

Annual Report 2010-2011



SG/2011/82. Laid before the Scottish Parliament by the Scottish Ministers in pursuance of section 5(7)(a) of the Legal Aid (Scotland) Act 1986 and section 22(5) of the Public Finance and Accountability (Scotland) Act 2000, September 2011. The Scottish Legal Aid Board's *Statement of Accounts* (SG/2011/81) is the Board's Annual Report and Accounts in accordance with the Government Financial Reporting Manual

Chairman's foreword

Scotland is respected internationally as having one of the best legal aid systems in the world. Legal aid here is not cash limited by the Scottish Government and this enables all cases which meet the statutory tests to be funded.

The difficult economic climate has contributed to continued high demand for legal assistance for the most vulnerable people in Scotland. I am pleased that the Board has delivered value for the taxpayer while maintaining access to this important public service.

Last year saw a number of very significant changes in the justice system and in legal aid, in particular the Supreme Court's decision to introduce the right of access to a solicitor for suspects in Police detention.

We continue to see historically high numbers of civil legal aid applications. The main area of growth is in family actions involving contact with children. We have again dealt with this high demand in applications whilst maintaining a good performance against our targets and service standards.

I am particularly pleased that we also maintained excellent progress with Legal Aid Online and achieved our commitment to switch to wholly online application processes from 1 April 2011. Scotland is one of only two countries in Europe to have a fully functional online system of this kind.

Solicitors' firms have told us they welcome reductions in bureaucracy for their businesses. By removing onerous paper processes we are simplifying the legal aid system and have been able to significantly reduce our staff numbers as a result.

Due to changes in legislation, responsibility for assessing applications for legal aid in solemn criminal cases (the most serious cases) was transferred to the Board. These new arrangements commenced in November 2010 and are aimed at improving consistency in granting legal aid and will provide savings.

The pressure on public expenditure increases the scrutiny we work under and the expectation from the Scottish Parliament, the Government and the public that public bodies deliver more for every pound they spend. Acknowledging that legal problems rarely come alone, the Board now delivers a wider range of functions but the amount it costs the taxpayer to run the Board has reduced by nearly £1 million in real terms since 2006-2007. The work we do to control expenditure on the legal aid fund also saves millions of pounds a year.

A very substantial amount of resources went into working with the Scottish Government and the Law Society on developing and agreeing a legal aid savings package as part of the Government's Spending Review. This resulted in the Scottish Government introducing a large number of regulations in early 2011.

2011-2012 will be one of our most challenging yet with cash reductions in our running costs of over £1m and over £12m in the Legal Aid Fund. Our highest priority will be to use our proven track record of delivering efficiencies to achieve these savings while maintaining access to justice for all those in Scotland who rely on it.

I would like to thank all our board members who have contributed invaluable to the Board, as well as our extremely able sponsor team at the Scottish Government.

As ever, I would like to thank Lindsay Montgomery, the Board's Chief Executive and all our staff for delivering a high quality service through such busy and often stressful times. Their hard work, commitment and desire to continuously improve legal aid are to be commended.

A handwritten signature in black ink, appearing to read 'Iain A Robertson', written in a cursive style.

Iain A Robertson CBE
Chairman of the Scottish Legal Aid Board

Chief Executive's overview of the year

Legal aid in Scotland is an important public service. It helps people to defend or pursue their rights if they cannot afford to do so. It plays an important role in the justice system and contributes to the efficient operation of the courts, prisons and police stations.

In 2010-2011, there was significant progress and positive change in legal aid; the legal aid system is more efficient and delivers better value for money while enabling access to justice for the most vulnerable people across Scotland.

Cost of legal aid in 2010-2011

The total cost of the legal aid fund in 2010-2011 was £161.4m. This is £10.9m more than the previous year. This is a significant increase and was due to a number of factors:

- Increases in VAT from 15% to 17.5% in 2009-2010 and then to 20% in January 2011 increased expenditure by £3.5m
- Increases in fee rates for solicitors and counsel introduced by the Scottish Government added around £2.6m to costs
- Larger numbers of cases paid in summary criminal legal aid increased expenditure by £3.6m
- an increase in the gross cost of civil legal aid as a result of the 20% increase in applications received in the previous 2 years and a large rise in payments on account claimed by solicitors.

Expenditure on civil legal assistance (after taking account of contributions and recoveries) increased by £4.9m to £52.1m and criminal legal assistance increased by £5.9 million to £104 million.

Enabling access to justice

Applications and grants for legal aid

We assessed over 450,000 applications across civil, criminal and children's legal

assistance, including legal aid applications, requests for increases in expenditure and requests for the use of counsel. This enabled those that were eligible to be get help or funding for their case.

Sometimes we are criticised for granting legal aid. However, the legal aid legislation sets out strict tests that we must apply in order to assess if somebody is eligible for legal aid. For civil legal aid we assess whether there is a legal basis to the case and whether it is reasonable to grant legal aid in addition to financial eligibility. For criminal legal aid we determine the 'interests of justice' test as well as financial eligibility. In the most serious criminal cases there is a financial eligibility test only. These decisions can be subject to Judicial Review.

Although it tends to be the high profile cases that attract adverse media attention, it is important to recognise the very large number of people who are helped through legal aid. For example, we assisted women to pursue protective orders against domestic violence; people to challenge repossession of their home; parents to challenge a spouse or partner attempting to take a child out of the country; for families to seek compensation for medical negligence and to challenge points of law in the highest courts in the public interest.

Applications for civil legal aid remain historically very high. There was a small decline compared to the previous year when prisoners' stopping out cases peaked. Applications for cases involving family issues remain high with cases involving contact with children increasing.

Grants of criminal legal assistance fell by 8% and grants for the most serious criminal cases by 2.8%. This fall has been

a direct result of fewer prosecutions through the courts.

Increase in numbers of firms and solicitors providing legal aid

Last year we reported that the recession had led to an increase in the number of firms doing legal aid work. The increase has continued with more solicitors registered to provide criminal legal assistance. We have also seen further increases in the numbers of firms across Scotland registered to supply civil legal assistance. In addition, firms providing civil legal aid continue to undertake significantly higher numbers of cases than three years ago.

At the end of March 2011, there were 12 more firms (576) and 48 more solicitors (1,401) registered to provide criminal legal assistance compared to the same point in 2010 and 26 more firms (654) registered to carry out civil legal assistance.

It is clear that the recession is impacting both on the need for civil legal help but also on the willingness of solicitors to undertake civil legal aid work.

Targeted advice services

Our targeted advice programme through the grant funded projects and the Civil Legal Assistance Offices has continued to deliver important services and plug gaps in supply. The programme has continued to witness a high demand for the services on offer. The Scottish Government has recognised the important work of the programme by confirming in December 2010 that funding would continue into 2011-12.

New role to monitor legal services

The Legal Services (Scotland) Act 2010 gives us a duty to monitor and report to Ministers on the availability and accessibility of legal services across Scotland. This is a role of significant importance and is wider than just legal aid. We have now convened an Access to Legal Services Reference Group consisting of a number of bodies with an interest in

access to justice. We will consult with the group and take forward this work next year.

Police Station Duty Scheme

In October, the Supreme Court decided that Scotland's police procedure of detaining and questioning suspects for up to six hours without legal representation was in breach of the European Convention on Human Rights.

We worked with other justice system partners, including the Crown, to put in place interim arrangements to enable suspects to obtain access to a solicitor before being interviewed in police custody. This was a substantial project and included improvements to solicitors' fee arrangements for un-social hours work. We also had to collectively discuss and plan for a longer term solution.

As a result of emergency legislation passed by the Scottish Parliament giving a statutory footing to the right to access to a solicitor the Board was given a duty to make solicitors available to provide advice from July 2011. We worked jointly with the Scottish Government's Senior Working Group, and the Law Society to develop the Police Station Duty Scheme which was implemented on 4 July 2011.

Providing value for money

We have an important role to protect public money through our administration of the legal aid system. In partnership with the Scottish Government, we delivered £9.6m of efficiency savings by the end of the year.

We have managed this through:

- reducing legal aid expenditure in some areas - most notably through the changes made as part of the summary justice reforms and subsequent changes to criminal legal assistance meaning that cases are prepared more effectively and are resolved earlier where appropriate

Our administration budget was capped for the third year running and after

taking account of inflation; this represents a reduction in real terms of around £1m (7%). We achieved savings through, for example, improved procurement, greatly reducing our accommodation costs and increasing the amount of business we do with solicitors online, including moving to a wholly online applications process from 1 April 2011. This has meant we have driven out costly paper processes and reduced our staff numbers.

Unlike our administration budget, expenditure on legal aid cases is demand led and is not cash limited. However, we have an important role in ensuring that this expenditure delivers best value within the terms of our governing legislation. We save the taxpayer in excess of £40m per year by only granting legal aid where applications meet the statutory tests and only paying for work that has been done with due regard to economy. We also try to minimise the risk of fraud and abuse of legal aid by applicants or legal aid providers.

We continued our programme of 'best value reviews' in 2010-2011. The programme is designed to look at all aspects of legal aid business over a period of time to ensure that legal aid is cost effective, delivers access to justice and supports the justice system, as appropriate. The major reviews that reported in 2010-2011 were Mental Health, Immigration and Asylum, and Special Urgency.

By engaging with the Mental Health Tribunal through our best value review of mental health we learned that certain behaviour was leading to additional costs to the tribunal, the Legal Aid Fund and health professionals. At the same time, we became aware of perceived inefficiencies in the way tribunals were administered and their communication and the constraints placed on all involved by the mental health legislation.

The Scottish Government has already introduced reductions in fees payable to

solicitors for travel time. We will now work with the Scottish Government and others to develop best practice and to bring forward proposals for block or fixed fees for mental health work. We found similar types of issues in our review of immigration and asylum. These reviews should result in cost savings and in 2011-2012 we will deliver a further programme of reviews.

In November 2010, responsibility for determining applications for solemn criminal legal aid was transferred from the courts to the Board. This will mean that we will deal with around 11,000 additional applications a year. This change was made to improve consistency in granting and will provide further savings. For example, we estimate that the number of solemn criminal grants will reduce by around 3% as a result of our approach to the 'undue hardship' test.

The public expenditure challenge

In 2010-2011, and following the Scottish Government's Spending Review, we assisted the Scottish Government to develop and implement the changes and regulations needed to make the substantial savings required to the Legal Aid Fund and our administrative budget. The savings package was developed and negotiated with the Law Society of Scotland.

The Scottish Government's 2011-2012 budget allocation for the legal aid fund is £141.9 million, a reduction of £12.7m (8.2%). The budget allocation for the Board's running costs (covering such things as staff and accommodation) is £11.8 million, a reduction of £1.1m (8.5%). This will represent a reduction in real terms in our administration costs of 16% over four years.

The savings package introduced by the Scottish Government included the increased use of the PDSO on court duty plans and changes introduced through a significant number of legal aid regulations passed by the Scottish

Parliament between January and April 2011. These included:

- reductions in solicitors' fees (for criminal cases and travelling);
- introduction of a table of fees for Counsel in Sheriff Court and Court of Session cases which will reduce the amount paid in cases;
- removal of certain exemptions from monies or capital that the Board is allowed to clawback from successful legally aided persons.

The savings package as a whole is forecast to deliver around £10m of savings in 2011-2012 and we will work with the Scottish Government to monitor the savings delivered. It is likely that further proposals for reducing expenditure will need to be made in 2012-2013.

Improved financial verification

A defining characteristic of legal aid is that it is only available for those that are financially eligible. This not only protects the purpose of legal aid but also prevents unnecessary expenditure.

It is important that solicitors see sufficient evidence of applicant's eligibility to support the grants of advice and assistance that solicitors make. We recognise that some applicants' lifestyles can make verification difficult and so we gave solicitors additional guidance to assist them in their responsibility. In order to bring the requirements for civil advice and assistance in line with criminal, the Scottish Government introduced regulations as part of the savings package that strengthened the responsibility of solicitors to obtain verification and allowed us to withhold payment should adequate verification not be secured.

To reduce some of the checking that solicitors have to do, we now check on their behalf applicants' declarations of certain benefits. This is done through a direct link with the Department for Work and Pensions so that solicitors don't need

to ask for evidence in certain circumstances.

Simplifying legal aid

We continued to try to improve the way legal aid operates for everyone who uses it. For example, we reduced the civil legal aid financial assessment form by over 20 pages to a more user-friendly 6 pages.

We also delivered a major milestone in the expansion of Legal Aid Online which enables solicitors to submit applications and accounts through a secure online system. This has been a substantial undertaking and represents a major change in the way that the Board and solicitors' firms do business together.

Legal Aid Online has removed the need for manual processing of tens of thousands of application types. Solicitors have told us that the system has made the application process quicker and simpler, saving them significant amounts of time and helping with cashflow. In April 2011 we stopped accepting any paper applications for legal aid. By the end of 2011-2012 all types of legal aid accounts will be able to be processed online.

Scotland is only one of two countries in Europe to have a fully functional online system for legal aid applications.

Our performance

We made a number of our existing targets on timeliness and accuracy tougher in 2010-2011. This came at the same time as significant pressures on internal resources from the Police Station Duty Scheme and the work on legal aid savings.

We met all but one of our challenging headline indicators. In the latter half of the year the majority of summary criminal applications were being received online, measured against a very challenging 4 day service standard. Even though a small number of these applications failed target there was no

adverse impact on the justice system as the turnaround time was still less than the previous 7 day target for paper applications.

Working in partnership

We have been working with the Scottish Government and other justice sector partners on the Scottish Government's Making Justice Work Programme. This includes a number of workstreams to improve the operation of the wider justice system. We are a member of the cross organisational group, chaired by the Scottish Government which is monitoring the programme's progress and our staff are involved in, and in some cases lead, the component projects.

We have also continued to work closely with the Law Society of Scotland and have welcomed their constructive input into a number of our projects.

Looking ahead

It is clear that the challenge of the reduced levels of funding available to the Scottish Government will result in further efficiencies and savings in legal aid. We are committed to assisting the Government achieve this whilst maintaining access to justice. This will be extremely challenging us, the legal profession and other stakeholders. However, we very much hope that we can continue to work together with partners to meet this difficult challenge. As part of this we will continue to look for ways of reducing our running costs but in a way which will not jeopardise the legal aid fund.

Finally, while we have a key role in facilitating access to justice, the delivery of legal aid services is done through solicitors, counsel and others. The vast majority of these legal aid suppliers are in solicitors' private firms, although some are employed by us or work for not-for-profit organisations in the third sector. Without their important and valued contribution, access to justice in Scotland would not be possible. Our thanks goes to them.

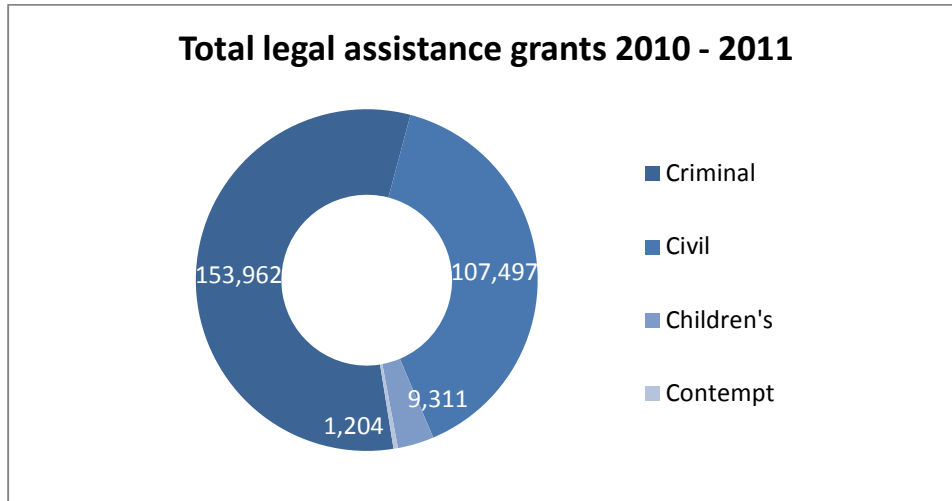


Lindsay Montgomery CBE
Chief Executive

Facts and figures on legal aid in 2010-2011

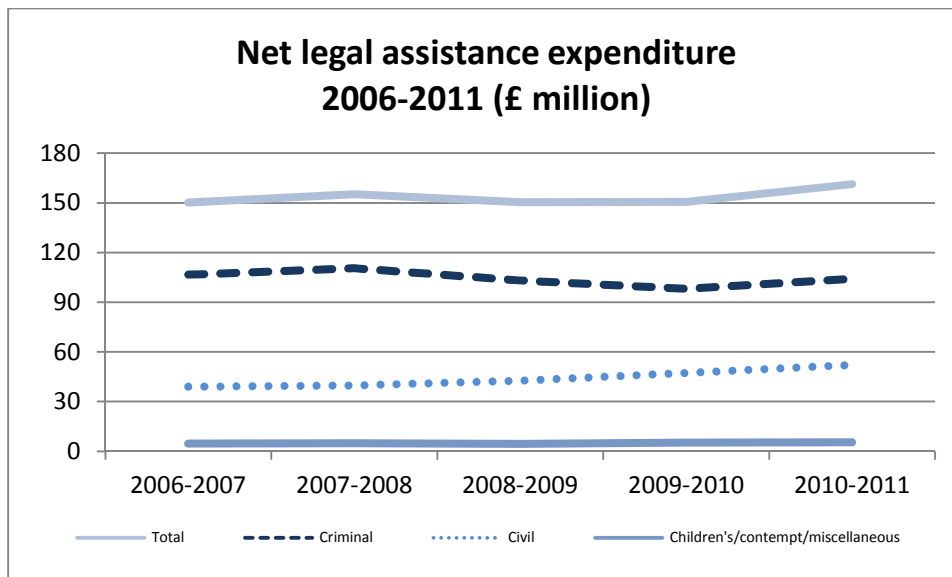
Full statistics and trends will be published on our website at www.slab.org.uk in October 2011.

Total legal assistance³ grants in 2010-2011



The total number of grants of legal assistance was 271,974.

Net total legal assistance expenditure in 2010-2011



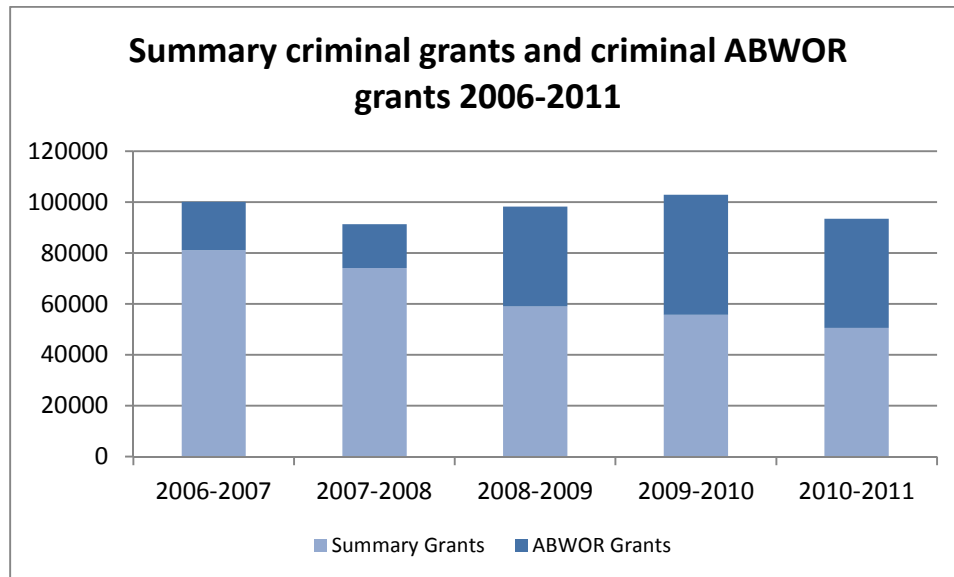
The total net expenditure from the Legal Aid Fund was £161.4 million in 2010-2011, an increase of £10.9 million on the previous year.

³ Legal Assistance covers advice and assistance and legal aid

Criminal legal assistance

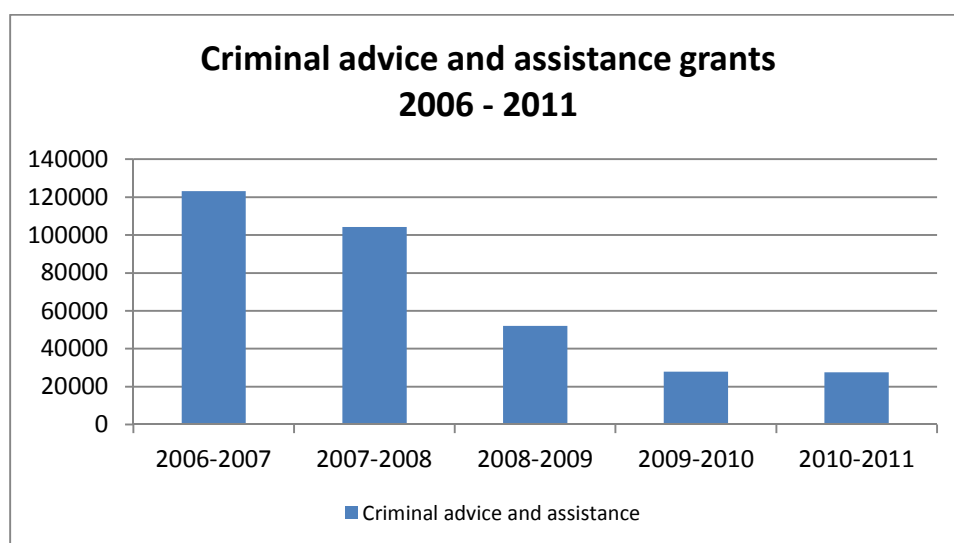
Grants of criminal legal assistance

Fundamental changes were made to the structure of summary criminal legal assistance in July 2008 as part of the wider reforms of summary justice. The reforms led to an increase in guilty pleas and a subsequent shift of applications from summary criminal legal aid to ABWOR. Following the significant changes in applications and grants by aid type seen in 2009-2010 the picture has settled down somewhat.



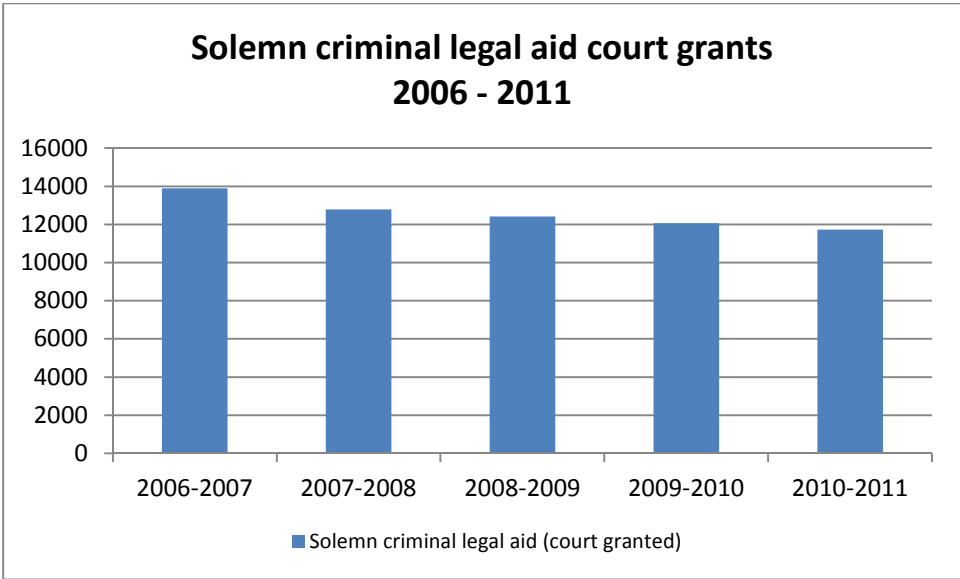
Total grants relating to summary cases (including ABWOR⁴ and legal aid grants by the Board and the courts) fell by 9% to 85,481. Grants by the Board of summary criminal legal aid fell by 9% to 50,603. ABWOR grants fell by 9% to 42,853. Within the ABWOR figure matters relating to breach proceedings decreased by 11% to 8,005.

The decrease in grants is in the main due to fewer cases being brought through the courts. During 2010-11 there were 6% fewer summary complaints registered by the Scottish Courts Service.



⁴ ABWOR is a form of advice and assistance and is advice and assistance given to someone by taking on their behalf any step in instituting, conducting or defending certain proceedings (and in criminal cases is most commonly used where a plea of guilty is made).

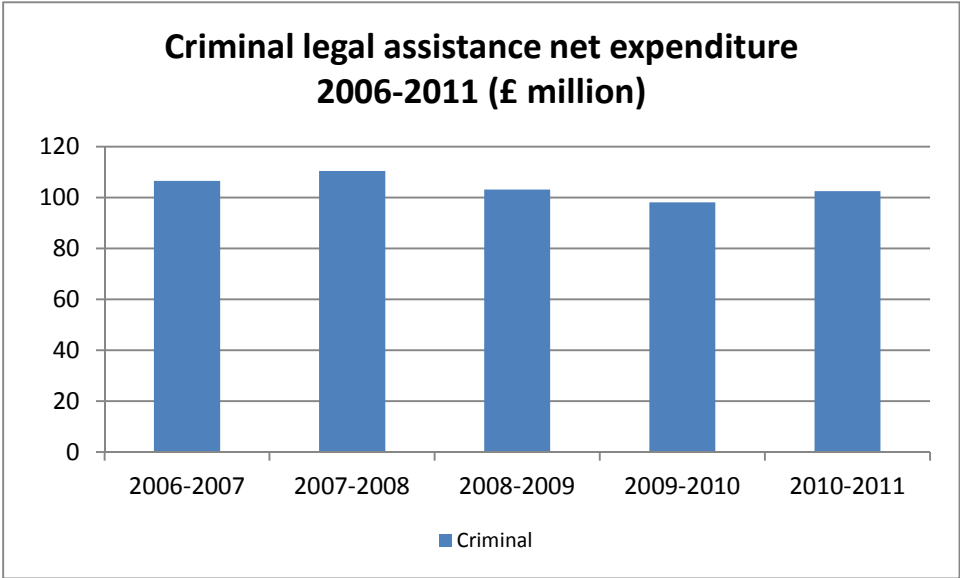
Criminal advice and assistance⁵ fell by 1.1% to 27,545, representing a levelling off following the steep decline associated with the summary justice reforms. Duty appearances fell by 13% to 18,272.



Grants of solemn legal aid (made by the courts and by the Board from November 2010) fell by 2.8% to 11,724. As with summary criminal legal aid, this reduction is caused in part by fewer cases being pursued by the Crown (11% fewer solemn complaints in 2010-2011).

Grants for all types of criminal legal assistance fell by 8% to 153,962.

Criminal legal assistance expenditure



- The total cost of criminal legal assistance increased by £5.9 million (6%) to £104.0 million.
- Expenditure on criminal advice and assistance fell by £0.1 million (10%) to £1.0 million.
- The cost of ABWOR remained virtually the same as last year at £20.1 million. Summary criminal legal aid increased by £3.6 million (12%) to £35.3 million as a

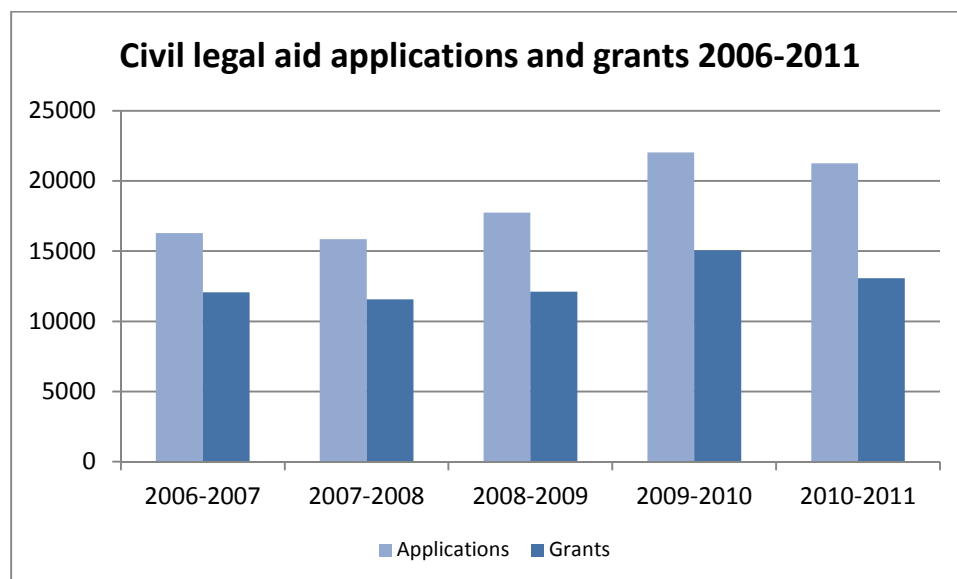
⁵ Advice and assistance covers advice on any matter of Scottish law from a solicitor, but (apart from ABWOR) will not cover representation (putting the case in court or in front of a tribunal).

result of an increased volume of summary accounts processed. Solemn criminal legal aid costs increased by £1.7 million (4.4%) to £40.8 million, largely as a result of fee increases introduced by the Scottish Government.

- £2.1 million of the increase in expenditure was due to increases in VAT

Civil legal assistance

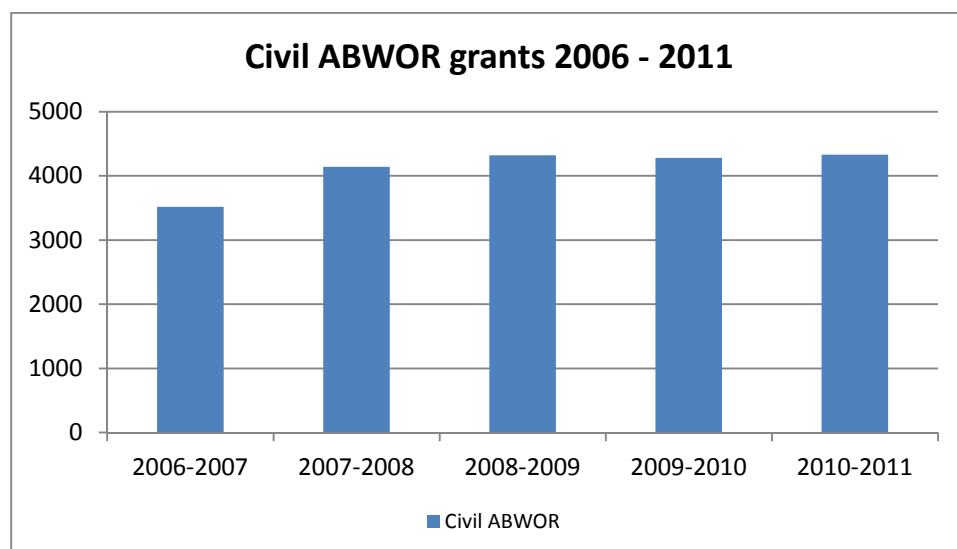
Applications and grants of civil legal assistance

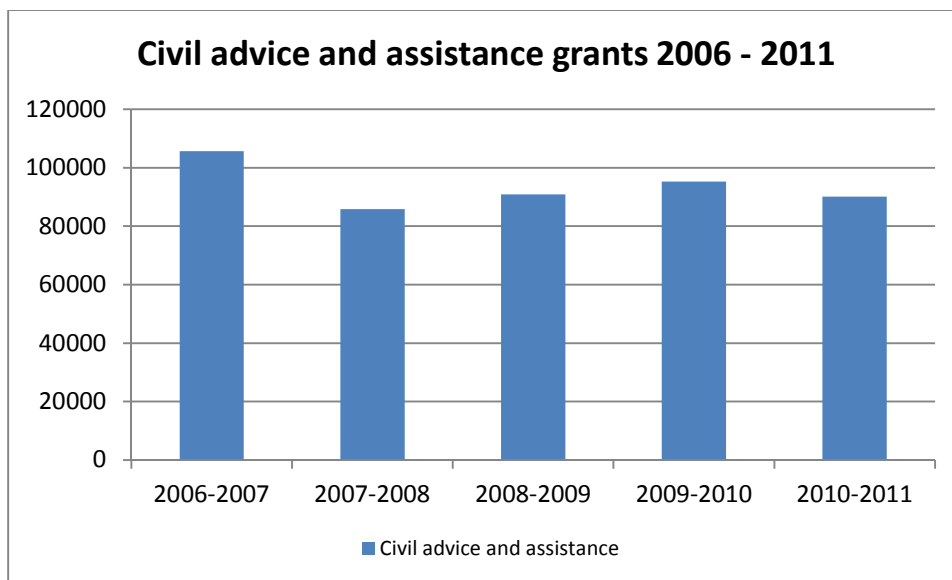


The economic downturn has continued to have a significant impact on civil legal assistance.

Although applications for civil legal aid fell by 777 (3.5%) to 21,251 they remained at a historically high level and are still 30% higher than in 2006-07. Growth has been seen in cases involving adults with incapacity, residence and immigration and asylum. Cases involving contact/parentage and divorce have maintained their high levels after 2 years of growth. There was a large fall in reparation (money damages) cases of 59% as a result of a fall in the number of prisoner slopping out cases.

As a result of our work to revise the guidance on the reasonableness test the number of civil legal aid grants fell by 1,981 (13%) to 13,068.

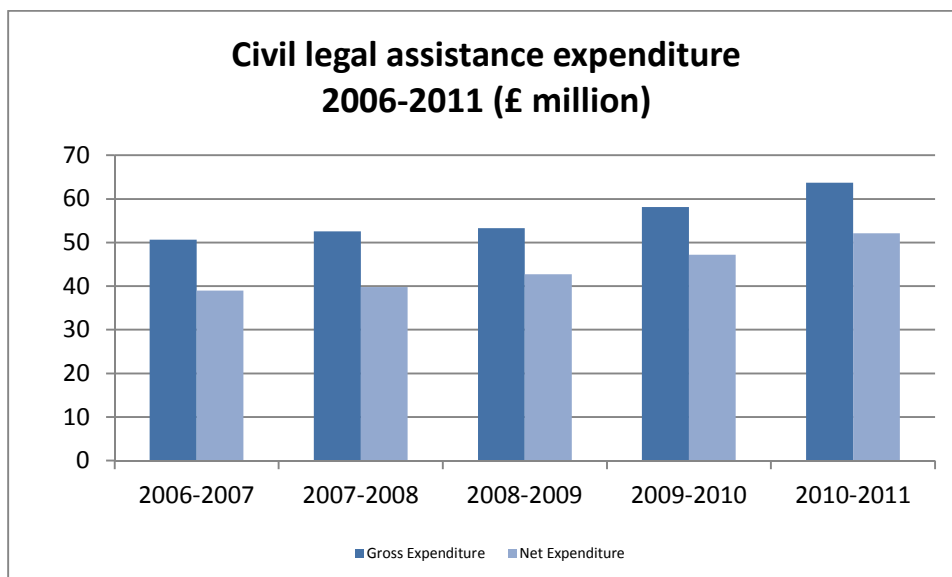




Grants of civil advice and assistance and ABWOR fell by 5% to 94,429.

Grants for all types of civil legal assistance fell by 6% to 107,497.

Civil legal assistance expenditure



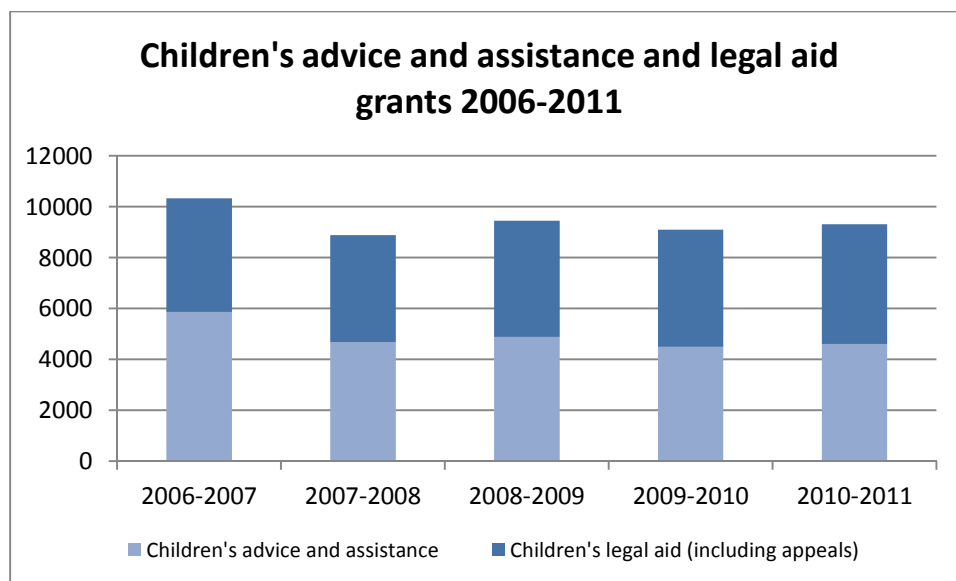
The total gross cost of civil legal assistance increased by £5.6m to £63.7m.

Income in civil legal aid cases (contributions, expenses, and property recovered or preserved) increased by 7% to £11.7 million.

The total net cost of civil legal assistance increased by £4.9m to £52.1m. Within this amount, £1.8m was spent on grant funding and other activities targeted on economic downturn issues.

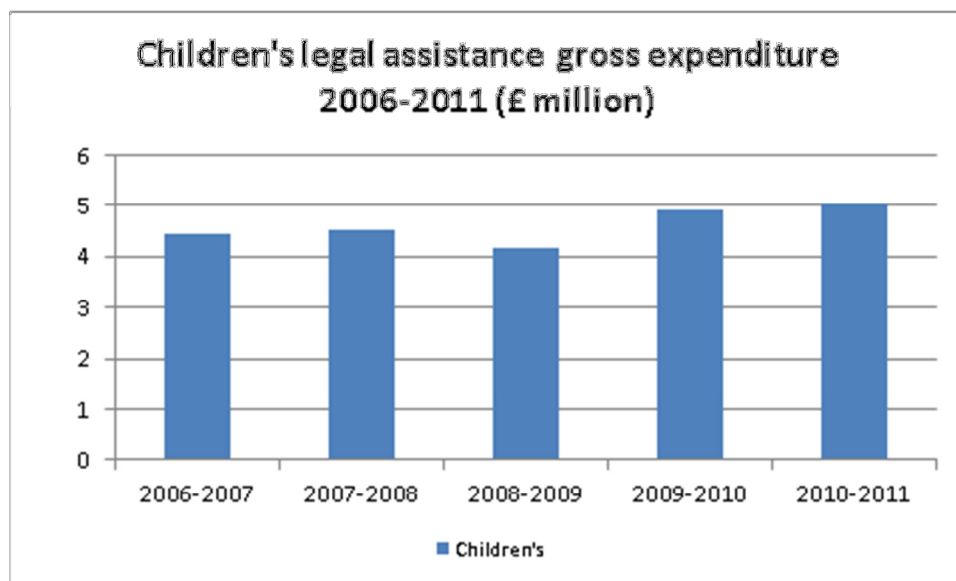
Children's legal assistance

Grants of children's legal assistance



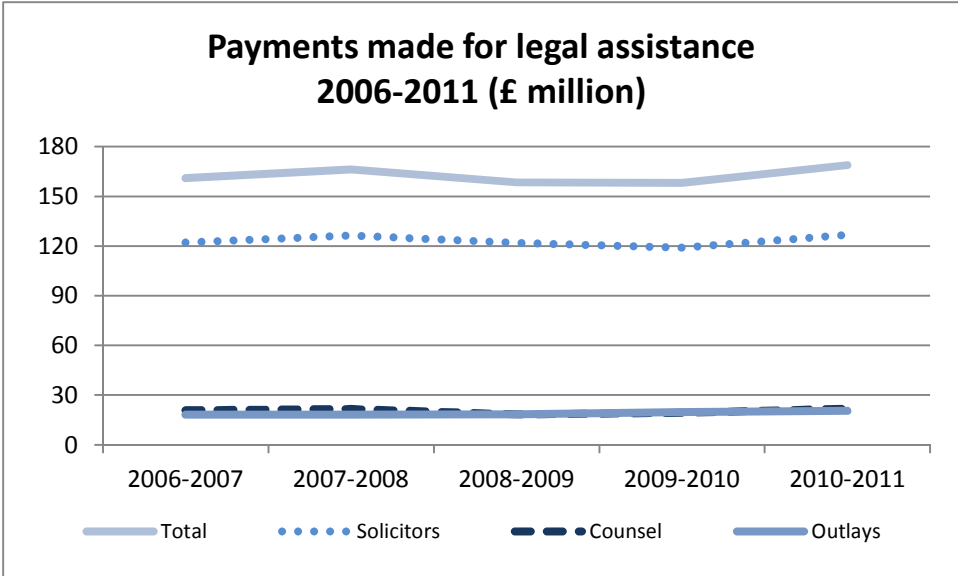
Grants of children's advice and assistance increased by 2.5% to 4,601 and grants of children's legal aid, which are made by the courts increased by 2% to 4,687. The Board granted 23 applications for appeal to the Sheriff Principal or Court of Session.

Children's legal assistance expenditure



The total cost of children's legal assistance increased by £0.1 million (2%) to £5 million. This was in the main due to an increase of 24% in the cost of outlays caused in part by a small number of high cost cases.

Payments made to solicitors, counsel and outlays



The amounts paid for legal assistance from the legal aid fund were:

- £126.7 million to solicitors⁶, an increase of £7.8 million (7%)
- £21.7 million to counsel (advocates and solicitor advocates), an increase of £2.3 million (12%)
- £20.4m million on outlays⁷, an increase of £0.7m million (3%).

⁶ Excluding Civil Legal Assistance Office and Public Defence Solicitors’ Office

⁷ The amount paid in outlays includes the amounts paid to Edinburgh agents. These are solicitors’ firms based in Edinburgh who are instructed to do work by firms across the country in cases in the Court of Session.

MAKING A POSITIVE DIFFERENCE

The Scottish Government's overall Purpose is to deliver a more successful Scotland with opportunities for everyone. The Government sets out how it will deliver its Purpose and Strategic Objectives in its fifteen National Outcomes.

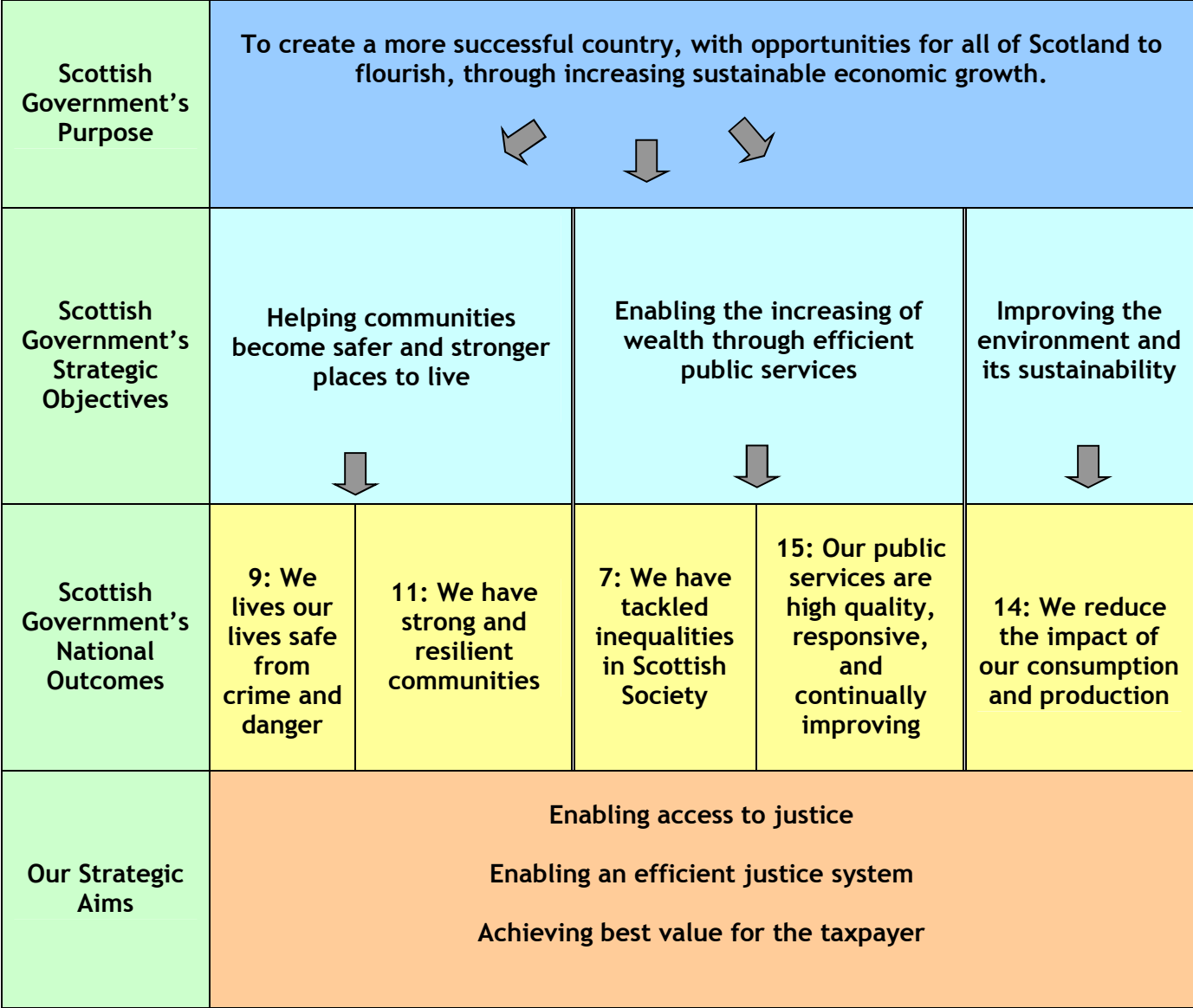
The purpose of legal aid in Scotland is to provide access to justice for those people who are unable to pay for it on their own. By helping people at difficult times in their lives we contribute to the Scottish Government's Purpose and its Strategic Objective to create a safer and stronger Scotland.

This report sets out how our work during 2010-2011 contributed to the delivery of five of the Scottish Government's National Outcomes. These are:

- **National Outcome 7** - We have tackled the significant inequalities in Scottish society
- **National Outcome 9** - We live our lives safe from crime, disorder and danger
- **National Outcome 11** - We have strong, resilient and supportive communities where people take responsibility for their own actions
- **National Outcome 14** - We reduce the local and global environmental impact of our consumption and production
- **National Outcome 15** - Our public services are high quality, continually improving, and responsive to people's needs.

MAKING A POSITIVE DIFFERENCE

The Scottish Government’s overall Purpose is to deliver a more successful Scotland with The diagram below sets out the connections between our aims and the Scottish Government’s National Outcomes and Purpose. This shows that the work we do materially contributes to five of the National Outcomes:



MAKING A POSITIVE DIFFERENCE

The Scottish Government's overall Purpose is to deliver a more successful Scotland with These case studies are real examples of how legal aid helped people in 2010-2011.

Domestic violence

A legal aid application was made seeking an interdict to prevent the applicant's former partner from assaulting and terrorising her. The opponent was already in prison for abusive behaviour towards the applicant, including dragging her by her hair and hitting her on a number of occasions. The opponent had also assaulted the applicant's son. Legal aid was made available to allow the applicant to obtain an interdict to try to prevent any further behaviour of this nature arising when the opponent was released from prison.

Removal of a child

An application for legal aid was made by a father where residence of the children of the marriage was shared between the father and the mother. The applicant had reason to believe that the mother would take one of the children of the marriage abroad without his consent. Legal aid was made available to bring interdict proceedings against removal of the child from Scotland to prevent any difficulties arising in relation to the child's residence.

Medical negligence

Legal aid was made available to a child to sue for damages in respect of losses suffered as a result of medical negligence. The case was very complex and a considerable amount of expert evidence was needed in order to establish fault. Legal aid allowed the case to be brought to a satisfactory conclusion with a sizeable sum being made available in damages to the child. Without legal aid it is unlikely that the family would have been able to obtain the necessary reports to achieve a successful outcome.

Wider public interest

Legal aid was made available to an applicant who wished to challenge a decision of the principal children's reporter. The case concerned the rights of an unmarried father to take part in a children's hearing. Two issues were raised in this case, the first involved the kind of order that needed to be made in the sheriff court to make it competent for a father to take part in a children's hearing and the second issue concerned the compatibility of the existing provision that unmarried fathers did not have an automatic right to take part in children's hearings set against the rights of the father and the child under the European Convention of Human Rights.

The issue raised a matter of wider public interest and, as such, a grant of civil legal aid was beneficial in clarifying the points involved for all family law practitioners, reporters and the lower courts.

Help through the In-court advice projects

In Aberdeen, a homeowner facing repossession attended court on the day of a hearing planning to allow the repossession of his home to go unchallenged because he could not pay his mortgage and felt he had no alternative options. The In-court Adviser gave him initial advice on his options should he choose not to defend the repossession matter, including Mortgage to Rent. She then referred him to the Civil Legal Assistance Office helpdesk at the court for legal advice and introduced him to the council debt adviser for help with his debts and a Mortgage to Rent application. As a result the homeowner felt able to seek a continuation and the matter was set down for a Proof date, enabling him to obtain further legal and money advice.

National Outcome 7: We have tackled the significant inequalities in Scottish society and National Outcome 11: We have strong, resilient and supportive communities where people take responsibility for their own actions

Legal aid makes an important contribution to National Outcomes 7 and 11 as it enables people to defend their rights if they cannot afford to do so. By responding to gaps in the provision of legal advice services we can also enable access to justice and therefore strengthen local communities.

Outcome delivered: We enabled access to justice

Administration of legal aid

One of the most important functions of the Board is to enable access to justice for those who wouldn't otherwise be able to afford the cost of legal help.

The main way in which we do this is by assessing large numbers of legal aid applications so that people can get help and a large number of accounts so that solicitors and others can get paid for the work that they have done. We aim to make decisions on applications and accounts quickly and accurately. By doing so, those that are eligible receive help and only work that is necessary and reasonable is sanctioned and paid for.

This was all the more challenging in 2010-2011 as the numbers of applications received for civil legal aid remained historically very high and at 21,251 was only 3.5% down on the ten year high of 2009-2010.

In enabling these people to get help the Board assessed over 450,000 new applications. This included applications for advice and assistance, civil and criminal legal aid, sanction to employ counsel and applications to review our decisions to refuse legal aid. We also made around 280,000 payments to solicitors and advocates.

Page 19 of this report includes some examples of how legal aid helped people in 2010-2011.

Targeted funding programme

We continued to operate and fund the targeted delivery of civil legal advice services through three programmes of work:

- We employ a small number of salaried solicitors in our Civil Legal Assistance Offices who act directly for clients in a similar way to private firms or law centres, as well as supporting lay advisers in other agencies.
- We have a range of projects funded by grants to provide advice services through advice sector organisations, law centres and solicitors' firms, focusing on issues related to the economic downturn.
- Since 1 April 2009, we fund the in-court advice projects across several local courts in Scotland which provide advice, casework and representation for people who are unrepresented.

The services complement rather than compete with solicitors in private practice and focus on connecting people to the appropriate adviser at the appropriate time, involving clear working relationships between lay advisers and solicitors. They focus on early intervention to avoid problems escalating and provide access to assistance where matters have not been resolved.

In December 2010 the Scottish Government confirmed that the CLAO network should continue at the current scale while finding efficiencies in line with those expected from the Legal Aid Fund. The grant funding programme (including both economic downturn and in court projects) will be rolled forward

for 2011-2012 with a ceiling of expenditure of £1.8 million.

Grant funding projects

16 grant funded projects have been in place since 2009-2010. The projects:

- help meet local need resulting from the economic downturn
- complement and build on current provision, including that provided by solicitors working in private practice and in law centres, solicitors employed by the Board, the existing in-court advice services and other advice agencies
- make advice and representation services at court more readily available across local courts
- provide legal advice and representation for people facing repossession and other problems.

During the period 1st April 2010 to 31st March 2011, the projects helped 2521 new clients. This resulted in positive outcomes for many people, including:

- Preventing repossession
- Preventing eviction
- Resolution of a debt problem
- Help to resolve an employment related problem

In-court advice projects

In April 2009 responsibility for funding the eight in-court advice projects was transferred to the Board from the Scottish Government. The projects were established with a remit to provide advice and representation to unrepresented persons in small claims, summary cause and debt matters in some of the busiest civil courts in the country.

The projects dealt with over 2,000 cases during 2010-2011 and many of the projects have reported an increase in the complexity of the problems facing their clients. This included last minute advice and representation at court and (through studying the types of case and people coming through the court) developing methods to enable earlier assistance and seeking to resolve problems before they

even come to court. See case study on page 19.

Civil Legal Assistance Offices (CLAO)

We have a small network of four offices delivering targeted civil legal assistance in areas where there is unmet need. The offices handle casework where other solicitors in the area are unable or unwilling to accept a client and where the person would otherwise not have accessed appropriate assistance. They also facilitate the referral of clients to other appropriate sources of help, and provide advice and training to advisers in other agencies.

The demand for this service was very high with the offices dealing with 2045 contacts, taking on 475 new cases and making 909 referrals to other sources of assistance. The network also dealt with 519 requests for advice from advisers in other agencies, better enabling those agencies to advise their own service users.

Outcome: We understand the supply of legal and advice services

We have an important role to advise the Scottish Government on the supply of legal assistance in Scotland and where there may be areas of unmet need. This reduces the risk of people not getting the legal assistance they need.

Legal Services (Scotland) Act 2010

We worked closely with the Scottish Government on the development of the Act which was passed by the Scottish Parliament in October 2010.

The Act places a statutory duty on the Board to monitor the availability and accessibility of legal services. This covers all types of legal services, not just those we fund.

This is a significant and important role. To assist us with this, we have set up a reference group, made up of representatives of bodies with an active interest in, and experience of, the

provision or use of legal services. We convened the first meeting of the Access to Legal Services Reference Group in June 2011⁶.

Supply of civil legal assistance

We monitor patterns in civil legal assistance across Scotland by using comparisons over time and across geography, area of law and provider type. This enables us to identify potential access to justice concerns, to explore reasons for supplier behaviour and to understand the drivers of demand for civil legal assistance.

The work has shown that the healthy supply of civil legal assistance witnessed last year has continued in 2010-2011 with levels of civil legal aid applications remaining at historically high levels. Firms are still submitting high levels of applications with the number of outlets which apply to do little legal aid work continuing to reduce.

- 41 new⁷ branches of firms submitted applications last year. This is above the average for each year since 2002-03.
- There has been an increase in each year since 2007-2008 in the number of solicitors submitting applications for civil legal aid, with a 4% increase from 1,173 in 2009-2010 to 1,216 in 2010-2011⁸.
- For those branches of firms submitting more than 100 applications (around 5% of outlets), the volume of applications

⁶ Group members: Administrative Justice and Tribunals Council; Citizens Advice Scotland; Consumer Focus Scotland; COSLA; Equalities and Human Rights Commission; Faculty of Advocates; Law Society of Scotland; Money Advice Scotland; Scottish Association of Law Centres; Scottish Court Service; Scottish Government; Scottish Women's Aid; Professor Alan Paterson

⁷ Outlets which have not submitted an application since 2000/2001

⁸ the solicitor signing the legal aid application

submitted has increased by 35% from 2006-07 to 2010-2011.

- Those branches of firms submitting more than 25 applications accounted for 41% of outlets in 2010-2011 and they submitted 81% of the applications

In 2009-2010 there was an increase in the number of firms on the civil legal assistance register which reversed the trend of the previous four years. This has continued in 2010-2011. At the end of March 2011 there were 26 more firms on the register than the previous year and 30 more firms than two years ago.

Applications data shows that solicitors in private practice still concentrate mainly on areas such as family law, rather than social welfare and debt.

Outcome: Legal aid fees ensure fair remuneration and value for money

Fees for counsel in civil cases

As part of the Scottish Government's legal aid savings package, we worked with the Scottish Government and the Faculty of Advocates on the creation of a table of fees for counsel conducting civil proceedings in the Court of Session and, for the first time, the Sheriff Court.

The Scottish Government introduced regulations which were commenced from 1 April 2011. The regulations prescribe daily fees for counsel, introduce a more prescriptive structure for the payment of additional preparation and a clearer structure for payment of consultations and travel and subsistence arrangements. This will deliver savings in 2011-2012 and beyond by giving clarity as to what can be claimed and to create a simpler system both for counsel and our accounts staff.

Fees for interpreters and translators

Solicitors often report to the Board that they have difficulty in sourcing interpreting and translation services and that there is often inconsistency around

pricing for travel, waiting time and other ancillary charges.

In response, the Board introduced a database of registered interpreters and translators alongside clear Interpreting and Translation Guidelines, which include a range of prescribed fees, providing a consistent framework for charging.

Guidance was issued in March 2011 and came into effect from 1st May 2011.

Outcome: Legal aid complements justice system legislation

Repossessions Advice Group

The parts of the Homeowner and Debtor Protection (Scotland) Act dealing with repossession came into force on 30 September 2010. We chaired the Repossessions Advice Group which co-ordinated the implementation of a number of complementary non-legislative measures around debt and repossession. In time for the Act's commencement, we commissioned Shelter to develop a package of advice and training material for the public, solicitors and the advice sector. This included the creation and launch of a new website *keepingyourhome.co.uk*. We also funded five awareness raising sessions across Scotland aimed at the legal profession and the advice sector and these were very well attended. Commencement of the Act, along with the Board's close involvement in the work of the Repossession Advice Group achieved positive coverage in the national and local media.

Outcome: People who receive legal assistance are financially eligible

It is the responsibility of solicitors to satisfy themselves that their clients are financially eligible for advice and assistance. We produced additional guidance for civil advice and assistance in consultation with the Law Society and other specialist representative bodies to assist solicitors in carrying out their responsibilities. This was a result of the

Board undertaking proactive research that showed that solicitors did not always obtain sufficient evidence of their client's eligibility.

We also revised our procedures to make the process easier for solicitors. We now check on their behalf applicants' declarations of certain benefits directly with the Department for Work and Pensions.

The Scottish Government then introduced changes to the civil and children's advice and assistance regulations in January 2011 which included a specific requirement for the solicitor, so far as necessary and practicable, to obtain from their client financial or other documentation in order to be satisfied that they are eligible for advice. The regulations made provision for payment to solicitors' firms to be withheld where the necessary information was not obtained.

In 2011-2012 we will monitor the impact of these initiatives.

National Outcome 9: We live our lives safe from crime, disorder and danger

An efficient criminal legal assistance system contributes to an efficient criminal justice system and thereby helps to make Scotland safer.

Outcome: There are sufficient numbers of solicitors to provide criminal legal assistance

The number of solicitors registered to carry out criminal legal assistance had remained fairly static in recent years. This changed in 2010-2011 with the numbers increasing.

At the end of March 2011 there were 12 more firms (576) and 48 more solicitors (1,401) compared to the same point in 2010.

Outcome: Effective operation of the criminal justice system

Police Station Duty Scheme

On 26 October 2010, the Supreme Court found that the law in Scotland, which allows a suspect to be detained and questioned by police for up to six hours without legal representation, was in breach of the European Convention on Human Rights. In advance of this ruling, the Lord Advocate decided that, as an interim measure, suspects would be offered access to a solicitor if they had been detained by the Police. The arrangements came into effect for cases proceeding by solemn procedure from 10 June and summary procedure cases from 8 July.

We worked with the Scottish Government, the Crown, ACPOS and others including the Law Society of Scotland to prepare for the Court's decision.

On 27 October, the Scottish Parliament introduced the emergency Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010. The Act gave suspects the right to access to a solicitor and some regulatory changes were made to fees for solicitors to support the interim arrangements which had been put in place. The Act also imposed a duty on the Board to make solicitors available for the purpose of providing advice and assistance to suspects to whom section 15A of the Criminal Procedure (Scotland) Act 1995 applies.

As part of the Scottish Government's Senior Working Group, which included the Law Society of Scotland, the Association of Chief Police Officers and the Crown Office Procurator Fiscal Service, we developed the police station duty scheme to meet the requirements of the Act. The scheme was launched on 4 July 2011.

Assessing applications for solemn criminal legal aid

On 25 November 2010 responsibility for determining applications for solemn criminal legal aid cases was transferred to the Board. This was previously done by the courts. We have dealt with applications within our timeliness and accuracy standards and feedback from others has been positive. The transfer is expected to result in greater consistency of decisions and provide some savings.

The transfer of responsibilities followed extensive consultation on how we would apply the financial eligibility 'undue hardship' test to applications.

Outcome: Effective operation of summary criminal legal assistance

Court duty solicitor arrangements

We manage the court duty plans across the country to ensure the availability of solicitors to provide representation to suspects appearing in court from custody. In order to find the required savings to legal aid in 2011-2012 the Cabinet Secretary for Justice us to investigate the savings that might be delivered through a significant expansion of the Public Defence Solicitors' Office's (PDSO) share the court duty plans.

In the negotiations that followed, the Law Society's preference was for a small reduction in the summary criminal fixed fees in exchange for a smaller expansion of the PDSO to achieve the required savings. The Cabinet Secretary agreed to this and the PDSO were allocated a 35% share of the court duty plans they were currently on and were added to some new plans. We implemented these changes in early 2011. We are monitoring the new arrangements.

As part of the wider Summary Justice Reforms, we have also been looking at the overall operation of the court duty plans. We issued a consultation in March 2011 seeking views on how we can ensure that the scheme works effectively, supports the courts and provides advice and representation to accused in the most cost effective way. We plan to implement any changes in 2011-2012.

Financial contributions in criminal legal aid

The Scottish Government launched a consultation in March 2011 on the proposed introduction of financial contributions in criminal legal aid in addition to creating consistency between the current eligibility tests for advice and assistance, criminal ABWOR and criminal legal aid. The latter proposal was highlighted by the Board's work to monitor the impact of the Summary Justice Reforms. The Board carried out

work on the impact of these proposals to inform the consultation document.

The consultation closed in May 2011 and received 9 responses which were generally supportive of the proposals. We will now work with the Scottish Government to assess the responses and develop more detailed proposals for legislation should the opportunity arise. It is estimated that annual savings of between £2 - 5m a year could be delivered through financial contributions.

Monitoring of the Summary Justice Reforms

We continued to monitor the impact of the Summary Justice Reforms of 2008 in partnership with the Scottish Government, the Crown Office, the Police, the Scottish Court Service and the Law Society.

In addition to the proposed changes to financial eligibility in criminal legal aid, our monitoring work has highlighted some changes to improve the operation of summary criminal legal assistance.

We consulted with the legal profession on these proposals and the Scottish Government subsequently introduced regulations in March 2011 as part of the wider legal aid savings package to:

- Extend the definition of "appointed solicitor" to "appointed firm", thereby encouraging an early plea, where appropriate, at a lesser cost to the Fund than had legal aid been granted.
- Introduce reduced percentage fees where a solicitor tenders a number of pleas on behalf of the same client in different proceedings at the same time.

Public Defence Solicitors' Office

The PDSO operates a network of 7 offices across Scotland offering a criminal defence service. 2010-2011 introduced a number of challenges and changes to the operation of the PDSO.

The year was another very busy one. The profile of the caseload changed over the year with the PDSO dealing with more of the most serious criminal cases. Although there was a reduction of 6% in the total number of new cases dealt with (to 1,812) which mirrored the reduction of summary prosecutions, there was an increase of 8% in the solemn criminal cases dealt with (to 141) at a time when the number of solemn cases being raised by the Crown actually fell by 11%. Over the year PDSO helped more than 2,000 people with their cases. The overall cost of the network reduced by 3.5% (around £52,000) to £1.5m.

Cases in the highest courts continue to be a particular feature of the PDSO's work including a very difficult and high profile case in Edinburgh involving a multiple child homicide. The PDSO also argued its first case before the United Kingdom Supreme Court which was a direct referral by the Lord Advocate.

The numbers of cases taken on by the PDSO is not a measure of the total work taken on by the offices. Like other criminal solicitors, the PDSO had to react quickly to the publication of the Lord Advocate's interim guidelines on access to legal advice for suspects detained in police custody. They played a vital role in ensuring security of supply, through giving advice and being a third-tier back up, meaning that suspects were guaranteed to receive advice even in the absence of the named solicitor or the court duty solicitor.

Further challenges arose in January 2011 when the Cabinet Secretary for Justice

asked the Board to investigate the savings that might be delivered through a significant expansion of the Public Defence Solicitors' Office on the court duty plans.

National Outcome 14: We reduce the local and global environmental impact of our consumption and production

We look at ways to reduce the environmental impact of the services that we fund as well reducing our own carbon footprint

The Board

The Board places importance on ensuring that its policies and procedures are in line with the law and good environmental practice.

Since 2008-09, the Board has measured the organisation's carbon footprint. We have reduced the carbon footprint by 18% on last year and 71% on three years ago. We have reduced our carbon footprint, year on year, by the use of green electricity and by recycling of confidential waste, paper, toners, cups, cardboard, cans and bottles.

The Legal Aid Fund

Solicitors' travel

Vehicle emissions are the most significant source of emissions relating to the provision of publicly funded legal services. We have estimated that in 2010-2011 over 5 million miles were reimbursed for solicitors traveling on legal aid business.

In order to ensure that only necessary travel is undertaken, the Scottish Government introduced regulations in January 2011 which reduced the amount paid to solicitors for time spent travelling to half the appropriate hourly rate. This was in line with payments made in other UK jurisdictions.

Our Best Value of Mental Health was published in March 2011 and found that the cost of travel was a significant level of expenditure in this area. The solicitors' firms that travel appear to do so extensively across Scotland and often to areas that appear to have access to local supply. In addition to the reduction

in travel fees, the review will tackle this by facilitating a greater supply of local firms across the country. For example, solicitors employed by the Board in the Civil Legal Assistance Office now offer a mental health advice and representation service. We are also working with the Scottish Association for Mental Health and advocacy groups to assist them in making referrals to local solicitors willing and able to undertake this work.

Video-conferencing

The use of video-conferencing across the justice system has the potential to reduce costs and the amount of CO₂ emissions produced through travel.

As part of the Scottish Government's Making Justice Work Programme, the Board is leading a project which includes the Crown, the Scottish Courts Service, the Police and the Scottish Prison Service to develop further use of these facilities which will allow virtual contact between solicitors and clients where appropriate.

The project is overseen by a Strategic Board, Chaired by the Board's Chief Executive which includes the Scottish Courts Service, the Scottish Prison Service, ACPOS, the Crown, the Tribunal Service and the Scottish Government.

We expect to have a number of video-conferencing pilot projects in operation during 2011-12.

National Outcome 15: Our public services are high quality, continually improving, efficient and responsive to local people's needs

Legal aid contributes to the effective operation of the justice system. We aim to deliver access to justice to those who need it in the right place and at the right time. We also ensure that the publicly funded legal assistance services are of appropriate quality and that the legal aid system operates as efficiently and at as high a standard as possible.

Outcome: Legal aid processes are simple and efficient

Legal Aid Online

Legal Aid Online enables solicitors to submit applications and accounts over a secure online system and has resulted in a major change in the way that we and solicitors' firms work together.

By the end of 2010-11, all legal aid applications were available to submit online and some accounts processes. Solicitors' firms gave us very positive feedback throughout the year, reporting that the new ways of working were quicker, simpler and saved them significant amounts of time. They told us that there were real savings being made in administrative time and bureaucracy which had a positive impact on cashflow.

1 April 2011 represented a major milestone when we stopped accepting paper applications for legal aid. Solicitors have dealt with the transition well with the minority of firms that were not online registering to use the system. Within a month of the cut-off date, 100% of applications were being processed online. All paper accounts will be available to be processed online by the end of 2011-2012 and we will continue with our programme of help, support and communication for solicitors.

In Europe, only Scotland and Finland have fully integrated online systems for administering legal aid. A number of legal

aid bodies across the UK and further afield have now come to see the system demonstrated with a view to implementing the same or similar into their organisations.

Simplification of civil legal aid

We reviewed the way in which we assess financial eligibility in civil legal aid with a view to making the process simpler to understand and easier to follow for applicants. This prompted extensive changes to, and shortening of, the financial application forms. Following a successful pilot, the revised form was introduced in November 2010 and has received very positive feedback.

Outcome: Legal aid delivers value for money and safeguards the taxpayer

Administration of legal aid

We perform a number of functions to ensure that the taxpayer achieves value for money in legal aid. We save the taxpayer more than £40 million in direct savings and without these functions the burden on the taxpayer would be much greater. For example:

- We only grant legal aid applications which meet the statutory tests
- We check that applicants qualify financially for legal aid
- We control the use of counsel, experts and unusual work to where it is appropriate, necessary and justified

- We scrutinise accounts submitted by solicitors and counsel, including making checks with third parties, for example, prisons and the courts.
- We carry out audits of solicitors' firms to ensure they comply with the Code of Practice for criminal legal assistance.

Preventing fraud and abuse

Unfortunately, there will be a small number of people who will attempt to defraud or abuse the legal aid system. We do a variety of work to prevent fraud and abuse in the first instance. However, if it does happen, we try to discover it as quickly as possible and then apply appropriate sanctions or referrals to the appropriate authorities.

We investigated the information provided by applicants for legal aid and withdrew and refused legal aid in a number of cases. We investigate representations made to us about applicants' financial circumstances by other parties in civil cases and we can check with banks and employers to verify information the applicant gives to us.

In the most serious cases, we report people to the procurator fiscal. In 2010-2011, we made 29 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.

Our compliance and solicitor investigation work checks solicitors' firms compliance with our Code of Practice for Criminal Legal Assistance. We identified 3 firms and 4 solicitors that were unable to comply with the Code. These firms and solicitors were removed from the legal aid register, precluding them from doing this work. In addition the Board accepted the voluntary withdrawal of another solicitor and his firm from undertaking all forms of legal assistance.

Best Value Reviews

We have continued with our programme of Best Value Reviews which assess different elements of legal aid to ensure

that they are delivering the required outcomes and value for money.

Mental Health

Since the inception of the Mental Health Tribunal for Scotland in 2005, the cost of advice, assistance and representation has grown significantly and expenditure in 2010-2011 was over £4m.

We carried out a best value review of legal aid in mental health cases and published our findings in February 2011. As well as the proposals to control excessive travel outlined under Outcome 14 the review will also aim to reduce the current cost of provision by developing a system of block or fixed fees and standardising the cost of psychiatric reports. We will also work with relevant bodies to encourage an approach to service delivery grounded in best practice and with greater assurance as to the quality of services being provided.

Immigration and Asylum

In March 2011 we published the findings of our best value review on legal aid for immigration and asylum cases. We identified a number of actions that have already been taken or will be pursued further to ensure that there is appropriate access to legal help in a way that represents best value for public funds. These included:

- reducing costs by reducing fees for travel across all forms of legal assistance;
- controlling costs further by ensuring a consistent level of service at Dungavel Immigration Removal Centre;
- changes to allow greater scrutiny by the Board of the merits of judicial review cases and where work begins under the 'special urgency' regulations.

Special Urgency in civil legal aid

We carried out a review into the 'regulation 18' provisions in civil legal aid which allow a solicitor to do certain work as a matter of special urgency. We published the results of this review in March 2011. We found significant opportunities to revise and improve the

operation of the special urgency arrangements.

As a result of this work, the Scottish Government introduced regulations in March 2011 to:

- remove certain proceedings from eligibility for special urgency;
- give the Board greater power to refuse special urgency cover in circumstances where it does not appear to be appropriate; and
- give the Board greater power to refuse to pay a regulation 18 account.

These reviews have been a significant contributor to the Scottish Government's legal aid savings plan and we will continue to carry out similar reviews in 2011-2012.

Benchmarking against other bodies

During 2010-2011, we continued to take part in the Scottish Government's study of corporate services functions (finance, HR, ICT, estates management, communications and legal services) for Executive Agencies, Non-Ministerial Departments and Non-Departmental Public Bodies. We have contributed to the data-gathering exercise and are continuing to use the outcomes to develop action plans that will improve processes and practice.

We also engage with legal aid organisations in other jurisdictions, most notably in the UK and Ireland. This involves undertaking comparative work on each of our legal aid systems and processes. This work is invaluable in helping ensure that the legal aid system in Scotland provides best value.

The Board's running costs

From 2007-2008 to 2010-2011 the Board's funding from the Scottish Government to cover its running costs has been frozen at £12.9 million. In real terms (taking account of inflation), this has been a cut of 7%. Over this period there has been a substantial increase in workloads and responsibilities.

In November 2010 the Scottish Government announced that there would

be a cash reduction the Board's running costs in 2011-2012 of £1.1m, taking the real terms reduction from 2007-2008 to 17%. We have reviewed what we do and how we do it in order to ensure that we are able to manage this significant reduction in budget while protecting our ability to control expenditure on the legal aid fund and facilitate access to justice.

The action we have taken includes:

- **Reducing staff numbers** - Between 1 April 2010 and the end of March 2011, we reduced staff numbers by 17 and further reductions are expected by the end of 2011-2012. Most of these reductions are a result of our move to digital and online systems within the Board and in transactions with solicitors.
- **Reducing our accommodation costs** - We are continuing our drive to reduce our accommodation costs by improved space utilisation and through sub-letting space within our head office accommodation. This has reduced our accommodation costs by around a third;
- **Improved procurement** - We are making optimal use of collaborative and central government contracts to reduce costs;
- **Communications** - We are making substantial savings by carrying out more of our publications and communications work in-house;
- **Quality Assurance** - We have reduced planned expenditure on the quality assurance regimes for solicitors by extending the cycles over which the reviews are undertaken.

Outcome: Legal aid supports the efficient operation of the wider justice system

The Scottish Government's Justice Outcomes Programme is designed to identify priorities within the justice system to support the Scottish Government's National Outcomes. There is a strong focus on costs, benefits and value for money.

There are four Justice Outcomes programmes: (1) Reducing Re-offending; (2) Making Justice Work; (3) Reducing Crime and (4) Reassuring the Public. Our Chief Executive, Lindsay Montgomery is a member of the Justice Outcomes Group which oversees the Programme.

The Making Justice Work Programme is about making the justice system more efficient and delivering better outcomes for those that use it. The Board is involved, and leads on, a number of component projects.

Outcome: We achieve challenging performance targets and service standards

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. Continuing the trend of recent years, we made a number of our existing targets tougher in 2010-2011, either by shortening the timescales within which we aim to process applications, or by increasing the percentage of cases in which we aim to meet our service standard, or both.

Headline indicators	Target	Performance for year
Civil legal aid	97%	97%
Criminal legal aid	99%	97%
Children's legal aid	99%	99%
Advice and assistance	97%	99%
Criminal accounts	97%	99%
Civil accounts	97%	98%
Children's accounts	97%	99%
A&A accounts	97%	97%

In 2010-2011, the Board met all but one of its headline indicators. In criminal legal aid, although the Board met its accuracy targets, unfortunately, we narrowly failed to meet the overall criminal timeliness target. This was because in the latter part of the year the

majority of our applications were being received online, with their performance being measured against a very tight 4 day online service standard, rather than the 7 day paper standard. Although a number of cases failed, there was no adverse impact on the Courts since the online target was considerably shorter than the previous target for paper applications. It is clear that the 4 day target was unnecessarily tight and, after review, the target for 2011-2012 has been set at 5 days.

Outcome: We listen and respond to people's views

Asylum seekers' views of the legal process in asylum cases

The Board worked with the Law Society and the Scottish Refugee Council to explore and better understand asylum seekers' interactions with the judicial system, identifying any barriers to accessing services and exploring opportunities to ensure that asylum seekers can access legal aid and services as easily and early as possible.

This research identified that there was a lack of a clear understanding of the key steps on the asylum claim process by asylum seeker respondents and a lack of clear knowledge about who can or should offer support or advice in terms of their application. No issues specifically related to legal aid or the Board were found other than some confusion about whether a solicitor can be paid under legal aid to attend the Home Office interview.

This work fed into the Best Value Review of Immigration and Asylum. The research was published alongside this review in March 2011.

Research with legal aid online users and potential users

To help prepare for the move to online only applications we commissioned research to speak with solicitors not using or partially using Legal Aid Online in order to understand any barriers that might prevent solicitors using it.

We also spoke directly with law accountants about their views on civil

and criminal accounts processes and to discuss the future roll out of Legal Aid Online and third party access for law accountants

There was a good response to both pieces of research and the Board gained valuable user perspectives which are being used to inform and further develop our Legal Aid Online marketing strategy.

Handling complaints

We reviewed our complaints handling procedures and found that they were fully in line with the revised guidelines issued by the Scottish Public Services Ombudsman in February 2011.

We have difficult and complex decisions to make. We understand that our role in assessing eligibility for legal aid will often mean that we will make decisions that people do not like or agree with. Our decisions can often be unwelcome for

people and may come at a time of personal difficulty. But what we aim to do is to make those decisions quickly and accurately while keeping people informed.

We dealt with 97 formal complaints which, 14 more than the previous year. We responded to 80 of those complaints within 28 calendar days.

Of those 97 complaints, we considered 28 of them to be justified complaints and 16 to be partially justified.

One complaint was made to the Scottish Public Service Ombudsman. The complaint was regarding the Board's decision to refuse legal aid. The Ombudsman found no evidence of maladministration in the Board's decision making and their files have been closed on this case.

ABOUT LEGAL AID AND US

About legal aid

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 to gain access to the legal system.

Legal aid may be free, or someone may have to pay towards the costs 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 action. Legal aid is accessed through a solicitor who may work in a private solicitors' firm, a law centre or one of our Civil Legal Assistance Offices.

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 concern Scots law. In civil cases, 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. In criminal cases, ABWOR is used where a guilty plea is being made.

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.

Civil legal assistance covers cases such as divorce and other matters affecting family and children, or actions for compensation after an accident or medical negligence.

Children's legal assistance covers 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.

Criminal legal assistance covers help, advice and representation for someone charged with a criminal offence or needing advice about a criminal matter.

About us

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.

The work we do is overseen by non-executive Board members, who are appointed by the Scottish Government. 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 and advocates and a person with knowledge of court procedure and practice. The management of the organisation is headed by our Chief Executive supported by four Directors. Full details of the Board Members and senior management team are available on our website.

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 different tests for granting each category of legal assistance. These tests are then applied to every single case. In some advice and assistance and special urgency cases, solicitors apply the tests. For civil and almost all criminal legal aid we apply the tests, and in some criminal and children's cases, the courts decide, although this will change in 2012-2013.

The budget for legal aid is different from many other public services, it is not cash limited. The Scottish Government provides the Board with the necessary funds to meet the cost of cases.

About our approach

We believe the best way of contributing to the delivery of the Scottish Government's National Outcomes is for the Board to approach its work in the following ways:

- **Working in partnership** with the Scottish Government, the legal profession, the advice sector, local authorities, others in the justice system and representative bodies.
- **Consulting** with applicants, assisted persons, opponents, solicitors, advocates and others with an interest in legal aid and access to justice.
- **Communicating** directly with applicants, assisted persons and opponents through letters, meetings and consultations, as well as through their solicitors.
- **Sharing** with others our policies and practices to achieve greater openness, understanding and effectiveness.
- **Engaging** in others' consultations and development processes to play our full part in improving the justice system and the operation of legal aid within it.
- **Continuously** improving through investment in our people, processes and systems, and implementing changes to achieve efficiency and effectiveness of our operations.