,740	9,773
Debt	537	609	20	21	0	0	557	630
Reparation	1,499	1,224	118	113	1	0	1,618	1,337
Judicial review	0	0	173	349	0	0	173	349
Appeals	208	155	169	126	14	22	391	303
Housing/recovery of heritable property	1,606	1,420	8	7	0	0	1,614	1,427
Adults with incapacity	1,352	953	1	0	0	0	1,353	953
Medical negligence	90	87	84	89	0	0	174	176
Immigration and asylum	1	0	412	330	0	0	413	330
Breach of contract	79	66	6	2	0	0	85	68
Other	496	404	122	107	2	4	620	515
<b>Total</b>	<b>16,549</b>	<b>14,590</b>	<b>1,171</b>	<b>1,245</b>	<b>18</b>	<b>26</b>	<b>17,738</b>	<b>15,861</b>

### 3.3 Civil legal aid grants (including grants on review)

Proceedings	Sheriff court		Court of Session		Other courts		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008	2008-09	2007-08
Family/matrimonial	7,072	7,060	39	81	0	0	7,111	7,141
Debt	192	254	8	9	0	0	200	263
Reparation	765	710	71	63	0	0	836	773
Judicial review	0	0	70	82	0	1	70	83
Appeals	81	75	118	66	6	12	205	153
Housing/recovery of heritable property	703	695	5	2	0	0	708	697
Adults with incapacity	1,220	910	1	0	0	1	1,221	911
Medical negligence	33	35	42	57	0	0	75	92
Immigration and asylum	0	0	246	223	0	0	246	223
Breach of contract	34	32	3	1	0	0	37	33
Other	187	214	84	64	1	3	272	281
<b>Total</b>	<b>10,287</b>	<b>9,985</b>	<b>687</b>	<b>648</b>	<b>7</b>	<b>17</b>	<b>10,981</b>	<b>10,650</b>
<b>Grants with contribution</b>							<b>2,353</b>	<b>2,463</b>
<b>Grants with no contribution</b>							<b>8,628</b>	<b>8,187</b>
<b>Total</b>							<b>10,981</b>	<b>10,650</b>
Average value of contribution, where payable							£1,050	£1,027

#### Note

1. This table shows contributions payable at the grant of the civil legal aid application, or when granted on review.

## 3. Civil legal assistance continued

### 3.4 Accounts paid and average case costs – civil advice and assistance and ABWOR

Subject matter	Diagnostic accounts		Detailed accounts					All civil advice and assistance and ABWOR					
	Number of cases	Total paid £000	Number of cases	Solicitor £000	Solicitor outlays £000	Counsel outlays £000	Total outlays £000	Total paid £000	Total number of cases 2008-09	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
<b>Civil advice and assistance (excluding ABWOR)</b>													
Adults with incapacity	2	0	758	172	23	1	23	195	760	195	161	256	265
Aliment/Child Support Agency	2	0	807	129	9	0	9	138	809	138	126	170	155
Antisocial Behaviour Orders (ASBO)	1	0	325	48	1	0	1	50	326	50	49	152	149
Breach of contract	1	0	578	71	5	0	5	76	579	76	67	131	159
Civil appeals	1	0	119	22	1	4	5	26	120	26	33	219	338
Complaints about professional bodies	451	14	325	35	2	1	3	38	776	52	88	67	81
Contact	7	0	9,437	1,818	33	2	34	1,852	9,444	1,852	1,721	196	193
Conveyancing	1	0	122	15	4	1	4	19	123	19	28	157	205
Criminal Injuries Compensation Authority	4	0	1,422	144	9	1	9	154	1,426	154	190	108	114
Discrimination	0	0	60	13	2	1	3	15	60	15	4	257	118
Divorce	5	0	6,495	1,439	67	5	71	1,511	6,500	1,511	1,814	232	237
Employment	5	0	1,566	445	23	27	50	495	1,571	495	492	315	302
Family/matrimonial – other	6	0	3,999	719	60	8	68	787	4,005	787	746	196	195
Hire purchase/debt	675	23	6,232	700	15	7	21	721	6,907	745	805	108	107
Housing	537	17	3,185	426	30	3	33	459	3,722	477	804	128	141
Human rights	15	0	88	9	1	0	1	10	103	10	26	100	106
Immigration and asylum	1	0	5,860	1,729	439	26	465	2,194	5,861	2,194	1,725	374	349
Interdict/harassment/non-harassment	9	0	4,619	671	10	1	11	681	4,628	682	744	147	147
Judicial review	1	0	414	89	14	13	28	117	415	117	150	282	246
Medical negligence	0	0	292	84	93	0	93	177	292	177	25	607	397
Mental health	0	0	1,160	827	294	3	297	1,123	1,160	1,123	1,182	968	1,101
Power of attorney	0	0	552	90	27	0	27	117	552	117	97	213	199
Recovery of heritable property	0	0	2,975	536	18	4	21	558	2,975	558	220	187	172
Reparation	12	0	5,469	978	402	21	423	1,400	5,481	1,401	1,646	256	265
Residence	6	0	2,256	530	10	1	11	541	2,262	541	489	239	233
Restoration of driving licence	0	0	8	1	0	0	0	1	8	1	6	166	139
Separation	4	0	3,576	1,011	46	4	50	1,061	3,580	1,061	1,248	296	284
State benefit	2,799	92	3,182	506	172	3	175	681	5,981	773	971	129	127
Wills/executry	2	0	1,670	154	9	2	11	165	1,672	165	180	98	100
Other	1,615	51	2,436	352	49	24	72	424	4,051	475	709	117	114
<b>Total civil advice and assistance</b>	<b>6,162</b>	<b>199</b>	<b>69,987</b>	<b>13,762</b>	<b>1,862</b>	<b>162</b>	<b>2,024</b>	<b>15,786</b>	<b>76,149</b>	<b>15,985</b>	<b>16,545</b>	<b>210</b>	<b>200</b>
<b>Civil ABWOR</b>													
Bankruptcy/petition by debtor	–	–	22	1	0	0	0	1	22	1	2	66	110
Employment tribunals	–	–	33	36	1	7	7	43	33	43	124	1,314	1,113
Immigration and asylum	–	–	1,579	1,006	236	14	250	1,257	1,579	1,257	912	796	686
Mental health	–	–	2,593	2,592	967	11	978	3,570	2,593	3,570	1,558	1,377	1,143
Restoration of driving licence	–	–	1	1	0	1	1	2	1	2	11	1,756	249
Sequestration	–	–	36	2	0	0	0	2	36	2	7	65	78
Other	–	–	18	5	1	4	5	10	18	10	11	571	227
<b>Total civil ABWOR</b>	<b>0</b>	<b>0</b>	<b>4,282</b>	<b>3,644</b>	<b>1,205</b>	<b>37</b>	<b>1,242</b>	<b>4,886</b>	<b>4,282</b>	<b>4,886</b>	<b>2,624</b>	<b>1,141</b>	<b>875</b>
<b>Total civil advice and assistance and ABWOR 2008-2009</b>	<b>6,162</b>	<b>199</b>	<b>74,269</b>	<b>17,405</b>	<b>3,067</b>	<b>199</b>	<b>3,266</b>	<b>20,672</b>	<b>80,431</b>	<b>20,870</b>	<b>–</b>	<b>259</b>	<b>–</b>
Total civil advice and assistance and ABWOR 2007-2008	6,502	205	79,141	16,428	2,342	2	2,344	18,964	85,664	–	19,169	–	224

**Note**

1. In this table, payments to advocates and solicitor advocates are included under Counsel outlays, as regulation 17(1) of the Advice and Assistance (Scotland) Regulations 1996 only provides for payments to the solicitor, of fees and outlays.

## 3. Civil legal assistance continued

### 3.5 Accounts paid and average case costs – civil legal aid

Proceedings	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
<b>Sheriff court</b>									
Family/matrimonial	8,117	10,761	916	0	5,419	17,095	16,613	2,106	2,043
Debt	341	302	51	0	46	400	330	1,172	1,029
Reparation	893	2,420	448	0	1,034	3,902	4,903	4,369	3,507
Appeals	122	89	84	0	47	220	241	1,804	2,430
Housing/recovery of heritable property	1,009	316	13	0	28	357	320	353	387
Adults with incapacity	899	642	1	0	314	957	695	1,064	1,152
Medical negligence	33	63	13	0	39	116	76	3,507	2,721
Immigration and asylum	2	0	0	0	0	0	0	25	0
Breach of contract	39	62	77	0	18	157	85	4,034	2,075
Discrimination	3	5	3	0	1	9	4	2,850	3,862
Other	380	417	268	0	124	809	920	2,129	2,341
<b>Total sheriff court</b>	<b>11,838</b>	<b>15,077</b>	<b>1,874</b>	<b>0</b>	<b>7,071</b>	<b>24,021</b>	<b>24,187</b>	<b>2,029</b>	<b>2,043</b>
<b>Court of Session</b>									
Family/matrimonial	71	274	277	1	173	724	621	10,195	7,300
Debt	10	23	18	0	10	52	91	5,157	5,718
Reparation	238	1,317	1,509	0	1,357	4,182	5,769	17,572	22,103
Judicial review	124	157	186	0	135	479	567	3,861	4,261
Appeals	105	119	420	1	167	707	341	6,731	4,806
Housing/recovery of heritable property	1	0	1	0	0	1	6	1,377	2,880
Adults with incapacity	1	1	0	0	1	1	0	1,205	0
Medical negligence	36	140	86	0	288	513	330	14,264	13,192
Immigration and asylum	320	106	196	31	81	415	217	1,298	1,886
Breach of contract	2	13	12	0	2	27	25	13,507	8,168
Other	104	141	291	0	140	572	858	5,502	6,916
<b>Total Court of Session</b>	<b>1,012</b>	<b>2,290</b>	<b>2,997</b>	<b>32</b>	<b>2,354</b>	<b>7,674</b>	<b>8,823</b>	<b>7,583</b>	<b>10,567</b>
<b>Total other courts</b>	<b>16</b>	<b>42</b>	<b>195</b>	<b>0</b>	<b>70</b>	<b>307</b>	<b>123</b>	<b>19,180</b>	<b>13,709</b>
<b>All courts</b>									
Family/matrimonial	8,188	11,034	1,192	1	5,592	17,819	17,233	2,176	2,098
Debt	351	325	69	0	56	451	422	1,286	1,252
Reparation	1,131	3,737	1,957	0	2,391	8,084	10,672	7,148	6,433
Judicial review	124	157	186	0	135	479	567	3,861	4,261
Appeals	227	209	504	1	214	927	582	4,083	3,423
Housing/recovery of heritable property	1,010	316	14	0	29	358	325	355	393
Adults with incapacity	900	642	1	0	315	958	695	1,064	1,152
Medical negligence	69	203	99	0	327	629	406	9,119	7,660
Immigration and asylum	322	106	196	31	81	415	217	1,290	1,886
Breach of contract	41	75	90	0	19	184	110	4,496	2,490
Discrimination	3	5	3	0	1	9	4	2,850	3,862
Other	500	600	755	0	333	1,688	1,901	3,376	3,614
<b>Total all courts 2008-2009</b>	<b>12,866</b>	<b>17,409</b>	<b>5,067</b>	<b>32</b>	<b>9,494</b>	<b>32,002</b>	<b>-</b>	<b>2,487</b>	<b>-</b>
Total all courts 2007-2008	12,685	18,231	5,474	0	9,429	-	33,133	-	2,612

#### Note

1. Reparation cases include those paid in terms of the extra-statutory concession and of regulation 3 (as amended) of the Civil Legal Aid (Scotland) (Fees) Regulations 1989, where the legal representatives have elected to opt for the party and party expenses recovered from the opponent.

## 3. Civil legal assistance continued

### 3.6 Amounts recovered by the Legal Aid Fund

	2008-2009 £000	2007-2008 £000
Contributions from assisted persons	1,180	1,062
Expenses from opponents	8,081	10,344
Amounts awarded to assisted persons transferred to Legal Aid Fund	1,286	1,355
<b>Total recoveries</b>	<b>10,548</b>	<b>12,762</b>

#### Notes

1. These are amounts actually received by the Board, not amounts due to it.
2. A breakdown of total amounts recovered is shown in the Analysis of payments in table 7.1.

#### Throughout this statistics section:

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year
- in tables showing accounts paid, unless otherwise stated, outlays include all payments other than fees paid to solicitors and advocates – for example, expert witnesses.

## 4. Criminal legal assistance

### Section notes

1. Subject matter groupings have been refined in 2008-2009 throughout the criminal area. The figures for 2007-2008 have been restated to reflect these changes including the removal of contempt of court to its own section.
2. Sheriff court includes cases heard by stipendiary magistrates in the JP court.
3. Applications for bail-related matters are classified separately from 'Other' for the first time in 2008-2009.
4. The term JP court includes district courts not yet replaced by a JP court.

### 4.1 Intimations of criminal advice and assistance by subject matter

Subject matter	2008-2009	2007-2008
Appeals	486	890
Assault	6,447	14,954
Bail (including breach of bail)	1,860	1,417
Breach proceedings/no summary complaint	1,167	1,915
Criminal Law (Consolidation) (Scotland) Act	278	1,158
Criminal Procedure (Scotland) Act	133	4,865
Drugs	3,023	6,462
Embezzlement/fraud	870	1,235
Means enquiries/fines	6,294	9,533
Murder/attempted murder/culpable homicide	303	468
Offensive weapons/vandalism/breach of the peace	9,588	21,830
Road traffic	6,079	11,007
Sexual offences	499	845
Theft/housebreaking/robbery	6,590	15,978
Other	7,768	11,663
<b>Total</b>	<b>51,385</b>	<b>104,220</b>

### 4.2 Intimations of criminal ABWOR by subject matter

Subject matter	2008-2009	2007-2008
Assault	2,683	830
Bail (including breach of bail)	2,992	1,049
Breach proceedings/no summary complaint	7,693	5,409
Criminal Law (Consolidation) (Scotland) Act	19	113
Criminal Procedure (Scotland) Act	17	394
Drugs	2,554	1,203
Embezzlement/fraud	521	294
Offensive weapons/vandalism/breach of the peace	6,424	1,666
Road traffic	5,459	3,184
Sexual offences	161	50
Theft/housebreaking/robbery	7,185	1,670
Other	3,093	1,446
<b>Total</b>	<b>38,801</b>	<b>17,308</b>

### 4.3 Applications to the Board for summary criminal legal aid

Offence	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-09	2007-2008	2008-09	2007-08
Assault	1,728	2,032	19,246	17,954	20,974	19,986
Theft/housebreaking/robbery	1,959	2,725	6,857	9,781	8,816	12,506
Sexual offences	3	14	335	314	338	328
Embezzlement/fraud	103	138	860	851	963	989
Drugs	469	861	3,902	5,950	4,371	6,811
Offensive weapons/vandalism/breach of the peace	2,766	5,050	11,866	18,178	14,632	23,228
Road traffic	2,144	1,637	5,922	8,919	8,066	10,556
Bail (including breach of bail)	18	-	1,111	-	1,129	-
Other	696	1,165	4,472	7,088	5,168	8,253
<b>Total</b>	<b>9,886</b>	<b>13,622</b>	<b>54,571</b>	<b>69,035</b>	<b>64,457</b>	<b>82,657</b>

## 4.2 Criminal legal assistance continued

### 4.4 Grants by the Board of summary criminal legal aid

Offence	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-09	2007-08
Assault	1,681	1,950	18,115	16,913	19,796	18,863
Theft/housebreaking/robbery	1,716	2,210	6,704	9,441	8,420	11,651
Sexual offences	5	9	311	301	316	310
Embezzlement/fraud	74	88	814	801	888	889
Drugs	396	638	3,773	5,697	4,169	6,335
Offensive weapons/vandalism/breach of the peace	2,365	3,859	11,290	17,296	13,655	21,155
Road traffic	1,065	599	5,139	7,159	6,204	7,758
Bail (including breach of bail)	15	–	989	–	1,004	–
Other	419	620	4,148	6,521	4,567	7,141
<b>Total</b>	<b>7,736</b>	<b>9,973</b>	<b>51,283</b>	<b>64,129</b>	<b>59,019</b>	<b>74,102</b>

#### Note

1. Grants include granted at first instance and granted on review.

### 4.5 Grants of legal aid by the courts in summary proceedings under the Legal Aid (Scotland) Act 1986 section 23(1)(b)

Offence	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-09	2007-08
Assault	0	0	65	168	65	168
Theft/housebreaking/robbery	6	16	71	291	77	307
Sexual offences	0	0	0	5	0	5
Embezzlement/fraud	1	1	22	40	23	41
Drugs	0	0	17	75	17	75
Offensive weapons/vandalism/breach of the peace	4	1	52	239	56	240
Road traffic	2	2	46	191	48	193
Bail (including breach of bail)	0	–	0	–	0	–
Other	2	2	109	449	111	451
<b>Total</b>	<b>15</b>	<b>22</b>	<b>382</b>	<b>1,458</b>	<b>397</b>	<b>1,480</b>

#### Note

1. Under section 23(1)(b) the court may grant summary criminal legal aid when it is considering a custodial sentence for a convicted person who has not previously been sentenced to imprisonment.

### 4.6 Intimations of automatic legal aid for other courts and under section 22(1)(da-dd)

Type of intimation	2008-2009	2007-2008
Glasgow domestic abuse court	813	495
Glasgow, Kirkcaldy and Dunfermline drug courts	126	100
Hamilton and Airdrie youth court	222	326
Automatic legal aid under the Legal Aid (Scotland) Act 1986:		
• section 22(1)(da) The court determines the trial cannot go ahead because the applicant is insane	13	14
• section 22(1)(db) In relation to an examination of facts and the disposal of the case	2	5
• section 22(1)(dc) Appeal against a finding of insanity	0	1
• section 22(1)(dd) Court appoints solicitor to represent a person accused of sexual offence	8	5
<b>Total</b>	<b>1,184</b>	<b>946</b>

## 4. Criminal legal assistance continued

### 4.7 Grants of legal aid by the courts in solemn proceedings

Offence	Sheriff court		High Court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-09	2007-08
Murder/attempted murder/culpable homicide	756	697	9	12	765	709
Sexual offences	646	679	6	5	652	684
Assault	4,540	4,159	3	9	4,543	4,168
Theft/housebreaking/robbery	1,258	1,543	2	6	1,260	1,549
Embezzlement/fraud	206	256	0	1	206	257
Drugs	2,493	2,293	13	4	2,506	2,297
Offensive weapons/vandalism/breach of the peace	985	1,044	2	2	987	1,046
Road traffic	129	371	2	1	131	372
Bail (including breach of bail)	13	-	0	-	13	-
Other	1,337	1,688	10	12	1,347	1,700
<b>Total</b>	<b>12,363</b>	<b>12,730</b>	<b>47</b>	<b>52</b>	<b>12,410</b>	<b>12,782</b>

### 4.8 Criminal appeals – applications

	Applications received	Applications granted	Applications refused
<b>Leave to appeal</b>			
• against conviction	182	168	4
• against conviction and sentence	190	169	8
• against sentence only	1,471	1,400	4
<b>Total leave to appeal</b>	<b>1,843</b>	<b>1,737</b>	<b>16</b>
<b>Total other appeals</b>	<b>77</b>	<b>46</b>	<b>6</b>
<b>Total 2008-2009</b>	<b>1,920</b>	<b>1,783</b>	<b>22</b>
Total 2007-2008	2,012	1,874	25

#### Note

1. This table includes grants made under regulation 15 of the Criminal Legal Aid (Scotland) Regulations 1996 (matters of special urgency).

## 4. Criminal legal assistance continued

### 4.9 Accounts paid and average case costs – criminal advice and assistance and ABWOR

Subject Matter	Number of cases	Solicitor £000	Solicitor outlays £000	Counsel outlays £000	Total outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
<b>Criminal advice and assistance</b>									
Appeals	557	53	10	1	11	64	82	115	94
Assault	7,931	542	15	0	15	557	1,105	70	71
Bail (including breach of bail)	1,728	104	3	0	3	107	115	62	70
Breach proceedings/no summary complaint	1,110	136	6	0	7	142	158	128	117
Criminal Law (Consolidation) (Scotland) Act	564	41	1	0	1	42	84	75	73
Criminal Procedure (Scotland) Act	1,237	79	3	1	4	84	295	68	59
Drugs	3,624	263	10	0	10	274	482	76	74
Embezzlement/fraud	848	66	2	0	2	68	102	80	79
Mean enquiries/fines	5,888	219	3	0	3	222	352	38	38
Murder/attempted murder/culpable homicide	298	26	3	0	3	29	46	96	97
Offensive weapons/vandalism/breach of the peace	11,975	827	18	0	18	845	1,487	71	71
Prison rules	0	0	0	0	0	0	120	-	140
Road traffic	6,161	453	7	0	7	460	764	75	72
Sexual offences	499	39	2	0	2	41	73	82	86
Theft/housebreaking/robbery	8,711	621	16	0	16	637	1,143	73	72
Other	8,204	643	45	8	53	696	1,043	85	94
<b>Total criminal advice and assistance</b>	<b>59,335</b>	<b>4,112</b>	<b>144</b>	<b>11</b>	<b>155</b>	<b>4,267</b>	<b>7,451</b>	<b>72</b>	<b>69</b>
<b>Criminal ABWOR</b>									
Assault	1,884	866	4	1	6	871	95	462	151
Bail (including breach of bail)	1,794	578	2	1	3	580	24	324	73
Breach proceedings/no summary complaint	6,362	1,604	69	17	86	1,690	1,452	266	287
Criminal Law (Consolidation) (Scotland) Act	54	10	0	0	0	10	12	185	157
Criminal Procedure (Scotland) Act	126	28	1	1	1	30	133	237	287
Drugs	1,856	883	7	13	21	903	416	487	377
Embezzlement/fraud	385	168	1	0	1	169	32	438	205
Offensive weapons/vandalism/breach of the peace	4,625	2,126	8	0	8	2,134	195	462	150
Road traffic	4,111	1,391	8	0	8	1,399	412	340	138
Sexual offences	118	60	2	0	2	62	8	527	318
Theft/housebreaking/robbery	4,873	2,274	7	1	7	2,281	285	468	202
Other	2,187	920	44	10	54	973	472	445	302
<b>Total criminal ABWOR</b>	<b>28,375</b>	<b>10,906</b>	<b>153</b>	<b>44</b>	<b>197</b>	<b>11,104</b>	<b>3,534</b>	<b>391</b>	<b>234</b>
<b>Total criminal advice and assistance and ABWOR 2008-2009</b>	<b>87,710</b>	<b>15,018</b>	<b>297</b>	<b>55</b>	<b>352</b>	<b>15,371</b>	<b>-</b>	<b>175</b>	<b>-</b>
Total criminal advice and assistance and ABWOR 2007-2008	118,487	10,443	432	109	541	-	10,985	-	93

#### Note

1. In this table, payments to advocates and solicitor advocates are included under counsel outlays, as regulation 17(1) of the Advice and Assistance (Scotland) Regulations 1996 only provides for payments to the solicitor, of fees and outlays. In previous years outlays for the employment of counsel were included with all other solicitor outlays.

## 4. Criminal legal assistance continued

### 4.10 Duty solicitor – accounts

	Duty solicitor			PDSO as duty solicitor
	Total paid £000	Number of appearances	Cost per appearance £	Number of appearances
<b>Total 2008-2009</b>	<b>1,657</b>	<b>27,734</b>	<b>60</b>	<b>1,051</b>
Total 2007-2008	1,308	34,493	38	1,548

#### Note

1. PDSO appearances are not included in the total figures and are not used in 'Cost per appearance' calculations.

### 4.11 Accounts paid and average case costs – criminal legal aid

Proceedings	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
<b>Summary criminal legal aid</b>									
JP court	8,046	3,176	1	1	87	3,265	3,891	406	391
Sheriff court	56,968	37,942	155	53	1,440	39,590	48,713	695	681
<b>Total summary criminal legal aid 2008-2009</b>	<b>65,014</b>	<b>41,118</b>	<b>156</b>	<b>55</b>	<b>1,527</b>	<b>42,855</b>	<b>-</b>	<b>659</b>	<b>-</b>
Total summary criminal legal aid 2007-2008	81,477	50,665	168	69	1,703	-	52,604	-	646
<b>Solemn criminal legal aid (excluding appeals)</b>									
Sheriff court	11,710	18,023	1,316	116	1,737	21,193	20,056	1,810	1,672
High Court	1,065	6,526	7,269	2,026	1,440	17,261	20,898	16,208	12,884
<b>Total solemn criminal legal aid (excluding appeals) 2008-2009</b>	<b>12,775</b>	<b>24,549</b>	<b>8,585</b>	<b>2,143</b>	<b>3,177</b>	<b>38,454</b>	<b>-</b>	<b>3,010</b>	<b>-</b>
Total solemn criminal legal aid (excluding appeals) 2007-2008	13,618	24,524	10,557	2,293	3,580	-	40,954	-	3,007
<b>Appeals criminal legal aid 2008-2009</b>									
Appeals criminal legal aid 2008-2009	2,123	1,540	1,255	345	225	3,366	-	1,585	-
Appeals criminal legal aid 2007-2008	2,064	1,501	1,270	336	228	-	3,334	-	1,615
<b>Total all proceedings 2008-2009</b>	<b>79,912</b>	<b>67,207</b>	<b>9,996</b>	<b>2,543</b>	<b>4,930</b>	<b>84,676</b>	<b>-</b>	<b>1,060</b>	<b>-</b>
Total all proceedings 2007-2008	97,159	76,689	11,994	2,698	5,511	-	96,892	-	997

#### Notes

1. This table shows fees for solicitor advocates in the JP and sheriff courts. These charges are for bail appeals which are heard in the High Court but arise in those courts.
2. These figures exclude payments for contempt of court and duty solicitors.

#### Throughout this statistics section:

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year
- in tables showing accounts paid, unless otherwise stated, outlays include all payments other than fees paid to solicitors and advocates – for example, expert witnesses.

## 5. Children's legal assistance

### 5.1 Intimations of children's advice and assistance

	2008-2009	2007-2008
Children (Scotland) Act 1995 – part II, chapters 2 and 3	4,841	4,678
Transfer of agency	6	3
Witness citation	1	1
<b>Total</b>	<b>4,848</b>	<b>4,682</b>

### 5.2 Grants of legal aid by the courts under the Children (Scotland) Act 1995

	2008-2009	2007-2008
<b>Total</b>	<b>4,566</b>	<b>4,199</b>

### 5.3 Applications to the Board in respect of appeals to the Court of Session and the Sheriff Principal

	Applications received	Applications granted
<b>Total 2008-2009</b>	<b>37</b>	<b>5</b>
Total 2007-2008	21	7

### 5.4 Accounts paid and average case costs – children's advice and assistance

Subject matter	Number of cases	Solicitor £000	Solicitor outlays £000	Counsel outlays £000	Total outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
Children (Scotland) Act 1995 – part II, chapters 2 and 3	3,942	381	6	1	7	388	419	99	94
Transfer of agency	2	0	0	0	0	0	0	54	–
Witness citation	1	0	0	0	0	0	0	38	75
<b>Total 2008-2009</b>	<b>3,945</b>	<b>381</b>	<b>6</b>	<b>1</b>	<b>7</b>	<b>388</b>	<b>–</b>	<b>98</b>	<b>–</b>
Total 2007-2008	4,473	410	8	1	9	–	419	–	94

#### Note

1. In this table, payments to advocates and solicitor advocates are included under counsel outlays, as regulation 17(1) of the Advice and Assistance (Scotland) Regulations 1996 only provides for payments to the solicitor, of fees and outlays. In previous years outlays for the employment of counsel were included with all other solicitor outlays.

## 5. Children's legal assistance continued

### 5.5 Analysis of accounts paid and average case costs – children's legal aid

Subject matter	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Total outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
Appeal against warrant by children's hearing for detention	97	61	0	0	8	69	39	709	435
Appeal decision by children's hearing – other than detention	443	210	11	0	34	255	273	576	570
Application for a finding as to the grounds of referral	3,116	2,354	898	0	186	3,438	3,789	1,103	1,196
Application for variation/recall of child protection order	42	18	0	0	2	19	9	457	483
Application to the sheriff for a child assessment order	1	0	0	0	0	0	0	313	11
Application to the sheriff for a child protection order	1	0	0	0	0	0	0	0	0
Exclusion order – Children (Scotland) Act 1995 section 76	6	2	0	0	0	3	1	425	334
<b>Total 2008-2009</b>	<b>3,706</b>	<b>2,645</b>	<b>909</b>	<b>0</b>	<b>229</b>	<b>3,784</b>	<b>–</b>	<b>1,021</b>	<b>–</b>
Total 2007-2008	3,764	2,641	1,119	1	349	–	4,110	–	1,092

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## 6. Contempt of court legal assistance

### 6.1 Intimations of contempt of court advice and assistance and ABWOR

Aid type	2008-2009	2007-2008
<b>Advice and assistance</b>		
Civil	102	65
Criminal	229	517
Children's	2	9
<b>Total</b>	<b>333</b>	<b>591</b>
<b>ABWOR</b>		
Civil	0	0
Criminal	18	20
Children's	-	0
<b>Total</b>	<b>18</b>	<b>20</b>
<b>Total contempt of court advice and assistance and ABWOR</b>	<b>351</b>	<b>611</b>

### 6.2 Grants of legal aid by the courts for contempt of court proceedings

	JP court	Sheriff court	High Court	Total
<b>Total 2008-2009</b>	<b>2</b>	<b>561</b>	<b>34</b>	<b>597</b>
Total 2007-2008	4	432	70	506

**Note**

1. The term JP court includes district courts not yet replaced by a JP court.

### 6.3 Analysis of accounts paid and average case costs – contempt of court advice and assistance and ABWOR

Aid type	Number of cases	Solicitor £000	Solicitor outlays £000	Counsel outlays £000	Total outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
<b>Advice and assistance</b>									
Civil	65	15	0	0	0	15	10	230	187
Criminal	251	10	0	1	1	11	22	44	41
Children's	4	0	0	0	0	0	0	65	30
<b>Total</b>	<b>320</b>	<b>25</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>26</b>	<b>31</b>	<b>82</b>	<b>83</b>
<b>ABWOR</b>									
Civil	0	0	0	0	0	0	0	-	0
Criminal	9	0	0	0	0	0	0	54	33
Children's	0	0	0	0	0	0	0	-	0
<b>Total</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>54</b>	<b>33</b>
<b>Total 2008-2009</b>	<b>329</b>	<b>25</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>27</b>	<b>-</b>	<b>81</b>	<b>-</b>
Total 2007-2008	590	31	0	0	0	-	31	-	53

## 6. Contempt of court legal assistance continued

### 6.4 Analysis of accounts paid and average case costs – contempt of court legal aid

	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Total outlays £000	Total paid 2008-09 £000	Total paid 2007-08 £000	Average case cost 2008-09 £	Average case cost 2007-08 £
<b>Total 2008-2009</b>	<b>461</b>	<b>106</b>	<b>17</b>	<b>18</b>	<b>3</b>	<b>145</b>	<b>-</b>	<b>314</b>	<b>-</b>
Total 2007-2008	430	100	20	25	4	-	149	-	346

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## 7. Analysis of payments

### 7.1 Legal assistance expenditure

Subject matter	Expenditure				Income			Total 2008-2009		Total 2007-08
	Advice & assistance £000	ABWOR £000	Legal aid £000	Total gross cost £000	Contributions from assisted persons £000	Expenses from opponents £000	Amounts awarded to assisted persons £000	Total income £000	Total net cost £000	Total net cost £000
<b>Civil legal assistance</b>										
Family/matrimonial	5,889	-	17,819	23,708	1,017	339	849	2,205	21,502	20,861
Debt	745	4	451	1,200	25	73	36	133	1,066	1,111
Reparation	1,554	-	8,084	9,638	-17	6,369	256	6,608	3,030	3,690
Judicial review	117	-	479	596	0	346	0	347	249	301
Appeals	26	-	927	953	10	356	3	369	585	285
Housing/recovery of heritable property	1,034	-	358	1,392	27	24	15	66	1,327	1,294
Adults with incapacity	195	-	958	1,153	2	11	0	14	1,139	845
Medical negligence	177	-	629	806	7	286	-1	292	514	431
Mental health	1,123	3,570	-	4,693	0	0	0	0	4,693	2,740
Immigration and asylum	2,194	1,257	415	3,866	1	165	0	166	3,700	2,854
Breach of contract	76	-	184	260	3	22	21	46	214	0
Discrimination	15	-	9	24	0	0	0	0	24	0
Other	2,839	55	1,688	4,583	105	89	108	302	4,281	4,944
<b>Total civil legal assistance</b>	<b>15,985</b>	<b>4,886</b>	<b>32,002</b>	<b>52,872</b>	<b>1,180</b>	<b>8,081</b>	<b>1,286</b>	<b>10,548</b>	<b>42,324</b>	<b>39,357</b>
<b>Criminal legal assistance</b>										
Murder/attempted murder/culpable homicide	29	-	7,899	7,928	0	-	-	0	7,928	9,578
Assault	557	871	21,779	23,207	3	-	-	3	23,203	22,935
Sexual offences	41	62	4,702	4,805	0	-	-	0	4,805	4,646
Theft/housebreaking/robbery	637	2,281	9,242	12,160	2	-	-	2	12,158	12,974
Embezzlement/fraud	68	169	1,503	1,740	0	-	-	0	1,740	1,916
Drugs	274	903	11,162	12,339	0	-	-	0	12,339	13,579
Offensive weapons/vandalism/ breach of the peace	845	2,134	12,379	15,358	3	-	-	3	15,355	17,963
Road traffic offences	460	1,399	5,139	6,997	1	-	-	1	6,996	7,886
Bail, including breach of bail	107	580	204	891	0	-	-	0	891	139
Other	1,186	2,703	7,302	11,192	5	-	-	5	11,187	12,845
Appeals	64	-	3,366	3,430	0	-	-	0	3,430	3,416
Duty	-	-	1,657	1,657	0	-	-	0	1,657	1,308
<b>Total criminal legal assistance</b>	<b>4,267</b>	<b>11,104</b>	<b>86,333</b>	<b>101,704</b>	<b>14</b>	<b>-</b>	<b>-</b>	<b>14</b>	<b>101,690</b>	<b>109,185</b>
<b>Children's legal assistance</b>	<b>388</b>	<b>-</b>	<b>3,784</b>	<b>4,172</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0</b>	<b>4,172</b>	<b>4,529</b>
<b>Contempt legal assistance</b>	<b>26</b>	<b>0</b>	<b>145</b>	<b>171</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0</b>	<b>171</b>	<b>181</b>
<b>Total legal assistance expenditure 2008-2009</b>	<b>20,666</b>	<b>15,989</b>	<b>122,118</b>	<b>158,919</b>	<b>1,195</b>	<b>8,081</b>	<b>1,286</b>	<b>10,562</b>	<b>148,357</b>	<b>-</b>
Total legal assistance expenditure 2007-2008	24,447	6,158	135,593	166,197	1,062	10,344	1,355	12,762	-	153,435

#### Notes

- Expenditure and income are not necessarily linked and income can be expected to vary from year to year. Some income, such as that from property recovered and preserved or contributions paid over 20 months (the majority), may be received by the Board well after the original case has concluded, in some cases years later.
- Total expenditure excludes miscellaneous payments, PDSO and Part V expenditure, which are shown in table 1.5.

## 7. Analysis of payments continued

### 7.2 Analysis of payments for all categories

Type of legal assistance	Number of cases	Fees (including VAT)			Total fees		Outlays (incl counsel outlays)		Total 2008-2009		Total 2007-08
		Solicitor £000	Advocate £000	Solicitor advocate £000	Including VAT £000	Excluding VAT £000	Including VAT £000	Excluding VAT £000	Including VAT £000	Excluding VAT £000	Including VAT £000
<b>Civil legal assistance</b>											
Civil advice and assistance	76,149	13,959	–	–	13,959	11,910	2,025	2,025	15,985	13,934	16,545
Civil ABWOR	4,282	3,644	–	–	3,644	3,124	1,242	1,242	4,886	4,366	2,624
Civil legal aid	12,866	17,409	5,067	32	22,508	19,455	9,494	9,485	32,002	28,939	33,133
<b>Total civil legal assistance</b>	<b>93,297</b>	<b>35,012</b>	<b>5,067</b>	<b>32</b>	<b>40,111</b>	<b>34,488</b>	<b>12,761</b>	<b>12,751</b>	<b>52,872</b>	<b>47,239</b>	<b>52,303</b>
<b>Criminal legal assistance</b>											
Criminal advice and assistance	59,335	4,112	–	–	4,112	3,499	155	155	4,267	3,654	7,451
Criminal ABWOR	28,375	10,906	–	–	10,906	9,346	197	197	11,104	9,543	3,534
Total summary criminal legal aid	65,014	41,118	156	55	41,328	35,385	1,527	1,479	42,855	36,864	52,604
Total solemn criminal legal aid	12,775	24,549	8,585	2,143	35,277	30,183	3,177	2,974	38,454	33,157	40,954
Total appeals	2,123	1,540	1,255	345	3,140	2,689	225	204	3,366	2,893	3,334
Duty (note 1)	–	1,605	1	1	1,607	1,381	50	44	1,657	1,425	1,308
<b>Total criminal legal assistance</b>	<b>167,622</b>	<b>83,831</b>	<b>9,997</b>	<b>2,544</b>	<b>96,371</b>	<b>82,483</b>	<b>5,332</b>	<b>5,053</b>	<b>101,704</b>	<b>87,536</b>	<b>109,185</b>
<b>Children's legal assistance</b>											
Children's advice and assistance	3,945	381	–	–	381	325	7	7	388	332	419
Children's legal aid	3,706	2,645	909	0	3,554	3,041	229	215	3,784	3,256	4,110
<b>Total children's legal assistance</b>	<b>7,651</b>	<b>3,026</b>	<b>909</b>	<b>0</b>	<b>3,935</b>	<b>3,366</b>	<b>237</b>	<b>222</b>	<b>4,172</b>	<b>3,588</b>	<b>4,529</b>
<b>Contempt of court legal assistance</b>											
Contempt advice and assistance	320	25	–	–	25	21	1	1	26	23	31
Contempt ABWOR	9	0	–	–	0	0	0	0	0	0	0
Contempt of court legal aid	461	106	17	18	142	122	3	3	145	124	149
<b>Total contempt legal assistance</b>	<b>790</b>	<b>132</b>	<b>17</b>	<b>18</b>	<b>167</b>	<b>143</b>	<b>4</b>	<b>4</b>	<b>171</b>	<b>147</b>	<b>180</b>
<b>Total 2008-2009</b>	<b>269,360</b>	<b>122,001</b>	<b>15,989</b>	<b>2,595</b>	<b>140,585</b>	<b>120,480</b>	<b>18,334</b>	<b>18,030</b>	<b>158,919</b>	<b>138,510</b>	<b>–</b>
Total 2007-2008	323,231	126,442	18,913	2,724	148,079	126,452	18,118	17,800	–	–	166,197

#### Notes

- Duty solicitors made 27,734 appearances on behalf of accused persons. The PDSO also made 1,051 appearances as duty solicitor.
- In this table, advice and assistance payments to advocates and solicitor advocates are included under outlays, as regulation 17(1) of the Advice and Assistance Regulations 1996 only provides for payments to the solicitor, of fees and outlays.

#### Throughout this statistics section:

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year
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### Statement of accounts. For the period of 1 April 2008 to 31 March 2009

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The financial statements were issued on 11 August 2009

# Foreword

## Background

The Board presents its accounts for the financial year ended 31 March 2009.

The Board is a Non-Departmental Public Body set up in 1987 under the Legal Aid (Scotland) Act 1986, and is accountable to Scottish Ministers. A key objective for the Board is to operate within its administration budget and to manage the Legal Aid Fund. Separate accounts have been prepared for the Scottish Legal Aid Fund and for the administrative income and expenditure of the Scottish Legal Aid Board.

The accounts have been prepared in a form directed by Scottish Ministers in accordance with section 5(2) of the Legal Aid (Scotland) Act 1986, as amended by the Public Finance and Accountability (Scotland) Act 2000, and the Government Financial Reporting Manual 2008-2009.

## Principal activities

The principal activities of the Scottish Legal Aid Board (“the Board”) are:

- advising Scottish Ministers on how legal aid is working, and ways to develop it
- managing the Legal Aid Fund
- deciding whether to grant applications for legal aid
- deciding if people have to pay towards the cost of legal assistance, then collecting these amounts
- assessing solicitors’ and advocates’ accounts for legal aid work, and paying them for the work they have done
- registering firms and solicitors who do legal assistance work and making sure these firms and solicitors maintain high standards, including funding civil quality assurance which is run by the Law Society of Scotland
- investigating and tackling fraud and abuse of legal aid
- developing a network of Board employed solicitors who offer criminal legal advice and representation and also, under Part V of our legislation, developing advice services on civil matters using Board employed solicitors
- exploring new ways of delivering legal aid services.

## Membership of the Executive Team

Throughout 2008-2009 the Executive Team has comprised:

- Lindsay Montgomery CBE, Chief Executive and Accountable Officer
- Ian Middleton, Director of Audit and Compliance
- Andrew Menzies, Director of Corporate Services and Accounts
- Tom Murray, Director of Legal Services and Applications
- Colin Lancaster, Director of Policy and Development

Iain A. Robertson CBE was the Chairman of the Board.

## Accounting for pensions

In line with the *Government Financial Reporting Manual*, issued annually by the relevant authorities in England and Wales, Scotland and Northern Ireland, these accounts meet the requirements of Financial Reporting Standard 17 “*Retirement Benefits*”, as applicable to the Board’s pension scheme.

Although the Board operates a single scheme for all staff, the income, costs and liabilities are apportioned between staff funded by the Scottish Legal Aid Fund, presently only Public Defence Solicitors’ Office (PDSO) staff and Part V staff; and staff funded from the Scottish Legal Aid Board’s Grant-in-Aid.

Further detail on pension arrangements is provided in the Accounting Policies at notes 1.8 and 26.8; and in notes 17 and 37 of the accounts.

## Employee communication

The Board issues a monthly newsletter and occasional circulars for staff about matters of concern to them, including performance. Managers and staff discuss these during team briefing sessions. The Board conducts periodic employee opinion surveys to obtain staff views on issues such as communications, training and development, management practices, and quality of service. A Joint Consultative Committee of management and union representatives meets regularly.

As an *Investor in People*, the Board continues to give staff the opportunities and support needed to develop their skills in meeting the organisation’s objectives.

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## Foreword continued

### **Equal opportunities**

The Board is committed to the development and promotion of equality of opportunity for all. It is committed to providing equal opportunities in employment. It does not treat any job applicant or employee less favourably because of gender, race, colour, religion, nationality, age, disability, sexual orientation or marital status. This applies in the recruitment, reward, training and promotion of both new and existing employees. It also applies to grievance, disciplinary, or other procedures, employee benefits and all terms and conditions of employment.

### **Audit**

KPMG LLP carried out the audit of the Board's accounts for the financial year ended 31 March 2009, covering both the Scottish Legal Aid Fund accounts and the Scottish Legal Aid Board accounts. The agreed fee for this service was £45,800 which relates solely to the provision of statutory audit services.

### **Register of Board members' interests**

The Board keeps a register of Board members' interests, which is on its website at [www.slab.org.uk](http://www.slab.org.uk), or available in a paper copy from the Board's communications department (tel. 0131 226 7061).

# Management commentary

## Financial position at the end of the year

On a cash basis, net expenditure on the Scottish Legal Aid Fund was £149m, compared to £154m in 2007-2008. The basis of preparation for the annual accounts (the accruals basis) results in accounting adjustments, including certain notional credits, depreciation, accruals and prepayments. Once such adjustments are made, the Operating Cost Statement shows a net cost of operations, including notional credits and pension costs of £139m (2007-2008: £139m).

On a cash basis, £13.5m was required to meet the expenditure of the Scottish Legal Aid Board, compared to £13.2m in 2007-2008. The basis of preparation for the annual accounts (the accruals basis) results in accounting adjustments, including certain notional credits, depreciation, accruals and prepayments. Once such adjustments are made, the Operating Cost Statement shows a cost of operations, including notional credits and pension costs of £14.8m (2007-2008: £15.1m).

## Main trends, performance and development during the financial year

In 2008-2009, the number of applications for civil legal aid rose and we expect this rise to continue in 2009-2010.

The profile of applications and expenditure on summary criminal legal assistance changed substantially in 2008-2009 as a result of the summary criminal justice reforms; this contributed to a substantial reduction in expenditure on criminal legal assistance. For more detailed information and commentary on legal assistance trends, please refer to the Facts and figures section.

Information on our work during 2008-2009 is detailed in the Year in review section, with some of the key developments including:

- **Summary criminal reform:** From September 2007 to June 2008, the criminal justice system in Scotland underwent the largest and most far reaching reforms in a generation. We were asked to implement the new legal aid system and associated new computer systems in around three months and succeeded in implementing the reforms on 30 June 2008. The legal aid reforms were specifically designed to support the main features of the wider summary justice system reforms, such as the use of alternatives to prosecution, early effective preparation, early resolution of cases where appropriate and the intention to bring cases to court more quickly. The new criminal legal assistance system appears to be settling down and is having the desired effect in encouraging earlier realistic assessment of the case by both Crown and defence, leading to fewer changes of plea and more cases concluding at pleading diet.
- **Quality assurance for criminal legal assistance:** In 2008-2009, we worked with the Law Society of Scotland to develop and finalise the scheme, alongside the development of a new solemn criminal legal aid fee system. The quality assurance scheme is overseen by a committee made up of representatives of the Board, the Law Society and lay members. Peer reviewers were recruited from the profession and training and guidance is complete. The new scheme will be implemented in late 2009.
- **Simplification of civil legal assistance:** In 2008-2009, we worked to reduce the complexity of the civil legal assistance process for applicants and solicitors. We believe the system is now easier to use. Following substantial consultation and development work with solicitors, we held roadshows around the country in 2008 and implemented the first phase of the reforms in March and April 2009. The main changes were:
  - simplified and shorter civil legal aid forms
  - templates to apply for sanction for certain types of experts
  - simplified process for reporting on progress in a case
  - piloting supplier support.

The second phase of the project began in spring 2009 and will include the roll out of Civil Legal Aid Online.

## Management commentary continued

- **Extension of eligibility for civil legal aid:** In 2008, we recommended to the Scottish Government's Cabinet Secretary for Justice that changes should be made to civil legal aid financial eligibility levels to improve access to civil legal aid. He agreed with our proposals and announced in November 2008 that the upper limit for disposable income would be increased from the previous £10,306 to £25,000 and a system of tapered contributions introduced. We carried out considerable development work and changes to computer systems and successfully implemented the new system on 7 April 2009. As a result of these changes, we estimate that around three quarters of the adult population are now potentially financially eligible for civil legal aid.
- **Improving access to justice:** To combat the economic downturn, the Scottish Government announced in 2008 that an additional £3 million would be made available through the Board, over the next two years, to help provide legal advice and representation for people facing repossession and other problems related to the economic downturn, such as debt. As part of the Scottish Government's £3 million initiative, we will be running a grant funding programme for the first time. This will help meet additional legal needs resulting from the economic downturn. In 2008-2009, we developed proposals for operating the programme and a delivery strategy. In March and April 2009, we held information events to seek feedback from stakeholders on the proposed funding priorities and the application and assessment processes. Bids for funding were made in May-June 2009 and grants will be made from summer 2009. As part of the Scottish Government's funding initiative, we also took over funding of the eight existing in-court advice projects from 1 April 2009.
- **Legal Aid Online:** From 2007, solicitors have been able to submit advice and assistance intimations, increase applications and accounts through the internet. The volume of applications made through Legal Aid Online continues to grow and currently, almost 70% of advice and assistance intimations and increase applications are done online. In 2008-2009, we carried out substantial development work to create online systems that fit the needs of solicitors, applicants and us. In 2009-2010, this development work will come to fruition in the roll out of our main online systems. Civil Legal Aid Online and Criminal Legal Aid Online will be rolled out from spring 2009. In summer 2009, we will develop Children's Legal Aid Online and systems to allow access to law accountants to enable them to submit accounts online. These developments are a major expansion to our online systems. By the end of 2010-2011, we expect virtually all legal aid business with solicitors to be online.

### Future development plans

The Corporate Plan 2009-2011 is different to previous plans because it is now aligned with the Scottish Government's National Performance Framework "Scotland Performs". That framework sets out the Scottish Government's Purpose – *"to create a more successful country where all of Scotland can flourish through increasing sustainable economic growth"*. All public bodies need to show how what they are doing supports the National Framework.

The Purpose is supported by Purpose Targets, the Government's Strategic Objectives and 15 National Outcomes which all public bodies in Scotland must contribute to.

We have selected the six National Outcomes to which our work materially contributes. Our Corporate Plan describes how legal aid and our work contribute to the achievement of these outcomes, which are:

- tackling the significant inequalities in Scottish society
- improving the life chances for children, young people and families at risk
- living our lives safe from crime, disorder and danger
- having strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others
- reducing the local and global environmental impact of our consumption and production, and
- our public services being high quality, continually improving, efficient and responsive to local people's needs.

Delivering the key projects and the high standards of service outlined in our Corporate Plan 2009-2011 will contribute to these outcomes. Our new performance indicators reflect our commitment to high standards of service and continuing to improve the delivery of legal aid in Scotland for applicants, opponents and the legal profession.

- We have kept the different targets for Legal Aid Online and this difference will be even more important in encouraging firms to use Civil and Criminal Legal Aid Online as we roll it out over the next year. For example, the online advice and assistance account timeliness service standard is 15 days compared to 30 days for paper-based accounts.
- The civil legal aid applications timeliness target increases from 95% to 96% and the accuracy target increases from 96% to 98%.
- Criminal legal aid timeliness service standards for applications for appeals, sanction, transfer and reconsideration are improved from five days to four days.

## Management commentary continued

We will all be working against the background of an economic downturn and tight public expenditure, including an unchanged administration budget, with the likelihood of an increase in applications, especially for civil legal assistance. The key projects set out in the Corporate Plan 2009-2011 are:

- the review and reform of solemn sheriff court procedure and the transfer to the Board of the power to grant legal aid in solemn criminal cases
- funding activity to increase provision of legal advice and representation for people facing repossession and other problems such as debt – for example, through grant funding, the in-court advice service and employed solicitors
- rolling out Legal Aid Online for all types of legal aid
- further simplifying and improving civil legal assistance, and
- carrying out a programme of reviews to achieve best value in our legal aid services and giving support to legal aid providers to help them operate more effectively.

### Legal Aid Fund

Estimating the future cost of legal aid is complex. Legal aid is not cash limited and can be affected by numerous factors. For example, overall volumes of criminal legal aid applications are affected by many factors, such as crime levels and police clear up rates. Changes in these and other factors could lead to changes in the volume of applications for legal aid, which will have a subsequent effect on spending.

Our current estimates of volumes and expenditure are based on recent trends and latest indications of likely future trends. Current figures suggest that overall net cash expenditure from the Legal Aid Fund is likely to be around £146 million in 2009-2010, slightly lower than in 2008-2009. However, both the demand led nature of the fund and the susceptibility of the trends in volume and cost to external factors may impact on this forecast.

For more detailed information please refer to the Board's Corporate Plan 2009-2011 or the Board's Annual Report.

### Employee sickness absence

Employee sickness absence for 2008-2009 was 7.9 days per whole time equivalent (WTE) staff member (2007-2008: 7.6 days per WTE). This was made up of 3.1 days per WTE for self-certified absence (2007-2008: 3.5 days per WTE) and 4.8 days per WTE for certified absence (2007-2008: 4.1 days per WTE). These results compared favourably to comparative peer data, currently only available for 2007-2008: the Chartered Institute of Personnel and Development Annual Survey Report "2008 Absence Management" published July 2008 quoted average absence across business as 8 days per employee, with absence for the whole of public services at 9.8 days per employee; and the Cabinet Office's analysis of sickness absence in the Civil Service reported absence at 9.3 days per employee.

### Payment of suppliers

The Board's payment policy for suppliers in respect of its administrative expenditure is to agree payment terms when placing orders for goods and services and, whenever necessary, ensure that suppliers are aware of the Board's terms of payment. The Board aims to comply with these terms subject to satisfactory performance by the supplier. The Board adheres to "The Better Payment Practice Code". The Board is also committed to meeting the Scottish Government's aspiration of paying small business suppliers within 10 days. The published target turnaround time for invoices is 30 days. In 2008-2009, the Board met this target in 91% of cases (2007-2008: 95%).

### Environmental matters

The Board has considered the existing legislation and guidance available on environmental and sustainability matters. The Board places importance on ensuring that its policies and procedures are in line with good environmental practice and statute. In 2008-2009, we developed our approach to measuring the organisation's carbon footprint. We have reduced our carbon footprint by introducing a recycling scheme and the use of green electricity.

In 2009-2010, we will develop a strategy for environmental management. As part of this, we will review the work done so far to ensure our approach and measurements are in line with current practices and develop a Carbon Management Plan. To encourage staff to travel to work using active transport, we will introduce a salary sacrifice scheme to support cycling to work. This is in addition to the scheme we already have in place to support staff to purchasing annual season tickets for travel to work on public transport. We will also be looking at ways to reduce the environmental impact of the legal services we fund.

## Management commentary continued

### Basis of going concern

In line with the *Government Financial Reporting Manual*, issued annually by HM Treasury, these annual accounts are required to reflect Financial Reporting Standard 17 “*Retirement Benefits*”. This requires entities to recognise, in their accounts, the costs, the assets and the liabilities of pension schemes.

As shown in note 37 the actuarial estimate of the Board’s accrued pension liabilities stands at £31m. This reflects the inclusion of liabilities falling due in future years. The Board’s pension scheme, being “unfunded”, has no tangible assets. Rather, in accordance with arrangements set out in the Legal Aid (Scotland) Act 1986, pensions and other liabilities are met from Grant-in-Aid as they fall due, resulting in the scheme’s reliance on future funding from the Scottish Government. Accounting rules and convention currently prohibit the Board anticipating such funding in these accounts, resulting in the Scottish Legal Aid Board’s balance sheet on page 96, showing “net liabilities” and “negative taxpayer’s equity”.

The technical accounting practice has no impact on the underlying basis for meeting the Board’s current and ongoing pension liabilities. These will be met out of the Board’s funding from the Scottish Government, in accordance with arrangements set out in the Legal Aid (Scotland) Act 1986. The Scottish Government has given the Board a written assurance that there are no plans to change the existing arrangements whereby they fund the Board’s administrative costs, including the provision for the net pension costs, through Grant-in-Aid. Further, they state that there are no plans to wind up the Board, and that if this was ever to become a possibility, then the liabilities falling due under the pension scheme would be a matter which the Government would require to recognise through the legislation that was considered by Parliament.

Similarly, changes in accounting practice introduced in 2006-2007 mean that the Board can no longer adopt its previous approach of reflecting a balance sheet debtor in respect of future income from the Scottish Government, relating to the £67m valuation of work in progress for legal aid certificates in issue. The absence of such a balancing debtor is reflected by a position where liabilities will exceed assets, resulting in the Scottish Legal Aid Fund balance sheet on page 80, showing “net liabilities” and “negative taxpayer’s equity”.

The technical accounting approach has no impact on the underlying basis for meeting the Board’s current and ongoing obligations to solicitors and advocates in relation to the payment for work done on legal aid certificates in issue. These will be met out of the Board’s funding from the Scottish Government, in accordance with arrangements set out in the Legal Aid (Scotland) Act 1986, which creates a statutory obligation for payment of sums due to any solicitor or counsel out of the Legal Aid Fund.

Accordingly, it has been considered appropriate to adopt a going concern basis for both the Scottish Legal Aid Fund and the Scottish Legal Aid Board in the preparation of these financial statements.

### Representations

The Accountable Officer and the Board members who held office at the date of approval of these accounts confirm that, so far as they are each aware, there is no relevant audit information of which the Board’s auditors are unaware; and the Accountable Officer and each of the Board members has taken all the steps that he/she ought reasonably to have taken to make himself/herself aware of any relevant audit information and to establish that the Board’s auditors are aware of that information.



**Lindsay Montgomery CBE**  
Chief Executive and Accountable Officer  
11 August 2009

# Remuneration report

## Remuneration and Appointments Committee

During 2008-2009, the Board's Remuneration and Appointments Committee comprised the following members:

- Graham Watson, Board member and Convener of Remuneration and Appointments Committee
- Iain Robertson CBE, Board Chairman
- Sheriff Kenneth Ross, Board member.

The purpose of the Remuneration and Appointments Committee is to consider remuneration of the Board's senior staff and to take an overview of appointments and remuneration issues, including the staff pay remit submitted to the Scottish Government, pension policies and related matters.

## Senior management

Appointments of senior management are on a permanent basis in accordance with individual contracts:

Name	Employment start date	Notice period
Lindsay Montgomery CBE	1 July 1999	3 months
Tom Murray	1 May 1986	12 weeks
Ian Middleton	11 May 1987	12 weeks
Andrew Menzies	3 March 2003	12 weeks
Colin Lancaster	20 June 1997	12 weeks

The current minimum pensionable retirement age is 60 years of age, although senior staff now have, as with all employees, a contractual right to work until 65 years old as the Government's current national default retirement age. All contracts include notice periods as indicated above. Termination payments, where appropriate, are made under the Board's redundancy policy which allows either for a redundancy payment or, where an individual is over 50 years old, a retirement pension and lump sum.

Annual pay awards and bonuses for the Chief Executive and directors are based on performance.

The Chief Executive's performance is appraised by the Chairman in consultation with the Remuneration and Appointments Committee. His annual pay award and non-consolidated bonus of up to 10% of base salary are considered by the Remuneration and Appointments Committee and approved by the Scottish Government.

Directors' salaries are revalorised annually by the same rate of increase as awarded by the Scottish Government to Board members subject to at least satisfactory performance. Directors are also eligible for non-consolidated bonuses of up to 10% of base salary. Their performance is appraised by the Chief Executive under the Board's performance and management system which applies to all staff. The bonus levels awarded are approved by the Remuneration and Appointments Committee.

## Remuneration report continued

The following tables provide a breakdown of executive and non-executive directors' remuneration in 2007-2008 and 2008-2009 and have been audited by the Board's auditors.

	Total remuneration 2008-2009 £000	Total remuneration 2007-2008 £000	Real increase in pension and related lump sum at age 60 £000	Accrued pension at age 60 at 31 March 2009 and related lump sum £000	Cash equivalent transfer value at 31 March 2009 £000	Cash equivalent transfer value at 31 March 2008 £000	Real increase in cash equivalent transfer value £000
<b>L Montgomery CBE, Chief Executive</b>							
Salary	105-110	95-100					
Pension			5-7.5	45-50			
Related lump sum			15-17.5	145-150			
Transfer value					1068	870	115
<b>T Murray, Director of Legal Services and Applications</b>							
Salary	80-85	80-85					
Pension			0-2.5	20-25			
Related lump sum			0-2.5	65-70			
Transfer value					498	454	3
<b>A Menzies, Director of Corporate Services and Accounts</b>							
Salary	70-75	65-70					
Pension			0-2.5	15-20			
Related lump sum			0-2.5	55-60			
Transfer value					307	278	0
<b>I Middleton, Director of Audit and Compliance</b>							
Salary	55-60	55-60					
Pension			0-2.5	20-25			
Related lump sum			0-2.5	60-65			
Transfer value					475	436	0
<b>C Lancaster, Director of Policy and Development</b>							
Salary	60-65	55-60					
Pension			0-2.5	5-10			
Related lump sum			0-2.5	20-25			
Transfer value					82	70	3

### Cash equivalent transfer value (CETV)

This is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the pension benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures include the value of any pension benefit in another scheme or arrangement, which the individual has transferred to the Legal Aid Board Pension Scheme and for which the Board has received a transfer payment commensurate with the additional pension liabilities being assumed. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

### Real increase in CETV

This reflects the increase in CETV effectively funded by the employer. It does not take account of the increase in accrued pension due to inflation or contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## Remuneration report continued

### Board members

The remuneration for the Chairman and other Board members is determined by the Scottish Government. Under the current Scottish Government policy, the basic remuneration for the Chairman and Board members is revalorised annually, providing performance is at least satisfactory, at a rate of increase that is set by Ministers as informed by the recommendations of the Senior Salaries Review Body. The Chairman formally assesses the performance of Board members annually against criteria as agreed between the Chairman and the Scottish Government. The current criteria include: commitment/contribution; team working; ability to constructively challenge within the Board; contribution to strategy/policy formulation; and specific areas of contribution. Remuneration of the Board members for 2008-2009 was as follows:

Name	2008-2009 £000	2007-2008 £000
Graham Bell QC	5-10	5-10
Les Campbell	5-10	5-10
Joseph Hughes	10-15	5-10
Denise Loney	5-10	5-10
Paul McBride QC	5-10	5-10
Susan McPhee	5-10	5-10
Ellen Morton	5-10	5-10
David Nicol	10-15	10-15
Iain Robertson CBE (Chairman)	30-35	30-35
Elaine Rosie	5-10	5-10
Sheriff Kenneth Ross (not remunerated)	-	-
Graham Watson	5-10	5-10

Other than the Chairman, Board members are not members of the Board's pension scheme. Details relating to the Chairman's pension benefits were as follows:

	Real increase in pension and related lump sum at age 60 £000	Accrued pension at age 60 at 31 March 2009 and related lump sum £000	Cash equivalent transfer value at 31 March 2009 £000	Cash equivalent transfer value at 31 March 2008 £000	Real increase in cash equivalent transfer value £000
<b>I Robertson, Chairman</b>					
Pension	0-2.5	0-5			
Related lump sum	0-2.5	5-10			
Transfer value			56	45	6

Appointment of the Chairman by the Scottish Government is on a part-time basis (2 days a week) for a fixed term (normally 4 years) which is renewable for a second term but there will be no automatic renewal or extension of the appointment. The Board members are appointed by the Scottish Government on a part-time basis (3½ days per month) for a fixed term of 3 or 4 years, which is renewable for a second term but there will be no automatic renewal or extension of the appointment beyond the first term. Scottish Ministers may terminate Board appointments giving 3 months' notice in writing prior to the intended date of termination where appropriate.

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## Remuneration report continued

The table below shows the appointments of the serving Board members for the year to 31 March 2009:

Name	Start date	Period of appointment to
Graham Bell QC	1 April 2006	31 March 2010
Les Campbell	1 September 2006	31 March 2011
Joseph Hughes	1 September 2006	31 March 2011
Denise Loney	1 January 2007	31 March 2011
Paul McBride QC	1 April 2006	31 March 2010
Susan McPhee	1 January 2005	31 March 2012
Ellen Morton	1 December 2002	31 March 2010
David Nicol	1 April 2002	31 March 2010
Iain Robertson CBE (Chairman)	1 April 2006	31 March 2010
Elaine Rosie	1 January 2005	31 March 2012
Sheriff Kenneth Ross	1 April 2004	31 March 2012
Graham Watson	1 April 2006	31 March 2010

**Lindsay Montgomery CBE**  
Chief Executive and Accountable Officer  
11 August 2009

## Statement of the Board's and Chief Executive's responsibilities

The Legal Aid (Scotland) Act 1986 ("the Act"), as amended by the Public Finance and Accountability (Scotland) Act 2000, states that the Scottish Legal Aid Board must prepare a statement of accounts for each financial year in the form and on the basis determined by Scottish Ministers and set out in the accounts direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Scottish Legal Aid Fund and the Scottish Legal Aid Board and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts the Accountable Officer is required to comply with the requirements of the Government Financial Reporting Manual, and in particular must:

- observe the accounts direction issued by Scottish Ministers, including the relevant accounting and disclosure requirements, and apply suitable accounting policies consistently
- make judgements and estimates reasonably
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and show and explain any material departures in the financial statements
- prepare the financial statements on a going concern basis, unless it is inappropriate to presume that the Board will continue to operate.

The Scottish Government's Director General for Justice and Communities has designated the Chief Executive of the Scottish Legal Aid Board as the Accountable Officer for the Board. The responsibilities of an Accountable Officer, including responsibility for the propriety and regularity of the public finances for which I am answerable, for keeping proper records and for safeguarding the Board's assets are set out in the *Non-Departmental Public Bodies' Accountable Officer Memorandum*.

The Board and the Chief Executive are responsible for the maintenance and integrity of the corporate and financial information included on the Scottish Legal Aid Board's website. Legislation in the UK governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

**Lindsay Montgomery CBE**  
Chief Executive and Accountable Officer  
11 August 2009

# Statement on the system of internal control

## Scope of responsibility

As Accountable Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Scottish Legal Aid Board's policies, aims and objectives, whilst safeguarding the public funds and departmental assets for which I am responsible, in accordance with the responsibilities assigned to me.

The Board is a Non-Departmental Public Body sponsored by the Scottish Government. The Board has a Chairman appointed by Scottish Ministers and consists of not less than 11 and not more than 15 members who are appointed by Scottish Ministers. Board members are responsible for determining the Board's strategic aims, approving its corporate plan, monitoring expenditure and operations, providing advice to Scottish Ministers and reviewing Board performance.

## The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks, including information risks, to achieving departmental policies, aims and objectives; to evaluate the likelihood of those risks being realised and the impact should they be realised; and to manage them efficiently, effectively and economically. The system of internal control has been in place in the Board for the year ended 31 March 2009 and up to the date of approval of the annual report and accounts, and accords with Scottish Government guidance.

## Capacity to handle risk

The Board and the Executive Team lead the Board's risk management process. Ownership of every identified risk lies with a named member of the Executive Team. A senior manager is appointed as Risk Management Co-ordinator to deal with training as well as administrative and reporting issues within the Board's risk framework.

The Risk Management Co-ordinator has undertaken training accredited by the Institute of Risk Management and further training is scheduled to ensure the Board continues to be aware of and able to apply best practice.

The Board's internal auditors have assured the Board and the Chief Executive that its risk management procedures comply with best practice, in the form of the Risk Management Standard of the Institute of Risk Management.

The Board provides training for all staff on risk management theory and practice. It encourages all staff to apply risk management techniques to setting and reviewing their personal and departmental objectives, and to contribute to preparing and reviewing risk registers. The Board has documented its risk management process in its "*Risk Policy and Framework*" document, which is available to all staff. This document, and the staff training, explains the principles of risk appetite. The Board also has a delegated authority matrix. This documents the limits of post holders' authority in specified areas, while setting out the procedures, such as business cases, for new ventures that involve costs and risk but which may be beneficial to the Board's stakeholders.

## The risk and control framework

The key elements of the Board's risk management strategy are:

- clear and concise documentation and training for all staff on the Board's definition of risk, its objectives in having a risk framework and staff roles and responsibilities
- a documented and communicated process of identifying and evaluating risks, assessing risk appetite, identifying and implementing suitable responses to risks, providing ongoing assurance about the effectiveness of the framework and processes to embed and review risk awareness
- multi-level review and reporting processes throughout the risk cycle, involving staff, managers, the Executive Team, internal audit, the Audit Committee and the Board, and
- identification and regular review of both the continuing appropriateness of the risks and responses identified and of the ongoing status of the identified or planned responses to risks.

The key ways in which risk management is embedded in the Board are:

- the link between corporate planning and risk management processes
- including risk in routine, regular operational reporting processes
- the ownership of risks by directors and managers
- involving the Audit Committee and the Board in agreeing and reviewing strategic and operational risks
- including risk management in training plans and as standing items in team meetings
- using risk registers for each of the Board's projects, as part of the PRINCE2 project management methodology, and
- the documented timetable of monthly, quarterly and annual reviews of strategic and departmental risk profiles.

## Statement on the system of internal control continued

More generally, the organisation is committed to a process of continuous development and improvement. The organisation has continued to provide training to managers and staff on both the principles of risk management and the practical application of risk management within the Board. Risk awareness and training forms part of the induction for all staff. Regular review and reporting of risks has taken place throughout the year, with reviews and reports being considered at all levels (team, departments, directorates, Executive Team, Audit Committee and Board).

### Review of effectiveness of the internal control system

As Accountable Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of its effectiveness is informed by:

- the managers within the Board who are responsible for developing and maintaining the internal control framework
- the work of the internal auditors, who submit to the Chief Executive and the Board's Audit Committee regular reports which include the Director of Audit and Compliance's independent and objective opinion on the adequacy and effectiveness of the Board's systems of internal control together with recommendations for improvement, and
- comments made by the external auditors in their management letter and other reports.

The Board and the Audit Committee have advised me on the implications of the result of my review of the effectiveness of the system of internal control. A plan to address weaknesses and ensure continuous improvement of the system is in place.

### System of internal control

The wider system of internal control is based on an ongoing process designed to identify the principal risks to achieving Board policies, aims and objectives; to evaluate the nature and extent of those risks; and to manage them efficiently, effectively and economically.

### The Board

The Board meets regularly and monitors operational and financial performance and considers the plans and strategic direction of the Board. Board Committees are in place to deal with areas such as audit; legal aid policy; complex, sensitive or high profile legal aid cases; and remuneration and appointments. The Chief Executive and directors also attend Board meetings. The Executive Team and the Audit Committee review, quarterly, the effectiveness of the Board's risk management framework and the content and appropriateness of its departmental and strategic risk registers. The Board reviews this work annually.

### The Executive Team

The Chief Executive leads an Executive Team made up of the directors responsible for the operational and administrative functions of the Board. The Executive Team meets at least twice a month and receives comprehensive management information on all the Board's operations, including information on risk management. The Executive Team receives and reviews monthly updates to risk registers and, in liaison with the Risk Management Co-ordinator and Internal Audit Department, undertakes quarterly reviews of all Board risk registers.

### The Remuneration and Appointments Committee

The committee considers remuneration of the Board's senior staff and takes an overview of appointments and remuneration issues, including the staff pay remit submitted to the Scottish Government, remuneration and terms and conditions for the Chief Executive and executive directors and pension policies and related matters.

### The Audit Committee

The Audit Committee is composed solely of Board members. The Audit Committee reports direct to the full Board. As part of its remit, it is responsible for advising the Accountable Officer on the effectiveness of the Board's internal control system. The Audit Committee receives and reviews quarterly reports from the Risk Management Co-ordinator about the status of the Board's risk registers and on any risk-related activity, such as training.

The Audit Committee has responsibility for helping the Accountable Officer and the Board members to perform their individual and collective responsibilities for ensuring that:

- the Board's published financial statements represent a true and fair reflection of the financial position
- the Board complies with any statutory requirements for the use of public funds
- the Board operates within agreed limits to its authority and for the use of public funds, and
- Board members comply with the code of conduct for NDPBs published by the Treasury.

The Audit Committee receives regular reports from the Internal Audit Department, to standards defined in the Government Internal Audit Manual. These include the Director of Audit and Compliance's independent opinion on the adequacy and effectiveness of the Board's system of internal control and recommendations for improvement. It is also responsible for overseeing financial reporting, external audit, internal control, and audit and compliance department activities.

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## Statement on the system of internal control continued

### Internal audit

The Board has an internal audit service supervised by the Director of Audit and Compliance. Internal audit work concentrates on areas of key activity determined from an analysis of the areas of greatest risk. These are scheduled in the annual audit activity plan approved by the Audit Committee and the Chief Executive. The Director of Audit and Compliance is responsible to me as the Chief Executive and makes quarterly reports to the Audit Committee. He has direct access to Board members and to the convener of the Audit Committee.

The Director of Audit and Compliance has issued an Assurance Statement to me, which provides his opinion on the adequacy and effectiveness of the internal control system and the extent to which it can be relied on. The external auditors also report to me, the Audit Committee, and to the Board, any internal control issues that they identify during their normal audit activities.



**Lindsay Montgomery CBE**  
Chief Executive and Accountable Officer  
11 August 2009

# Independent auditor's report

## Independent auditor's report to the Scottish Legal Aid Board, the Auditor General for Scotland and the Scottish Parliament

We have audited the financial statements of the Scottish Legal Aid Board for the year ended 31 March 2009 under the Legal Aid (Scotland) Act 1986. In accordance with section 5(1) of the Legal Aid (Scotland) Act 1986 the Scottish Legal Aid Board has a duty to prepare separate financial statements in respect of the Scottish Legal Aid Fund and the Scottish Legal Aid Board (Grant-in-Aid), each of which comprise the Operating Cost Statement and Statement of Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement, and the related notes. These financial statements have been prepared under the accounting policies set out within them. We have also audited the information in the Remuneration Report that is described in that report as having been audited.

This report is made solely to the Scottish Legal Aid Board and to the Auditor General for Scotland in accordance with sections 21 and 22 of the Public Finance and Accountability (Scotland) Act 2000. Our audit work has been undertaken so that we might state to those two parties those matters we are required to state to them in an auditor's report and for no other purpose. In accordance with the Code of Audit Practice approved by the Auditor General for Scotland, this report is also made to the Scottish Parliament, as a body. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Scottish Legal Aid Board and the Auditor General for Scotland, for this report, or the opinions we have formed.

## Respective responsibilities of the Board, Chief Executive and auditors

The Chief Executive is responsible for preparing the Statement of Accounts, which includes the Remuneration Report, and the financial statements in accordance with the Legal Aid (Scotland) Act 1986 and directions made thereunder by the Scottish Ministers. The Chief Executive is also responsible for ensuring the regularity of expenditure and receipts. These responsibilities are set out in the Statement of Chief Executive's Responsibilities.

Our responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements and with International Standards on Auditing (UK and Ireland) as required by the Code of Audit Practice approved by the Auditor General for Scotland.

We report to you our opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Legal Aid (Scotland) Act 1986 and directions made thereunder by the Scottish Ministers. We report to you whether, in our opinion, the information which comprises the management commentary included in the Statement of Accounts, is consistent with the financial statements. We also report whether in all material respects the expenditure and receipts shown in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

In addition, we report to you if, in our opinion, the body has not kept proper accounting records, if we have not received all the information and explanations we require for our audit, or if information specified by relevant authorities regarding remuneration and other transactions is not disclosed.

We review whether the Statement on Internal Control reflects the body's compliance with the Scottish Government's guidance, and we report if, in our opinion, it does not. We are not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the body's corporate governance procedures or its risk and control procedures.

We read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises only The purpose of legal aid, Year in review, Facts and figures, Statistical tables, About us, Foreword in the Statement of Accounts, and the part of the Remuneration Report in the Statement of Accounts that is not audited. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements. Our responsibilities do not extend to any other information.

## Basis of audit opinion

We conducted our audit in accordance with the Public Finance and Accountability (Scotland) Act 2000 and International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board as required by the Code of Audit Practice approved by the Auditor General for Scotland. An audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of expenditure and receipts included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgements made by the Board and Chief Executive in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the body's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and receipts shown in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

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## Independent auditor's report continued

### Opinions

#### Financial statements

In our opinion:

- the Scottish Legal Aid Board financial statements give a true and fair view, in accordance with the Legal Aid (Scotland) Act 1986 and directions made thereunder by the Scottish Ministers, of the state of affairs as at 31 March 2009 of the Scottish Legal Aid Fund and Scottish Legal Aid Board (Grant-in-Aid) and of the Scottish Legal Aid Fund's and Scottish Legal Aid Board's (Grant-in-Aid) net operating cost, recognised gains and losses and cash flows for the year then ended
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Legal Aid (Scotland) Act 1986 and directions made thereunder by the Scottish Ministers
- information which comprises the management commentary included with the Statement of Accounts is consistent with the financial statements.

#### Regularity

In our opinion in all material respects the expenditure and receipts shown in the financial statements of the Scottish Legal Aid Fund and the Scottish Legal Aid Board (Grant-in-Aid) were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers, the Budget (Scotland) Act covering the financial year and sections 4 to 7 of the Public Finance and Accountability (Scotland) Act 2000.



#### KPMG LLP

Chartered Accountants  
Registered Auditor

Saltire Court  
20 Castle Terrace  
Edinburgh EH1 2EG

11 August 2009

# Scottish Legal Aid Fund

## Operating cost statement for the year ended 31 March 2009

	Notes	2008-2009 £000	2007-2008 £000
<b>Civil legal assistance</b>			
Civil legal aid	2	27,572	28,986
Civil advice and assistance and ABWOR	2	20,922	16,363
Part V Service	2	477	300
Gross civil legal assistance expenditure	2	48,971	45,649
Less operating income	3	(12,303)	(14,515)
<b>Total net civil legal assistance expenditure</b>		<b>36,668</b>	<b>31,134</b>
<b>Criminal legal assistance</b>			
Criminal legal aid	4	80,256	92,703
Criminal advice and assistance and ABWOR	4	16,676	10,175
Contempt of court	4	170	146
PDSO	4	1,584	1,439
<b>Total criminal legal assistance expenditure</b>		<b>98,686</b>	<b>104,463</b>
<b>Children's legal assistance</b>			
Children's legal aid	5	3,998	2,949
Children's advice and assistance and ABWOR	5	496	419
<b>Total children's legal assistance expenditure</b>		<b>4,494</b>	<b>3,368</b>
<b>Other expenditure</b>			
Miscellaneous legal aid expenditure		75	92
Bad debt (net of movement on provision)	8	958	2,296
<b>Total other expenditure</b>		<b>1,033</b>	<b>2,388</b>
<b>Net expenditure before interest</b>		<b>140,881</b>	<b>141,353</b>
Interest receivable		(14)	(45)
Pension scheme finance costs	17	59	35
Notional interest on capital	9	(2,177)	(2,532)
<b>Net operating costs</b>		<b>138,749</b>	<b>138,811</b>

All income and expenditure is derived from continuing activities.

## Statement of recognised gains and losses for the year ended 31 March 2009

	Notes	2008-2009 £000	2007-2008 £000
Pension scheme – changes in assumptions	17	418	162
Pension scheme – actuarial loss	17	(501)	(226)
Pension scheme – Part V transfer to fund	17	–	(141)
<b>Recognised losses relating to the year</b>		<b>(83)</b>	<b>(205)</b>

## Scottish Legal Aid Fund continued

### Balance sheet as at 31 March 2009

	Notes	2009 £000	2008 £000
<b>Fixed assets</b>			
Intangible assets	10	1	6
Tangible assets	11	13	21
		14	27
<b>Debtors: amounts falling due in more than one year</b>			
	12	8,441	8,002
<b>Current assets</b>			
Debtors: amounts falling due within one year	12	4,095	3,759
Cash at bank and in hand	13	5,399	7,409
		9,494	11,168
Creditors: amounts falling due within one year	14	(8,592)	(7,864)
<b>Net current assets</b>		902	3,304
<b>Total assets less current liabilities</b>			
		9,357	11,333
Provisions for liabilities and charges	16	(67,250)	(75,742)
Net liabilities excluding pension scheme liability		(57,893)	(64,409)
Pension scheme liability	17	(1,205)	(905)
<b>Net liabilities including pension scheme liability</b>		(59,098)	(65,314)
<b>Represented by:</b>			
General fund	18	(59,099)	(65,315)
Revaluation reserve	19	1	1
<b>Taxpayers' equity</b>		(59,098)	(65,314)

The notes on pages 81 to 94 form part of these accounts and should be read in conjunction with the statements above.



Lindsay Montgomery CBE  
Chief Executive and Accountable Officer  
11 August 2009

### Cash flow statement for the year ended 31 March 2009

	Notes	2008-2009 £000	2007-2008 £000
Net cash outflow from operating activities before financing	20	(149,235)	(153,666)
<b>Capital expenditure:</b>			
Payments to acquire tangible fixed assets	11	-	(22)
Net cash outflow before financing		(149,235)	(153,688)
<b>Financing:</b>			
Grant-in-Aid received	18	147,225	155,581
<b>(Decrease)/increase in cash in the year</b>		(2,010)	1,893
<b>Reconciliation of movement in cash to movement in net funds</b>			
Opening cash at bank and in hand	13	7,409	5,516
Closing cash at bank and in hand	13	5,399	7,409
<b>Movement in net funds</b>		(2,010)	1,893

# Notes to the accounts for the Scottish Legal Aid Fund

for the year ended 31 March 2009

## 1 Accounting policies

### 1.1 Basis of accounting

The accounts have been prepared in accordance with the historical cost convention as modified, to include fixed assets at their value to the organisation by reference to their current cost. The accounts are prepared in accordance with the accounting principles and disclosure requirements of the *Government Financial Reporting Manual*. Without limiting the information given, the accounts meet the accounting and disclosure requirements of the Accounting Standards Board, so far as those requirements are appropriate and in accordance with the Accounts Direction given by Scottish Ministers. The accounting policies selected have been applied consistently in dealing with items considered material in relation to the accounts.

The Board estimates the value of unbilled live cases each year to arrive at the amounts disclosed within the accounts as a provision. The amount is an estimate of the expenditure required to settle any obligation at the balance sheet date following the requirements of Financial Reporting Standard 12 "Provisions, contingent liabilities and contingent assets". In estimating the provision, the Board has adopted prudent measurement techniques based on the latest data available. No income is anticipated for cases that may successfully recover costs. As a result the Scottish Legal Aid Fund balance sheet on page 80 shows net liabilities of £59m (2008: £65m). This reflects the inclusion of liabilities falling due in future years which, to the extent that they are not to be met from the Board's other sources of income, may only be met by future grants or Grants-in-Aid from the Scottish Government. This is because, under the normal conventions applying to Scottish Government control over income and expenditure, such grants may not be paid in advance of need. Grant-in-Aid for 2009-2010, taking into account the amounts required to meet the Board's liabilities falling during that year, has already been included in the Scottish Government's estimates for that year, which have been approved by parliament, and there is no reason to believe that the Scottish Government's full sponsorship and future parliamentary approval will not be forthcoming. Further, the Legal Aid (Scotland) Act 1986 creates a statutory obligation for payment of sums due to any solicitor or counsel out of the Legal Aid Fund. Accordingly, it is considered appropriate to adopt the going concern basis for the preparation of these financial statements.

FRS 25 "Financial instruments: disclosure and presentation" and FRS 26 "Financial instruments: recognition and measurement" have been implemented for the first time for the year ended 31 March 2009. The FReM does not require a prior year adjustment to reflect this change in accounting policy and the comparatives have not been restated in this respect.

### 1.2 Corresponding amounts

Corresponding amounts are shown for the primary financial statements and for the notes to the accounts. Where corresponding amounts are not directly comparable with the amount shown in the current financial year, Financial Reporting Standard 28 "Corresponding Amounts" requires that they should be adjusted and the basis for adjustment disclosed in a note to the financial statements.

### 1.3 Funding

Most of the expenditure of the Board is met from funds advanced by the Scottish Government within an approved allocation. Cash drawn down to fund expenditure within this approved allocation is credited to the general fund. All income that is not classed as funding is recognised in the period in which it is receivable. Funding for the acquisition of general fixed assets received from the Scottish Government is credited to the general fund. Funding received from any source for the acquisition of specific assets is credited to the government grant reserve and released to the operating cost statement over the life of the asset.

### 1.4 Fixed assets

Fixed assets are capitalised at their cost of acquisition and installation and are re-valued each year using Business Monitor Producer Price Indices to take account of specific price changes. The threshold for capitalisation of assets is £5,000; however, individual assets whose cost fall below the threshold but are of a similar nature are grouped and capitalised.

### 1.5 Depreciation

Depreciation is provided on all fixed assets, on a straight-line basis, at rates calculated to write off the re-valued cost, less estimated residual value, of each asset over its expected useful life as follows:

- office equipment – 5 years
- office furniture – 10 years
- personal computer hardware and software – 3 years
- other computer hardware – 5 years
- other software licences – the shorter term of the length of life of licence and its useful economic life.

### 1.6 Notional credits

In accordance with the *Government Financial Reporting Manual*, a notional credit for interest on capital is included in the Operating Cost Statement. An accounting entry reversing this notional position is included in the General Fund. This is a charge when the balance sheet shows net assets and a credit when the balance sheet reports net liabilities.

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 1.7 Provisions for liabilities and charges

The liability to pay accounts resulting from work performed up to and including 31 March is calculated based on the number of outstanding legal aid certificates and estimates of cost and time since the certificate was issued.

## 1.8 Pension costs (PDSO and Part V staff)

The Legal Aid (Scotland) Pension Scheme 1988 is an unfunded pension scheme providing benefits based on final pensionable pay. The liabilities of the scheme are reported separately from those of the Board. Pension scheme liabilities are measured using a projected unit method and discounted at the current rate of return on a high quality corporate bond of equivalent term and currency to the liability. The amounts charged to the Operating Cost Statement represents both the service cost, i.e. the cost of the additional benefits earned as a result of employees' service in the current year; and the finance charge for the year arising from the interest on the scheme liabilities, in line with the requirements of Financial Reporting Standard 17 "*Retirement Benefits*".

## 1.9 VAT

The Board is not eligible to register for VAT and all costs are shown inclusive of irrecoverable VAT.

## 1.10 Losses and special payments

Operating expenditure includes certain losses which would have been made good through insurance cover had the Board not been bearing its known risks. Losses and special payments are disclosed separately in a note to the accounts (note 21).

## 1.11 Related party transactions

Related party transactions are identified, considered and disclosed in line with the requirements of Financial Reporting Standard 8 "*Related Party Transactions*".

## 1.12 Financial instruments

The classification of financial assets is determined on initial recognition and comprise only receivables with fixed or determinate payments. Financial assets include trade and other receivables and cash at bank in the balance sheet. Receivables are recognised at fair value less any provision for non-recovery, which is charged to the operating cost statement. Financial assets are derecognised when the rights to receive cash flows from the assets have expired or been substantially transferred from the Fund.

Financial liabilities are classified at the point of initial recognition and comprise trade and other payables. Financial liabilities are valued at fair value and derecognised when they have been extinguished i.e. discharged, cancelled or expired.

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 2 Civil legal assistance expenditure

	2008-2009 £000	2007-2008 £000
<b>Civil legal aid</b>		
Solicitors' charges	12,955	14,074
Advocates' fees	5,067	5,474
Solicitor advocates' fees	32	-
Outlays	9,387	9,422
	<b>27,441</b>	<b>28,970</b>
Expenses paid to successful unassisted persons	131	16
	<b>27,572</b>	<b>28,986</b>
<b>Civil advice and assistance and ABWOR</b>		
Solicitors' charges	17,655	13,827
Outlays	3,267	2,536
	<b>20,922</b>	<b>16,363</b>
<b>Part V Service</b>		
Civil defence costs – outlays	70	1
Salaries and wages	275	132
Social security costs	21	11
Pension scheme service costs	43	24
Accommodation	15	13
Audit fee	1	-
Rentals under operating leases	9	2
Other operating costs	43	117
	<b>477</b>	<b>300</b>
<b>Gross civil legal assistance expenditure</b>	<b>48,971</b>	<b>45,649</b>
Less operating income (see note 3)	<b>(12,303)</b>	<b>(14,515)</b>
<b>Total net civil legal assistance expenditure</b>	<b>36,668</b>	<b>31,134</b>

These figures include:

- estimates of the value of work done for which payment is outstanding at 31 March 2009
- estimates for work done as a matter of special urgency. Some of this work will not lead to a grant of full legal aid and may be paid under determination by the Scottish Ministers under section 4(2)(c) of the Legal Aid (Scotland) Act 1986. In 2008-2009, the expenditure under this scheme was £638,000 (2007-2008: £957,000), and
- payments to account made to solicitors and advocates under regulation 11 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989. In 2008-2009 the expenditure under this scheme was £2,682,000 (2007-2008: £1,994,000).

## Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

### 3 Civil legal assistance income

	2008-2009 £000	2007-2008 £000
Contributions by assisted persons (note a)	2,280	1,603
Expenses recovered (note b)	8,123	10,992
Amounts recovered out of property recovered or preserved by assisted persons (note c)	614	564
Losses recovered from damages	1,286	1,356
<b>Total</b>	<b>12,303</b>	<b>14,515</b>

#### Notes

a. Contributions by assisted persons is shown net of any refunds. Amongst the reasons refunds may arise are:

- the financial circumstances of the assisted person having changed
- the total cost of the case being less than the contribution, or
- the cost of a case having been fully recovered from a third party.

The net amounts refunded during 2008-2009 were £263,000 (2007-2008: £375,000).

b. Expenses recovered are shown net of any adjustments, which may arise because the legal aid account has been taxed (re-assessed) by the Auditor of Court. Expenses refunded during 2008-2009 were £9,000 (2007-2008: £4,000). These are incorporated in the operating income table above.

c. Included in the amounts recovered out of property recovered or preserved by assisted persons are sums relating to assets over which the Board has taken a standard security. Under certain circumstances, the Board will securitise assets such as property until the debt is repaid. Any outstanding sum will attract interest at 8% a year, unless the rate is adjusted by an Act of Sederunt, until the balance is settled. The total value of securitised assets for 2009, including accrued interest, is £258,000 (2008: £265,000).

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 4 Criminal legal assistance expenditure

	2008-2009 £000	2007-2008 £000
<b>Criminal legal aid</b>		
Solicitors' charges	62,764	72,452
Advocates' fees	9,968	11,997
Solicitor advocates' fees	2,544	2,699
Outlays	4,980	5,555
	<b>80,256</b>	<b>92,703</b>
<b>Criminal advice and assistance and ABWOR</b>		
Solicitors' charges	16,323	9,636
Outlays	353	539
	<b>16,676</b>	<b>10,175</b>
<b>Contempt of court</b>		
Solicitors' charges	131	97
Advocates' fees	17	20
Solicitor advocates' fees	19	25
Outlays	3	4
	<b>170</b>	<b>146</b>
<b>Public Defence Solicitors' Office</b>		
Criminal defence costs – outlays	144	125
Salaries and wages	816	731
Social security costs	67	60
Pension scheme service costs	115	77
Accommodation	86	106
Audit fees	2	2
Rentals under operating leases	91	80
Depreciation (see notes 10 and 11)	13	15
Other operating costs	250	243
	<b>1,584</b>	<b>1,439</b>
<b>Total criminal legal assistance expenditure</b>	<b>98,686</b>	<b>104,463</b>

These figures include:

- estimates of the value of work done for which payment is outstanding at 31 March 2009
- estimates for work done as a matter of special urgency. Some of this work will not lead to a grant of full legal aid and may be paid under determination by the Scottish Ministers under section 4(2)(c) of the Legal Aid (Scotland) Act 1986. In 2008-2009, the expenditure under this scheme was £144,000 (2007-2008: £103,000).

## Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

### 5 Legal aid for children

	2008-2009 £000	2007-2008 £000
<b>Children's legal aid</b>		
Solicitors' charges	2,860	1,480
Advocates' fees	909	1,119
Solicitor advocates' fees	-	1
Outlays	229	349
	<b>3,998</b>	<b>2,949</b>
<b>Children's advice and assistance</b>		
Solicitors' charges	489	410
Outlays	7	9
	<b>496</b>	<b>419</b>
<b>Total children's legal assistance expenditure</b>	<b>4,494</b>	<b>3,368</b>

These figures include estimates of the value of work done for which payment is outstanding at 31 March 2009.

### 6 PDSO staff

	2008-2009 £000	2007-2008 £000
<b>Staff costs</b>		
Staff salaries and wages	808	715
Social security costs	67	60
Agency/temporary/contract	8	16
Pension scheme service and other costs	115	77
	<b>998</b>	<b>868</b>
	2008-2009 Average WTE	2007-2008 Average WTE
<b>Staff numbers</b>		
Operations and legal services	14	14
Administration and support functions	10	9
	<b>24</b>	<b>23</b>

PDSO pensions and other benefits are payable out of the Scottish Legal Aid Fund account.

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 7 Part V Service staff

	2008-2009 £000	2007-2008 £000
<b>Staff costs</b>		
Staff salaries and wages	273	132
Social security costs	21	11
Agency/temporary/contract	2	–
Pension scheme service costs	43	24
	<b>339</b>	<b>167</b>

	2008-2009 Average WTE	2007-2008 Average WTE
<b>Staff numbers</b>		
Operations and legal services	6	4
Administration and support functions	2	–
	<b>8</b>	<b>4</b>

Part V pensions and other benefits are payable out of the Scottish Legal Aid Fund account.

## 8 Bad debt (net of movement in provision)

	2008-2009 £000	2007-2008 £000
Irrecoverable contributions from assisted persons	465	571
Irrecoverable expenses	504	1,610
Irrecoverable sums from property recovered or preserved by assisted persons	(11)	115
	<b>958</b>	<b>2,296</b>

The sums written off during the year were £1,246,000 (2007-2008: £828,000).

## 9 Notional credits

A notional credit for interest on capital is included in the Operating Cost Statement. This is calculated at 3.5% (2007-2008: 3.5%) of the average value of net liabilities on the balance sheet.

## Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

### 10 Intangible fixed assets

	Software £000
<b>Cost or valuation</b>	
Balance at 1 April 2008	45
Permanent diminution	(1)
<b>As at 31 March 2009</b>	<b>44</b>
<b>Amortisation</b>	
Balance at 1 April 2008	39
Provided during year	5
Backlog	(1)
<b>As at 31 March 2009</b>	<b>43</b>
<b>Net book value at 31 March 2009</b>	<b>1</b>
Net book value at 31 March 2008	6

These assets relate to the operation of the PDSO.

### 11 Tangible fixed assets

	Office furniture and fittings £000	Office equipment £000	PC/ computer hardware £000	Total £000
<b>Cost or valuation</b>				
Balance at 1 April 2008	5	18	53	76
Disposals	(5)	–	–	(5)
Permanent diminution	–	–	(1)	(1)
<b>As at 31 March 2009</b>	<b>–</b>	<b>18</b>	<b>52</b>	<b>70</b>
<b>Depreciation</b>				
Balance at 1 April 2008	5	8	42	55
Disposals	(5)	–	–	(5)
Provided during year	–	2	5	7
<b>As at 31 March 2009</b>	<b>–</b>	<b>10</b>	<b>47</b>	<b>57</b>
<b>Net book value at 31 March 2009</b>	<b>–</b>	<b>8</b>	<b>5</b>	<b>13</b>
Net book value at 31 March 2008	–	10	11	21

These assets relate to the operation of the PDSO.

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 12 Debtors

	2009 £000	2008 £000
<b>Bodies external to Government</b>		
Contributions due from assisted persons	6,549	5,928
Expenses to be recovered	2,917	3,344
Amounts due out of property recovered or preserved by assisted persons	2,759	2,141
Prepayments	311	348
	<b>12,536</b>	<b>11,761</b>

### Amounts falling due in less than one year included above are:

<b>Bodies external to Government</b>		
Contributions due from assisted persons	2,751	2,490
Expenses to be recovered	408	457
Amounts due out of property recovered or preserved by assisted persons	625	464
Prepayments	311	348
	<b>4,095</b>	<b>3,759</b>

### Amounts falling due after more than one year included above are:

<b>Bodies external to Government</b>		
Contributions due from assisted persons	3,798	3,438
Expenses to be recovered	2,509	2,887
Amounts due out of property recovered or preserved by assisted persons	2,134	1,677
	<b>8,441</b>	<b>8,002</b>

The majority of debt and impairment is in respect of debts greater than six months old.

### The movement in the allowance for impairment in respect of trade receivables during the year was as follows:

Balance as at 1 April	1,968	500
Increase in provision	958	2,296
Provision utilised in the year	(1,246)	(828)
<b>As at 31 March</b>	<b>1,680</b>	<b>1,968</b>

## Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

### 13 Cash

	2009 £000	2008 £000
Cash at bank and in hand	501	2,663
Principal sums* (note 14)	4,733	4,499
Funds held under arrestment pending resolution (note 14)	165	247
	<b>5,399</b>	<b>7,409</b>

\* Principal sums consist of damages and other money recovered on behalf of assisted persons. They are held in an interest bearing account until all the financial transactions for a case are concluded. Once the net liability to the Legal Aid Fund can be settled, the remaining balance due will be transferred to the assisted person. The movement in the account during the year was as follows:

	2009 £000	2008 £000
<b>Balance as at 1 April</b>	<b>4,499</b>	<b>5,090</b>
Received during the year	7,102	7,166
Interest received during year	135	238
	<b>7,237</b>	<b>7,404</b>
Less:		
Sums repaid to assisted persons	5,580	6,442
Interest paid to assisted persons	137	198
Losses recovered from damages received	1,286	1,355
	<b>7,003</b>	<b>7,995</b>
<b>Balance as at 31 March</b>	<b>4,733</b>	<b>4,499</b>

### 14 Creditors

	2009 £000	2008 £000
<b>Bodies external to Government</b>		
Accruals	76	43
Amounts due to solicitors and advocates	3,618	3,075
Principal sums (note 13)	4,733	4,499
Arrestments (note 13)	165	247
	<b>8,592</b>	<b>7,864</b>

### 15 Financial instruments

	2009 £000
<b>Financial assets</b>	
Trade and other receivables (see note 12)	12,225
Cash	501
<b>Financial liabilities</b>	
Other – trade and other payables (see note 14)	<b>(3,618)</b>

The Fund is exposed to credit, liquidity and market risk. Management believes that liquidity and market risks are low. The Fund has no interest bearing assets or liabilities, substantially eliminating the impact of changes in interest rates, and is not exposed to foreign exchange rates. Trade and other receivables are primarily due from individuals, which exposes the Fund to credit risk. Credit risk is the financial loss to the Fund if an individual fails to repay their contribution. The Fund operates a debt management process, including monitoring and escalation procedures to recover monies outstanding. Provision is made for non-recovery based on the age of debts and experience of collecting overdue debts. The maximum exposure to credit risk at 31 March 2009 was £12,225,000.

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 16 Provisions for liabilities and charges

	2009 £000	2008 £000
<b>Provision for amounts outstanding on granted legal aid cases</b>		
As at 1 April	75,742	89,155
Additions and increase to provision	35,707	41,668
Amounts used in the period	(39,122)	(41,435)
Unused amounts reversed in the period	(5,077)	(13,646)
<b>As at 31 March</b>	<b>67,250</b>	<b>75,742</b>

The Board estimates the value of unbilled live cases each year to arrive at the amounts disclosed within the accounts as a provision. The amount is an estimate of the expenditure required to settle any obligation at the balance sheet date following the requirements of Financial Reporting Standard 12 "Provisions, contingent liabilities and contingent assets". In estimating the provision, the Board has adopted prudent measurement techniques based on the latest data available. No income is anticipated for cases that may successfully recover costs.

## 17 Pension arrangements

The Board operates a contributory defined benefit (final salary) pension scheme.

The Legal Aid (Scotland) Pension Scheme 1988 sets out the conditions for entitlement and determines the rate at which benefits are payable. The scheme is set up under paragraph 8(3) of Schedule 1 to the Legal Aid (Scotland) Act 1986 which gives the Board power to make rules to provide pensions, allowances or gratuities for its employees. The scheme is administered on behalf of the Board by the Scottish Public Pensions Agency, an Executive Agency of Scottish Ministers.

Although the Board operates a single scheme for all staff, the income, costs and liabilities are apportioned between staff funded by the Scottish Legal Aid Fund (PDSO and Part V staff); and staff funded from the Scottish Legal Aid Board's Grant-in-Aid.

There being no assets held, the scheme is unfunded. The pensions and other benefits are met as they fall due. Scheme members pay contributions at a rate of 6% of pensionable remuneration. These contributions are used to offset the expenditure. Contributions from PDSO and Part V staff were £47,000 (2007-2008: £31,000).

A full actuarial valuation of the scheme was carried out as at 31 March 2009 by Buck Consultants. The major assumptions used by Buck Consultants were:

	31 March 2009	31 March 2008
Discount rate per annum	6.04%	5.32%
Revaluation of deferred pensions	2.75%	2.75%
Increases to pensions in payment	2.75%	2.75%
Salary increases	3.00%	3.75%
Inflation	2.75%	2.75%

The mortality rate assumptions used for pensioner life expectancy assumed in the 31 March 2009 valuation were based on the table PXA00:

	Life expectancy in years
Male – aged 60	88.0
Female – aged 60	90.6
Male – aged 40	89.4
Female – aged 40	91.7

	2008-2009 £000	2007-2008 £000
<b>Analysis of the amount charged to operating costs</b>		
Current service cost (see notes 6 and 7)	158	98
	<b>158</b>	<b>98</b>

	2008-2009 £000	2007-2008 £000
<b>Analysis of the amount credited to income</b>		
Finance charges on pension scheme liabilities	59	35
	<b>59</b>	<b>35</b>

## Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

### 17 Pension arrangements continued

	2009 £000	2008 £000
<b>Reconciliation of the liability in the scheme over the year:</b>		
Scheme liability at the beginning of the year	905	567
Transfer of Part V staff from Grant-in-Aid	–	141*
	<b>905</b>	<b>708</b>
<b>Movement in year</b>		
Current service cost	158	98
Finance charge	59	35
Changes in financial assumptions	(418)	(162)
Actuarial loss	501	226
<b>Liability in scheme at end of the year</b>	<b>1,205</b>	<b>905</b>

\* In previous years' accounts the pension liabilities arising from Part V staff have been included in the liabilities of the Scottish Legal Aid Board accounts. During the year, the funding of Part V schemes was transferred from the Scottish Legal Aid Board's Grant-in-Aid to the Scottish Legal Aid Fund. As a consequence, the liabilities relating to Part V staff have been transferred to the Scottish Legal Aid Fund accounts.

Amounts for the current and previous four years are as follows:

	2009 £000	2008 £000	2007 £000	2006 £000	2005 £000
Defined benefit obligation	1,205	905	567	–	–
Experience adjustments on plan liabilities	(501)	(226)	(40)	–	–

### 18 General fund

	2009 £000	2008 £000
Balance at 1 April	(65,315)	(79,348)
Government grant	147,225	155,581
Net cost of operations	(138,749)	(138,811)
Net movement on pension scheme	(83)	(205)
Reversal of notional interest on capital	(2,177)	(2,532)
<b>Balance as at 31 March</b>	<b>(59,099)</b>	<b>(65,315)</b>

### 19 Revaluation reserve

	2009 £000	2008 £000
Balance at 1 April	1	1
<b>Balance as at 31 March</b>	<b>1</b>	<b>1</b>

# Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

## 20 Reconciliation of net costs of operations to net cash outflow from operating activities

	2008-2009 £000	2007-2008 £000
Net operating costs	(138,749)	(138,811)
Depreciation charges	13	15
(Increase)/decrease in debtors	(775)	427
Increase in creditors	728	515
Decrease in provisions	(8,492)	(13,413)
Pension scheme service and finance costs	217	133
Reversal of notional interest on capital	(2,177)	(2,532)
<b>Net cash outflow from operating activities</b>	<b>(149,235)</b>	<b>(153,666)</b>

## 21 Losses and special payments

	2008-2009		2007-2008	
	No of cases	£000	No of cases	£000
Write off of bad debt	1,178	1,246	1,335	828
Special payments*	51	35	39	49
	<b>1,229</b>	<b>1,281</b>	<b>1,374</b>	<b>877</b>

\* There are cases where, in good faith, a solicitor or counsel provides advice for which the Board cannot pay under the letter of the Act or regulations. There are also cases where an error is made by the Board. In such cases, the Board may make an ex-gratia payment, without prejudice, of compensation up to an agreed limit.

## 22 Related party transactions

During the year, the Board entered into transactions of a value greater than £1,000 with the following related parties:

	2008-2009 £000	2007-2008 £000
Paul McBride QC	213	218
Joseph Hughes	188	228
David Nicol	61	39
Graham Bell QC	21	26
Denis C Loney	7	10
Denise Loney	–	27

These related parties are Board members and their spouses or relatives who transacted with the Board at any time during the year. They are active legal aid practitioners and all the transactions arise from providing legal aid to assisted persons in the normal course of their profession, via their firms. The amounts detailed include outlays and VAT but do not include amounts paid for work carried out, on behalf of other firms, as an Edinburgh agent.

## 23 Capital commitments

No capital commitments existed at the balance sheet date.

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## Notes to the accounts for the Scottish Legal Aid Fund continued

for the year ended 31 March 2009

### 24 Operating leases

Annual commitments, at 31 March, under operating leases are as follows:

	2009 Land and buildings £000	2008 Land and buildings £000
Leases expiring:		
in one year or less	32	9
between one and five years	49	46
in five years or more	–	36
	<b>81</b>	<b>91</b>

### 25 Post balance sheet date events

No events have occurred since the balance sheet date and the time these accounts were signed that would materially affect the information provided.

# Scottish Legal Aid Board

## Operating cost statement for the year ended 31 March 2009

	Notes	2008-2009 £000	2007-2008 £000
<b>Expenditure</b>			
Staff costs	27	9,331	9,920
Operating costs	28	4,462	4,158
Depreciation	32 & 33	314	444
Permanent diminution in value of fixed assets and backlog depreciation	32 & 33	13	40
Loss on disposal of fixed assets	32 & 33	8	-
Impairment of fixed assets	32 & 33	2	55
<b>Operating costs</b>		<b>14,130</b>	<b>14,617</b>
<b>Income</b>			
Income from shared services	29	(105)	-
<b>Net operating costs before interest</b>		<b>14,025</b>	<b>14,617</b>
Pension scheme finance costs	37	1,957	1,707
Notional interest on capital	31	(1,141)	(1,230)
<b>Net operating costs</b>		<b>14,841</b>	<b>15,094</b>

All income and expenditure is derived from continuing activities.

## Statement of recognised gains and losses for the year ended 31 March 2009

	Notes	2008-2009 £000	2007-2008 £000
Pension scheme – changes in assumptions	37	7,290	4,454
Pension scheme – actuarial loss	37	(551)	(702)
Pension scheme – transfer of Part V to Legal Aid Fund	37	-	141
<b>Recognised gains relating to the year</b>		<b>6,739</b>	<b>3,893</b>

## Scottish Legal Aid Board continued

### Balance sheet as at 31 March 2009

	Notes	2009 £000	2008 £000
<b>Fixed assets</b>			
Intangible assets	32	86	60
Tangible assets	33	391	581
		477	641
<b>Current assets</b>			
Debtors	34	618	549
Cash at bank and in hand		36	49
		654	598
Creditors: amounts falling due within one year	35	(277)	(194)
<b>Net current assets</b>		377	404
Net assets excluding pension scheme liability		854	1,045
Pension scheme liability	37	(31,313)	(35,786)
<b>Net liabilities including pension scheme liability</b>		(30,459)	(34,741)
Represented by:			
General fund	38	(30,493)	(34,769)
Revaluation reserve	39	34	28
<b>Taxpayers' equity</b>		(30,459)	(34,741)

The notes on pages 97 to 103 form part of these accounts and should be read with the statements above.



Lindsay Montgomery CBE  
Chief Executive and Accountable Officer  
11 August 2009

### Cash flow statement for the year ended 31 March 2009

	Notes	2008-2009 £000	2007-2008 £000
Net cash outflow from operating activities	40	(13,365)	(13,001)
Capital expenditure:			
Payments to acquire intangible fixed assets	32	(59)	(11)
Payments to acquire tangible fixed assets	33	(109)	(167)
Cash received from transfer of tangible fixed assets		1	-
Net cash outflow before financing		(13,532)	(13,179)
Financing:			
Financed by government grant	38	13,519	13,210
<b>(Decrease)/increase in cash in the year</b>		(13)	31
<b>Reconciliation of movement in cash to movement in net funds</b>			
Opening cash at bank and in hand		49	18
Closing cash at bank and in hand		36	49
<b>Movement in net funds</b>		(13)	31

# Notes to the accounts for the Scottish Legal Aid Board

for the year ended 31 March 2009

## 26 Accounting policies

### 26.1 Basis of accounting

The accounts have been prepared in accordance with the historical cost convention as modified, to include fixed assets at their value to the organisation by reference to their current cost. The accounts are prepared in accordance with the accounting principles and disclosure requirements of the *Government Financial Reporting Manual*. Without limiting the information given, the accounts meet the accounting and disclosure requirements of the Accounting Standards Board, so far as those requirements are appropriate and in accordance with the Accounts Direction given by Scottish Ministers. The accounting policies selected have been applied consistently in dealing with items considered material in relation to the accounts.

As explained in note 37, pensions and other benefits are payable out of Grant-in-Aid and are met as they fall due. However, the accounts have been prepared in line with Financial Reporting Standard 17 "*Retirement Benefits*" and include an actuarial valuation of the pension scheme liability. As a result, the balance sheet shows net liabilities of £30m (2008: £35m). This reflects the inclusion of liabilities falling due in future years which, to the extent that they are not to be met from the Board's other sources of income, may only be met by future grants or Grants-in-Aid from the Scottish Government. This is because, under the normal conventions applying to Scottish Government control over income and expenditure, such grants may not be paid in advance of need. Grant-in-Aid for 2009-2010, taking into account the amounts required to meet the Board's liabilities falling during that year, has already been included in the Scottish Government's estimates for that year, which have been approved by parliament, and there is no reason to believe that the Scottish Government's full sponsorship and future parliamentary approval will not be forthcoming. Accordingly, it is considered appropriate to adopt the going concern basis for the preparation of these financial statements.

FRS 25 "*Financial instruments: disclosure and presentation*" and FRS 26 "*Financial instruments: recognition and measurement*" have been implemented for the first time for the year ended 31 March 2009. The FReM does not require a prior year adjustment to reflect this change in accounting policy and the comparatives have not been restated in this respect.

### 26.2 Corresponding amounts

Corresponding amounts are shown for the primary financial statements and for the notes to the accounts. Where corresponding amounts are not directly comparable with the amount shown in the current financial year, Financial Reporting Standard 28 "*Corresponding Amounts*" requires that they should be adjusted and the basis for adjustment disclosed in a note to the financial statements.

### 26.3 Funding

Most of the expenditure of the Board is met from funds advanced by the Scottish Government within an approved allocation. Cash drawn down to fund expenditure within this approved allocation is credited to the general fund. All income that is not classed as funding is recognised in the period in which it is receivable. Funding for the acquisition of general fixed assets received from the Scottish Government is credited to the general fund. Funding received from any source for the acquisition of specific assets is credited to the government grant reserve and released to the operating cost statement over the life of the asset.

### 26.4 Fixed assets

Fixed assets are capitalised at their cost of acquisition and installation and are re-valued each year using Business Monitor Producer Price Indices to take account of specific price changes. The threshold for capitalisation of assets is £5,000; however, individual assets whose cost falls below the threshold but are of a similar nature, are grouped and capitalised.

### 26.5 Depreciation

Depreciation is provided on fixed assets on a straight-line basis, at rates calculated to write off the re-valued cost, less estimated residual value, of each asset over its expected useful life, as follows:

- office equipment – 5 years
- office furniture – 10 years
- personal computer hardware and software – 3 years
- other computer hardware – 5 years
- other software licences – the shorter term of the length of life of licence and its useful economic life.

### 26.6 Notional credits

In accordance with the *Government Financial Reporting Manual*, a notional credit for interest on capital is included in the Operating Cost Statement. An accounting entry reversing this notional position is included in the General Fund. This is a charge when the balance sheet shows net assets and a credit when the balance sheet reports net liabilities.

## Notes to the accounts for the Scottish Legal Aid Board continued

for the year ended 31 March 2009

### 26 Accounting policies continued

#### 26.7 Operating leases

Rentals applicable to operating leases are charged to the Operating Cost Statement on a straight-line basis over the period of the lease.

#### 26.8 Pension costs

The Legal Aid (Scotland) Pension Scheme 1988 is an unfunded pension scheme providing benefits based on final pensionable pay. The liabilities of the scheme are reported separately from those of the Board. Pension scheme liabilities are measured using a projected unit method and discounted at the current rate of return on a high quality corporate bond of equivalent term and currency to the liability. The amounts charged to the operating cost statement represents both the service cost, i.e. the cost of the additional benefits earned as a result of employees' service in the current year; and the finance charge for the year arising from the interest on the scheme liabilities, in line with the requirements of Financial Reporting Standard 17 "Retirement Benefits".

#### 26.9 Accruals and prepayments

The Board adjusts cash spend using accruals and prepayments to match expenditure to the period it was actually incurred. Only invoices over £500 are accrued or prepaid.

#### 26.10 VAT

The Board is not eligible to register for VAT and all costs are shown inclusive of irrecoverable VAT.

#### 26.11 Losses and special payments

Operating expenditure includes certain losses which would have been made good through insurance cover had the Board not been bearing its own risks. Losses and special payments are disclosed separately in a note to the accounts (note 41).

#### 26.12 Financial instruments

The classification of financial assets is determined on initial recognition and comprises only receivables with fixed or determinate payments. Financial assets include trade and other receivables and cash at bank in the balance sheet. Receivables are recognised at fair value less any provision for non-recovery, which is charged to the operating cost statement. Financial assets are derecognised when the rights to receive cash flows from the assets have expired or been substantially transferred from the Board.

Financial liabilities are classified at the point of initial recognition and comprise trade and other payables. Financial liabilities are valued at fair value and derecognised when they have been extinguished i.e. discharged, cancelled or expired.

### 27 Staff

	2008-2009 £000	2007-2008 £000
<b>Staff costs</b>		
Board members' emoluments	123	130
Staff salaries	7,358	7,150
Social security costs	560	552
Pension scheme service costs	1,013	1,142
Payments to pensioners	-	521
Contributions refunded and transfers to other schemes	-	109
Agency/temporary/contract	277	316
	<b>9,331</b>	<b>9,920</b>

The prior year financial statements included a charge for both pension payments and current service costs in the Operating Cost Statement, with a corresponding entry for pension payments included in the Statement of Recognised Gains and Losses. This year, in order to show a clearer picture of the annual costs, the presentation has been altered to show only the current service costs as a charge in the Operating Cost Statement. The pension payments are thus excluded from both the Operating Cost Statement and the Statement of Recognised Gains and Losses. However, the pension payments continue to be incorporated in the valuation of the pension scheme liability, under FRS 17 principles, at the balance sheet date.

	2008-2009 Average WTE	2007-2008 Average WTE
<b>Staff numbers</b>		
Operations and legal services	177	179
Administration and support functions	117	114
Agency/temporary/contract	16	23
	<b>310</b>	<b>316</b>

# Notes to the accounts for the Scottish Legal Aid Board continued

for the year ended 31 March 2009

## 28 Operating costs

	2008-2009 £000	2007-2008 £000
Accommodation	630	512
Audit fee	41	40
Staff-related costs	227	249
Travel and subsistence	85	80
Postage, stationery and telephones	354	324
Office equipment and maintenance	768	691
External research	91	76
Civil peer review	313	283
Criminal peer review	22	-
Corporate publications, leaflets and forms	461	239
Rentals under operating leases	678	680
Other administrative costs	792	984
	<b>4,462</b>	<b>4,158</b>

## 29 Income from shared services

	2008-2009 £000	2007-2008 £000
Accommodation services provided to third parties	88	-
Internal audit services provided to third parties	17	-
	<b>105</b>	<b>-</b>

## 30 Interest receivable

The contract with the Royal Bank of Scotland prescribes quarterly payments of bank interest receivable. The creditor balance of £53,000 (2007-2008: £44,000) as at 31 March 2009 (see note 35), which has been accumulating over a number of years, is held pending agreement on the treatment of this with the Scottish Government.

## 31 Notional credits

A notional credit for interest on capital is included in the Operating Cost Statement. This is calculated at 3.5% (2007-2008: 3.5%) of the average value of net liabilities on the balance sheet.

## 32 Intangible fixed assets

	Software £000
<b>Cost or valuation</b>	
Balance at 1 April 2008	356
Additions	59
Permanent diminution in value	(5)
<b>As at 31 March 2009</b>	<b>410</b>
<b>Amortisation</b>	
Balance at 1 April 2008	296
Provided during year	32
Backlog	(4)
<b>As at 31 March 2009</b>	<b>324</b>
<b>Net book value at 31 March 2009</b>	<b>86</b>
Net book value at 31 March 2008	60

## Notes to the accounts for the Scottish Legal Aid Board continued

for the year ended 31 March 2009

### 33 Tangible fixed assets

	Office furniture and fittings £000	Office equipment £000	PC/ computer hardware £000	Total £000
<b>Cost or valuation</b>				
Balance at 1 April 2008	27	315	1,530	1,872
Additions	–	76	33	109
Disposals	(27)	(33)	(537)	(597)
Revaluation	–	11	–	11
Permanent diminution in value	–	–	(25)	(25)
<b>As at 31 March 2009</b>	<b>–</b>	<b>369</b>	<b>1,001</b>	<b>1,370</b>
<b>Depreciation</b>				
Balance at 1 April 2008	26	211	1,054	1,291
Provided during year	–	48	234	282
Disposals	(26)	(32)	(530)	(588)
Backlog	–	5	(13)	(8)
Impairment	–	–	2	2
<b>As at 31 March 2009</b>	<b>–</b>	<b>232</b>	<b>747</b>	<b>979</b>
<b>Net book value at 31 March 2009</b>	<b>–</b>	<b>137</b>	<b>254</b>	<b>391</b>
Net book value at 31 March 2008	1	104	476	581

### 34 Debtors

	2009 £000	2008 £000
<b>Bodies external to Government</b>		
Trade debtors	63	–
Prepayments	555	549
	<b>618</b>	<b>549</b>

Management have assessed that there is no impairment in relation to the trade and other receivables balance. At 31 March 2009 none of the debt was past due.

### 35 Creditors

	2009 £000	2008 £000
<b>Other Central Government bodies</b>		
Interest received due to Scottish Government (see note 30)	53	44
<b>Bodies external to Government</b>		
Accruals	204	142
Trade creditors	20	8
	<b>277</b>	<b>194</b>

# Notes to the accounts for the Scottish Legal Aid Board continued

for the year ended 31 March 2009

## 36 Financial instruments

	2009 £000
<b>Financial assets</b>	
Trade and other receivables (see note 34)	63
Cash	36
<b>Financial liabilities</b>	
Other – trade and other payables (see note 35)	(20)

The Board is exposed to credit, liquidity and market risk, but management believe that these risks are low. Trade and other receivables and trade and other payables are those arising during the Board's routine business. The Board has no interest bearing assets or liabilities, substantially eliminating the impact of changes in interest rates, and is not exposed to foreign exchange rates.

## 37 Pension arrangements

The Board operates a contributory defined benefit (final salary) pension scheme.

The Legal Aid (Scotland) Pension Scheme 1988 sets out the conditions for entitlement and determines the rate at which benefits are payable. The scheme is set up under paragraph 8(3) of Schedule 1 to the Legal Aid (Scotland) Act 1986 which gives the Board power to make rules to provide pensions, allowances or gratuities for its employees. The scheme is administered on behalf of the Board by the Scottish Public Pensions Agency, an Executive Agency of Scottish Ministers.

Although the Board operates a single scheme for all staff, the income, costs and liabilities are apportioned between staff funded by the Scottish Legal Aid Fund, presently PDSO and Part V staff; and staff funded from the Scottish Legal Aid Board's Grant-in-Aid. This disclosure, therefore, relates to staff other than PDSO and Part V staff.

There being no assets held, the scheme is unfunded. The pensions and other benefits are met as they fall due from Grant-in-Aid. Scheme members pay contributions of 6% of pensionable salaries amounting to £352,000 (2007-2008: £340,000). These contributions, along with any transfers from other schemes, are used to offset the Board's Grant-in-Aid expenditure up to a limit of £250,000. Any excess receipts are surrendered to the Scottish Government; and any excess expenditure on pensions, over and above that estimated for the year, is met by the Scottish Government.

A full actuarial valuation of the scheme was carried out as at 31 March 2009 by Buck Consultants. The major assumptions used by Buck Consultants were:

	31 March 2009	31 March 2008
Discount rate per annum	6.04%	5.32%
Revaluation of deferred pensions	2.75%	2.75%
Increases to pensions in payment	2.75%	2.75%
Salary increases	3.00%	3.75%
Inflation	2.75%	2.75%

The mortality rate assumptions used for pensioner life expectancy assumed in the 31 March 2009 valuation were based on the table PXA00:

	Life expectancy in years
Male – aged 60	88.0
Female – aged 60	90.6
Male – aged 40	89.4
Female – aged 40	91.7

	2008-2009 £000	2007-2008 £000
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### Analysis of the amount charged to operating costs

Current service cost (see note 27)	1,013	1,142
	1,013	1,142

	2008-2009 £000	2007-2008 £000
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### Analysis of the amount credited to income

Finance charges on pension scheme liabilities	1,957	1,707
	1,957	1,707

## Notes to the accounts for the Scottish Legal Aid Board continued

for the year ended 31 March 2009

### 37 Pension arrangements continued

	2009 £000	2008 £000
<b>Reconciliation of the liability in the scheme over the year:</b>		
Scheme liability at the beginning of the year	35,786	36,830
Transfer of Part V liabilities to Legal Aid Fund	–	(141)*
	<b>35,786</b>	<b>36,689</b>
<b>Movement in year</b>		
Current service cost	1,013	1,142
Benefits paid	(704)	(623)
Finance charge	1,957	1,707
Changes in financial assumptions	(7,290)	(4,454)
Actuarial loss	551	1,325
<b>Liability in scheme at end of the year</b>	<b>31,313</b>	<b>35,786</b>

\* In previous years' accounts the pension liabilities arising from Part V staff have been included in the liabilities of the Scottish Legal Aid Board accounts. During the year, the funding of Part V schemes was transferred from the Scottish Legal Aid Board's Grant-in-Aid to the Scottish Legal Aid Fund. As a consequence, the liabilities relating to Part V staff have been transferred to the Scottish Legal Aid Fund accounts.

Amounts for the current and previous four years are as follows:

	2009 £000	2008 £000	2007 £000	2006 £000	2005 £000
Defined benefit obligation	31,313	35,786	36,830	26,780	19,493
Experience adjustments on plan liabilities	(551)	(702)	(360)	(1,038)	1,184

### 38 General Fund

	2009 £000	2008 £000
Balance at 1 April	(34,769)	(35,548)
Operating costs	(14,841)	(15,094)
Net movement on pension scheme	6,739	3,893
Reversal of notional interest on capital	(1,141)	(1,230)
Grant-in-Aid	13,519	13,210
<b>Balance as at 31 March</b>	<b>(30,493)</b>	<b>(34,769)</b>

### 39 Revaluation reserve

	2009 £000	2008 £000
<b>Balance at 1 April</b>	<b>28</b>	<b>17</b>
Revaluation of cost	11	21
Backlog depreciation on upward revaluation of cost	(5)	(10)
<b>Balance as at 31 March</b>	<b>34</b>	<b>28</b>

# Notes to the accounts for the Scottish Legal Aid Board continued

for the year ended 31 March 2009

## 40 Reconciliation of net costs of operations to net cash outflow from operating activities

	2008-2009 £000	2007-2008 £000
Net operating costs	(14,841)	(15,094)
Depreciation charges	314	444
Permanent diminution in value of fixed assets	13	40
Loss on disposal	8	-
Impairment of fixed assets	2	55
Increase in debtors	(69)	(6)
Increase/(decrease) in creditors	83	(59)
Pension scheme service and finance costs	2,970	2,849
Payments in respect of pension scheme	(704)	-
Reversal of notional interest on capital	(1,141)	(1,230)
<b>Net cash outflow from operating activities</b>	<b>(13,365)</b>	<b>(13,001)</b>

## 41 Losses and special payments

	2008-2009		2007-2008	
	No of cases	£000	No of cases	£000
Losses	8	1	24	1
Special payments	6	6	7	2
	14	7	31	3

## 42 Capital commitments

	2009 £000	2008 £000
In respect of contracts entered into at 31 March	-	-

## 43 Operating leases

Annual commitments, at 31 March, under operating leases are as follows:

	2009		2008	
	Land and buildings £000	Other £000	Land and buildings £000	Other £000
Leases expiring:				
in one year or less	-	-	-	-
between one and five years	-	17	-	18
in five years or more	653	-	664	-
	653	17	664	18

The Board's offices at 39-44 Drumsheugh Gardens, Edinburgh are leased. The lease provides for the payment of a sum for dilapidation at the expiry of the leases in 2014 and 2015. Because the Board has a rolling planned programme of maintenance to avoid the need for extensive refurbishment at the expiry of the lease, the Board has not provided for dilapidations.

## 44 Post balance sheet events

No events have occurred since the balance sheet date and the time these accounts were signed that would materially affect the information provided.

## Appendix 1: Direction given by Scottish Ministers



### THE SCOTTISH LEGAL AID BOARD

#### DIRECTION BY THE SCOTTISH MINISTERS

1. The Scottish Ministers, in pursuance of Section 5(2) of the Legal Aid (Scotland) Act 1986, hereby give the following direction.
2. In accordance with Section 5(1) of the Legal Aid (Scotland) Act 1986, the Scottish Legal Aid Board has a duty to prepare a separate statement of accounts in respect of the Scottish Legal Aid Fund (the Fund) and the administration of the Fund (the Board). The statement of accounts, of both the Fund and the Board, for the financial year ended 31 March 2006, and subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FRM) which is in force for the year for which the statement of accounts are prepared.
3. The accounts shall be prepared so as to give a true and fair view of the income and expenditure and cash flows for the financial year, and of the state of affairs as at the end of the financial year.
4. This direction shall be reproduced as an appendix to the statement of accounts. The direction given on 13 June 2002 is hereby revoked.

*Michelle H Brannan*

Signed by the authority of the Scottish Ministers

Dated 13 December 2005

## About the Board

The Scottish Legal Aid Board was set up in 1987 to manage legal aid in Scotland. We are a non-departmental public body responsible to the Scottish Government. Our work is overseen by Board members, who are appointed by Scottish Ministers.

Ministers in the Scottish Government decide legal aid policy. Ministers propose the legislation to set the rules for legal aid, and the fees to be paid to the legal profession. The Scottish Parliament makes and changes legislation – including the tests for granting legal assistance. These tests are then applied to every single case. In advice and assistance and some special urgency cases, solicitors apply the tests.

For civil and criminal legal aid we apply the tests, except in some criminal and children's cases, where the courts decide.

The budget for legal aid is different from many other public services; it is not a set amount. The Scottish Government gives the Board the necessary funds to meet the cost of cases. This means we never have to refuse someone legal aid simply because there is no money left to pay for their case.

### Our work

A large part of our job is to decide who should get legal aid. If it is granted, legal aid is used to pay solicitors, counsel – advocates and solicitor advocates – and other costs of the case. The solicitor could be in private practice, employed by the Board or in a law centre. Our work includes:

- advising Scottish Ministers on how legal aid is working, and ways to develop it
- managing the Legal Aid Fund and deciding whether to grant applications for legal aid
- deciding if people have to pay towards the cost of legal assistance, then collecting these amounts
- assessing solicitors' and advocates' accounts for legal aid work, and paying them for the work they have done
- registering firms and solicitors who do legal assistance work and making sure these firms and solicitors maintain high standards, including funding civil quality assurance which is run by the Law Society of Scotland
- investigating and tackling fraud and abuse of legal aid
- developing a network of Board employed solicitors who offer criminal legal advice and representation, and also, under Part V of our legislation, developing advice services on civil matters using Board employed solicitors
- exploring new ways of delivering legal aid services
- grant funding advice services.

## Board members and Executive Team



Board members are appointed by Scottish Ministers. The number of members can vary from 11 to 15.

To give a balanced range of knowledge and experience, they include people with backgrounds in business, the advice sector and the wider community, as well as solicitors, advocates and a person with knowledge of courts procedure and practice.

We keep a register of Board members' interests in line with the Code of Conduct for Board Members of Devolved Public Bodies. Members must tell us all relevant interests and we update the register every quarter. You can read the register, and more about the work of Board members, on our website [www.slab.org.uk](http://www.slab.org.uk)

### Board members

#### 1. Iain A. Robertson CBE, Chairman

##### Appointed 1 April 2006

Iain Robertson was Chief Executive of Highlands and Islands Enterprise (HIE) from 1990 to 2000 having previously spent 15 years with BP, latterly as Director of Acquisitions and Divestitures in the USA. He is a member of the Accounts Commission and an independent member of the Department for Business, Innovation & Skills (BIS) Legal Services Group Board. He is also chair of the Coal Liabilities Strategy Board at the Department of Energy and Climate Change (DECC).

#### 2. Graham Bell QC

##### Appointed 1 April 2006

Graham Bell has been a member of the Scottish Bar since 1980 and a Queen's Counsel since 1991. He is currently a member of the Scottish Criminal Cases Review Commission and a legal panel member for Mental Health Tribunal Scotland.

#### 3. Les Campbell

##### Appointed 1 September 2006

Les Campbell is a Chartered Accountant and is currently Finance Director at Student Loans Company Ltd. Before joining the Student Loans Company, he was Director of Finance and Corporate Services at Glasgow Housing Association and prior to that he spent over 25 years in a variety of financial roles in the private sector. He is also a board member at the charity Quarriers.

#### 4. Joseph Hughes

##### Appointed 1 September 2006

Joseph Hughes qualified as a solicitor in 1984 and set up his own practice in 1986 specialising in criminal and civil court work. He is currently the Managing Partner operating four offices. He is a criminal solicitor advocate. He convenes a number of Tribunals and is Vice Chair of AFC Scotland (the Children's Charity).

#### 5. Denise Loney

##### Appointed 1 January 2007

Denise Loney qualified as a solicitor in 1987 and has held a variety of positions in private practice from trainee to partner. Her area of expertise is civil litigation and she is currently Director of Litigation Services of Optima Legal, in Glasgow.

#### 6. Paul McBride QC

##### Appointed 1 April 2006

Paul McBride joined the Bar in 1988 and became a Queen's Counsel in 2000. He is currently Vice Chairman of the Faculty of Advocates Criminal Bar Association and has served as an Advocate Depute.

#### 7. Susan McPhee

##### Appointed 1 January 2005

Susan McPhee has been the Head of Social Policy and Public Affairs with Citizens Advice Scotland since 1998. Before this, she was legal services adviser with Citizens Advice Scotland, having previously been a solicitor in private practice from 1981 to 1990. She was re-appointed as a Board member on 1 April 2008.



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### 8. Ellen Morton

#### Appointed 1 December 2002

An elected local councillor for Argyll and Bute since 1999, Ellen Morton is a part-time member of the Asylum and Immigration Tribunal. Mrs Morton's experience includes 30 years in various teaching posts, and managing a business. She was re-appointed as a Board member on 1 April 2006.

### 9. David Nicol

#### Appointed 1 April 2002

David Nicol is a solicitor and partner with Allan McDougall Solicitors, Edinburgh. He has been a legal adviser at a legal clinic run by a voluntary organisation for over 10 years and is a Director of Family Mediation Lothian. He was re-appointed as a Board member on 1 April 2006.

### 10. Elaine Rosie

#### Appointed 1 January 2005

Elaine Rosie has been the Training and Development Manager with Shelter Scotland since 2000, with responsibility for training and the Scottish Homelessness Advisory Service. Before this, she was the Depute Director of Shelter Scotland for eight years, with responsibility for managing all Shelter's advice and legal services provision in Scotland. She was re-appointed as a Board member on 1 April 2008.

### 11. Sheriff Kenneth Ross

#### Appointed 1 April 2004

Sheriff Ross has been a sheriff in Dumfries since 2000. He has previously served as a sheriff in Linlithgow for three years and as a temporary sheriff for 10 years. Before becoming a sheriff, he was a solicitor for 23 years. He is a former President of the Law Society of Scotland. He was re-appointed as a Board member on 1 April 2008.

### 12. Graham Watson

#### Appointed 1 April 2006

Graham Watson retired from the Royal Air Force in 2003 as a Group Captain after 31 years service. He is currently a member of Fife NHS Board. He is Chair of the North East Fife Community Health Partnership. He has over 30 years of senior management experience in a wide range of appointments.

## Senior staff

### a. Lindsay Montgomery CBE

#### Chief Executive

Lindsay Montgomery joined the Board in July 1999. He is responsible to the Board for the organisation's performance and management of activities. As the Accountable Officer, he is responsible to Parliament for legal aid expenditure. He is Deputy Chairman of the Office of the Scottish Charity Regulator and Chair of the NDPB Chief Executives' Forum. He previously worked in public bodies including SNH and HM Treasury.

### b. Colin Lancaster

#### Director of Policy and Development

Colin Lancaster joined the Board in June 1997 and was appointed Director in 2007. Colin has a policy and research background and is responsible for policy development, research, analysis, management information and communications.

### c. Andrew Menzies

#### Director of Corporate Services and Accounts

Andrew Menzies joined the Board in March 2003. He has extensive public sector experience in financial roles. He is responsible for the Board's finance, accounts, IS, HR and facilities services.

### d. Ian Middleton

#### Director of Audit and Compliance

Ian Middleton joined the Board in 1987. He is responsible for internal audit, compliance audit, solicitor and applicant investigations and the Board's Independent Checking and Quality Unit (ICQU) and the Business Efficiency and Review Unit (BERU).

### e. Tom Murray

#### Director of Legal Services and Applications

Tom Murray is a solicitor who has worked at the Board since May 1986. He previously worked in private practice. Tom is responsible for all legal services and applications areas which include decision-making on civil, criminal and children's legal aid cases.

## About legal aid

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Legal aid is help towards the costs of legal advice and representation, for those who qualify, paid for out of public funds. It is designed to help individuals who would be unable to pay for it on their own gain access to the legal system.

Legal aid may be free, or someone may have to pay towards the cost of their case, for example through paying a contribution or from the money or property that they win or keep as a result of their legal action. Legal aid is accessed through a solicitor.

There are two main types of legal aid help: advice and assistance and legal aid. Together these are called legal assistance.

- Advice and assistance covers a wide range of matters, so long as they are matters of Scots law. It pays for advice from a solicitor, but apart from some exceptions under assistance by way of representation (ABWOR), it will not cover “representation” – that is, putting the case in court.
- Legal aid provides funding for a solicitor to put the case in court and some tribunals. It covers the preparation work, as well as the hearing itself, and can provide funding for advocates, experts and other costs. (Cases often begin with advice and assistance, and legal aid may be the next step if necessary.) The main types of case that advice and assistance and legal aid can help with are:
  - civil cases – such as divorce and other matters affecting family and children, or actions for compensation after an accident or medical negligence
  - criminal cases – help, advice and representation for someone charged with a criminal offence or needing advice about a criminal matter
  - children’s cases – under the Children (Scotland) Act 1995, which helps to make sure children are protected and supervised. Legal aid also funds appeals against decisions of children’s hearings.



## If you need legal help, you need our number

Legal aid could help you get the advice you need. Call us on **0845 122 8686** or visit [www.slab.org.uk](http://www.slab.org.uk) to find out more about legal aid and if it could help you.

## Talk to us

Need more information about legal aid? All you have to do is get in touch.

[www.slab.org.uk](http://www.slab.org.uk)  
[general@slab.org.uk](mailto:general@slab.org.uk)  
**0131 226 7061**

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