

Scottish Legal Aid Board

Corporate Plan

2011-14



The purpose of legal aid

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

Legal aid in Scotland provides a vital service to people, many of them vulnerable, who would not otherwise be able to pursue or defend their rights, or fund their defence. Legal aid can make an important difference to people at difficult times in their lives. For example, it can help people maintain their financial security, keep their jobs or prevent unfair dismissal, or remove them from the dangers of domestic abuse. By doing this, legal aid helps to prevent wider social problems such as people slipping into poverty. It therefore improves people's lives and helps Scotland become a more successful place.

Legal aid is also an important element of the wider criminal justice system and by providing publicly funded legal assistance to those accused of crimes, legal aid helps the criminal justice system to operate fairly. An effective and efficient system of legal aid helps cases to be processed through the courts as quickly as possible.

The Scottish Government decides legal aid policy and the Scottish Parliament makes and changes the relevant legislation. We manage the legal aid system in Scotland within the scope of the governing legislation and advise Scottish Ministers. In order to achieve the purpose of legal aid, we have three Strategic Aims which focus the full range of activity and outcomes that we will deliver.

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.

Through the achievement of these aims, we contribute to the Scottish Government's Purpose and National Outcomes.

Who we are and what we do

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 and we are responsible to the Scottish Government. We advise Scottish Ministers on the operation of legal aid and make proposals for change and reform. It is also our responsibility to administer the funding available for legal aid.

The work we do is overseen by a non-executive Board; the Chairman and Members are appointed by the Scottish Government. The number of members is currently 12 but 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 people with knowledge of court procedure and practice. Our executive management is headed by the Chief Executive, and is supported by four Directors.

We also operate a small network of seven Public Defence Solicitor's Offices (PDSO) providing publicly funded criminal legal assistance and four Civil Legal Assistance Offices (CLAOs) which deliver publicly funded civil legal advice and representation in parts of Scotland. The CLAO offices complement existing legal provision in geographic areas and in particular type of case. They work closely with, and refer clients and receive referrals from private practice solicitors and third sector organisations.

Ministers in the Scottish Government decide legal aid policy. Ministers propose the legislation to set the rules for legal aid, including the fees to be paid to the legal profession and the eligibility criteria for applicants. The Scottish Parliament makes and changes legislation and we apply these tests in every case. In advice and assistance¹, solicitors apply the tests. For civil legal aid² and most criminal legal aid the Board applies the tests. In some cases involving children's legal aid, the courts determine applications, although this will transfer to the Board once the relevant sections of the Children's Hearings (Scotland) Act 2011 are commenced.

Expenditure on the legal aid fund is different from many other public services because it is not cash limited. The Scottish Government provides the Board with the necessary funds to meet the cost of cases that we grant. The Board's administrative costs, which are also funded by the Scottish Government, are cash limited.

About our work

The Board exists to administer the legal aid system which enables people to gain access to justice in a way which delivers value for money. Expenditure on the Legal Aid Fund last year was around £161m. The work we do results in direct savings of over £40m a year. In addition, through making changes to legal aid processes and procedures and making more of the application process electronic, we achieved with the Scottish Government in excess of £10m of efficiency savings during 2009-10. The cost to the taxpayer of legal aid has been reducing in real terms for many years, and, even though the Board now has more responsibilities, our running costs last year were around £1m less in real terms than three years previously. In 2011-12, our running costs have reduced by £1.1m in cash terms.

¹ Advice and assistance covers advice on any matter of Scottish law from a solicitor, but (apart from certain instances, for example, tribunals) will not cover representation, which is, putting the case in court or in front of a tribunal.

² Legal aid covers a solicitor putting a 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.

We deal with over 430,000 different types of applications for legal assistance each year. This includes applications for advice and assistance, civil and criminal legal aid, sanction requests and applications to review our decisions to refuse legal aid. We also make around 280,000 payments to solicitors and counsel. In some areas we are dealing with significant increases in applications. In 2009-10 there were over 22,000 applications for civil legal aid. This was 24% higher than 2008-09 and 40% higher than in 2007-08. Although the number of applications has reduced slightly in 2010-11, levels are still historically very high. This increase is largely as a result of people needing help with family disputes.

A significant part of our work is to assess large volumes of applications. We apply the statutory tests to each application to ensure that legal aid is only granted in line with legal aid legislation. The tests we have to apply differ depending on whether the legal aid is for a civil or criminal matter. Our targets and performance standards for the accuracy of our decisions on applications and how quickly we take decisions are agreed with the Scottish Government. Decisions whether to grant legal aid can be very complex, requiring detailed analysis of legal issues and financial data such as bank statements, benefits statements and company accounts.

In most cases under advice and assistance, solicitors apply the relevant statutory tests and are able to carry out work to a set initial expenditure limit. If further work is required, the solicitor must apply to the Board for authorisation to incur further expenditure. It is our job to assess whether it is appropriate for further expenditure to be incurred. For civil and criminal legal aid, we also receive applications for sanction to use counsel or for the cost of experts or other outlays.

We also assess and pay for the case work done by solicitors and advocates. We assess a large volume of accounts and in doing so we must be satisfied that the work has been carried out and delivered in a way that has had due regard to cost effectiveness. This can be a detailed process involving discussions with solicitors and counsel.

If an applicant is eligible to pay a contribution towards the cost of their civil legal aid, the Board is responsible for setting the level of contribution, the time over which the contribution should be paid and the collection of monies. In 2009-10, we received around £11m in contributions.

Unfortunately, there will always be a small number of people who will attempt to defraud or abuse the legal aid system. We investigate the information provided by applicants for legal aid. 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.

We also carry out audits of solicitors' firms to ensure they comply with the Code of Practice for criminal legal assistance and investigate firms and solicitors that appear to have breached the Code or not complied with the legal aid legislation. Where appropriate, we recover payments made to firms.

We are also responsible for registering solicitors and firms before they can provide criminal legal assistance services and the firms that can provide civil legal assistance. The vast majority of legal aid in Scotland is delivered by solicitors and counsel in the private sector. This work is not done under contract. 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. These numbers have been increasing over the past year.

Scotland also has a small network of seven Public Defence Solicitors Offices across the country. The PDSO solicitors are employees of the Board and paid a salary, not on a case by case basis as happens with private solicitors' firms. The network provides opportunities to compare against private practice and provides invaluable feedback to us, the Government and justice sector partners on the operation of the criminal justice system and criminal

legal assistance. The network offers clients the choice of a different type of service and a different approach to publicly funded criminal defence.

Our work goes much wider than assessing applications and paying accounts; we also enable access to justice. One way we do this is by administering funding for targeted advice services. This is done through a network of four Civil Legal Assistance Offices (CLAO) across Scotland where a team of 14 Board employed solicitors provide civil legal advice and representation services for clients in the local geographic area who are eligible for legal aid and have unmet legal needs. The offices work closely with the advice sector and private sector solicitors and provide a referral hub which makes and receives referrals to and from other agencies and private sector solicitors.

In addition, the Board also funds services by way of grants. We oversee the delivery of 24 projects. This includes 8 well-established In Court Advice projects providing advice and representation in sheriff courts and 16 projects providing a range of advice and representation services across Scotland.

In order to improve and inform the work described in this section we carry out a significant amount of work on research and analysis of the operation of legal aid; the trends and impact on the wider justice system; and also to understand the views of those using the legal aid system. User feedback is very important to us and allows us to identify the things that are working well or areas for improvement in the legal aid system and delivery of legal aid services. We use small and large scale surveys to do this but we also have a wide ranging programme of research activity that we use to inform our policy decisions and customer service. We communicate and receive feedback in a number of ways, including training and information events and regular meetings with industry representative bodies. For example, feedback and communication with solicitors in a number of different forms has been critical in the development of our Legal Aid Online system.

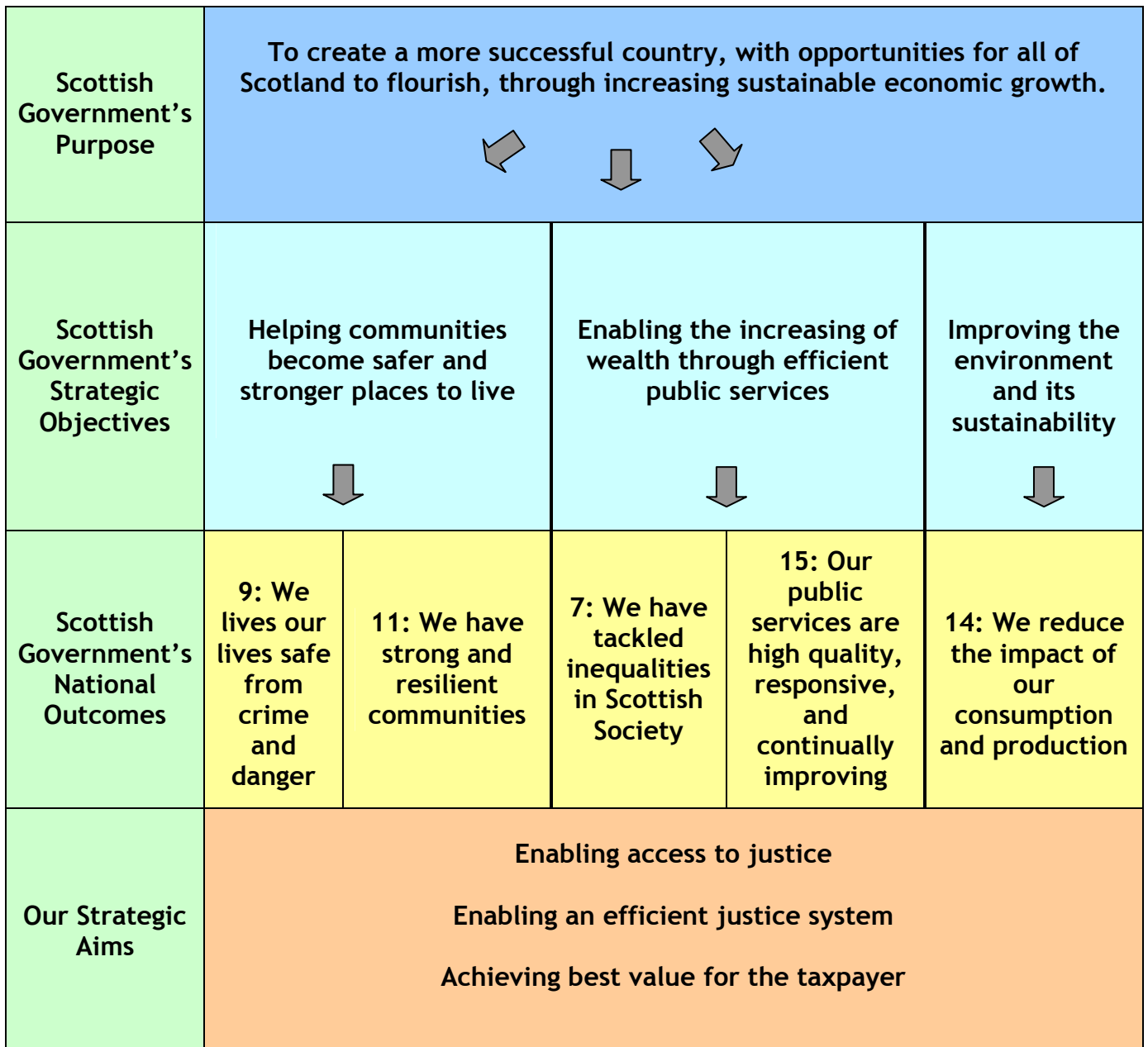
The Board's role is also to advise Scottish Ministers on the operation of legal aid in Scotland. We do this by observing the way that the justice system and legal aid operates and analysis of trends in legal aid. Our new duty under the Legal Services (Scotland) Act 2010 (see page 10) will be an important way in which we deliver this role.

The National Outcomes

Our work contributes to a more successful Scotland

The work that we deliver is an important contributor to the Scottish Government’s objectives of achieving a Scotland that is safer, fairer and greener and the national outcomes relating to those objectives.

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:



About our approach

We believe the best way of achieving the purpose of legal aid and contributing to the delivery of the Scottish Government's National Outcomes is for the Board to strive to 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.

Our priorities

Our priorities for delivery in 2011-14

The public expenditure challenge

The Scottish Government's 2011-12 budget allocation for the Legal Aid Fund (which covers the costs of legal aid cases) is £141.9 million, a reduction of 8.19% (£12.7m). The budget for the Board's running costs (covering such things as staff and accommodation) is £11.8 million; a reduction of 8.53% (£1.1m).

Our aims to deliver positive outcomes through legal aid and enable access to justice are set against a backdrop of significant pressure on public expenditure and the need for public bodies to reduce budgets while still delivering high quality services. Development activity after 2011-12 is dependant on the Scottish Government's spending and policy decisions this year. Where it is likely that activity planned for this year will necessarily stretch into future years we have noted this. The work that we do explained above in the 'About us' section will continue to be delivered as a priority throughout the three year period. As pressure on public finances is likely to continue over the period of this Corporate Plan, we would also expect the themes of finding further efficiencies, best value, and different ways of delivering legal services to feature heavily in our work over the next three years.

In order to ensure their sustainability during a time of reduced budgets, the Scottish Government has asked Campbell Christie CBE to develop recommendations for the future delivery of public services in Scotland. Recommendations were announced in June 2011 and the Board will work with the Scottish Government and the Christie Commission as required on any reform necessary. This Corporate Plan already supports what the Scottish Government has stated should be key elements to the Commission's recommendations - the focus on outcomes; a focus on a performance culture; prioritisation of spend; and the importance of the citizen in the delivery of services.

Our running costs

The £1.1m reduction in our running costs is from a budget figure that has been frozen since 2007-08. This represents a reduction in real terms since then of around 16%. We have been reviewing our processes to find areas where expenditure can be reduced. As part of this commitment, and through our continued simplification of the legal aid system and expansion of our online systems we expect to further reduce staff numbers. We will also further reduce our non-staff costs through improved procurement and sub-letting of our accommodation.

There is a direct link between the resources available for the Board to properly assess applications and accounts, monitor compliance and investigate potential fraud and abuse; and our ability to control expenditure on the legal aid fund. Our functions have a crucial role in managing and controlling expenditure on the legal aid fund.

It will be a priority for us this year to deliver this level of savings in our administration budget while minimising the impact on the legal aid fund and all our external services.

The legal aid fund

Funding for legal aid cases in Scotland is not cash limited - the Scottish Government makes available to the Board the necessary funding for the cases that are granted legal assistance. The need for legal advice and representation varies from year to year. We allow large numbers of people access to justice and only grant legal aid where applications meet the statutory tests and only pay for work that has been done with due regard to economy.

We will carry out significant activity this year to deliver the required savings to the legal aid fund and throughout the three years to find further areas for additional savings. We will work closely this year with the Scottish Government and the legal profession on the delivery of these savings. We will also set up internal processes for capturing, monitoring and reporting on the savings achieved.

During this time of declining expenditure the Scottish Government will be required to deliver savings in legal aid expenditure beyond what has already been agreed and in the process of being implemented. The challenge will be to continue to deliver savings and efficiencies while maintaining access to justice for those in need.

Delivery of savings will be crucial because of the underlying increase in civil and criminal expenditure. Continued high demand for civil legal assistance resulting from the economic downturn, the development and implementation of a Police Station Duty Scheme (for the provision of legal advice in police stations) as a result of the Supreme Court's decision in *Cadder v HMA*³ in October 2010 and the increase in VAT, all bring with them significant challenges and the need for savings to be found wherever possible.

Achieving best value from legal aid expenditure while maintaining access to justice

A key priority this year is therefore to continue to further increase value and efficiency in legal aid expenditure. Our main strategy for doing this is to continue with our programme of *Best Value Reviews*. These reviews look at different aspects of legal aid delivery in order to analyse whether practices, processes and policies are producing the required outcomes; and whether they do so in the most efficient way possible without affecting access to justice.

The most significant example of such reviews this year will be for us to look at the costs associated with civil cases. This will be a detailed and wide ranging piece of work and will include analysis of expenses, court reports and cases where both parties are in receipt of legal aid. In addition, we will also continue implementation of reviews completed into the provision of legal aid in mental health and immigration and asylum cases and special urgency provisions.

We have also been reviewing the use and cost of outlays which resulted in a standardisation of the fees and payment arrangements for interpreting, translation and transcribing work and the introduction of a database of suppliers of this work. The Scottish Government also introduced revised rates of payment for solicitors' travel time. This year we will review the cost of expert witnesses. For our internal processes, we will complete reviews on our handling of solicitors' accounts as well as our audit and compliance functions which cover investigations of solicitors and applicants.

During 2010-11 we made further progress in simplifying and making legal aid processes more efficient. Since April 2011, all applications for legal aid are made through Legal Aid Online - our web-based applications and accounts system. This reduces paper, saves the Board and solicitors' time and makes legal aid more efficient. This year, our priority will be to make all accounts processes available online. Achieving this is key to enabling us to make the required savings in our running costs.

In future years, we will continue to develop and improve Legal Aid Online, including making it accessible to law accountants and applicants.

³ 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 access to legal advice, was in breach of the European Convention on Human Rights.

Achieving best value from the wider justice system

Legal aid is intrinsically linked to the wider justice system. The operation of legal aid can have a direct impact on the operation of the Scottish Courts Service, the Crown, the Scottish Prison Service and the Police. Likewise, changes in policies or procedures in these organisations can directly impact on our ability to deliver legal aid. Therefore, it is vital that reform of the justice system is done in a way that considers the requirements of each element. The reforms to summary justice introduced in 2008 are a good example of successful joint working. We play a crucial part in the Scottish Government's Justice Outcomes Programme. Our Chief Executive is member of the cross-justice programme group, which is chaired by the Scottish Government.

One of the projects within the Justice Outcomes Programme is the Scottish Government's Making Justice Work Programme. This is a collection of projects across civil and criminal justice aimed at improving the Scottish justice system, making it fairer, more accessible and highly cost effective. Our Chief Executive is a member of the cross organisational group, chaired by the Scottish Government which is monitoring the programme's progress and staff from the Board are involved in, and in some cases lead, the component projects. Over the next three years we will have key input into projects which include work aimed at delivering efficient court structures, improving court procedures and case management, encouraging accused persons and witnesses to attend court, widening access to justice, increased use of video-conferencing and co-ordinating information technology and management information.

Legal advice for people detained in police stations

In October 2010, the UK Supreme Court found that the law in Scotland which allowed 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. As a result, the Scottish Parliament passed the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010. The Act enshrines a suspect's right of access to legal advice before and during interview by the police.

Interim arrangements were put in place for solicitors to provide, and be paid for, advice given to people in police custody. As a permanent solution, the Criminal Legal Assistance (Duty Solicitors) (Scotland) Regulation 2011 were laid in Parliament in February 2011 and came into force on 4 July 2011. The regulations place a duty on the Board to arrange for a solicitor to be available for the purposes of providing advice to suspects detained by the police for interview. It will be our priority this year to work with the Scottish Government, the legal profession and justice partners to implement and monitor the Police Station Duty Scheme. In addition, we will assist Lord Carloway in his review which is assessing the wider implications for the Scottish justice system of the Supreme Court's decision.

Our additional responsibilities

Although our running costs have reduced in real terms in recent years, we now have a greater and broader range of responsibilities. In recent years, we have begun administering new grant funding powers, taken over the running of eight established in-court advice projects from the Scottish Government and opened new offices of employed solicitors. In November 2010, we took over responsibility from the courts to assess applications for solemn criminal legal aid - there were over 12,000 grants of solemn criminal legal aid in 2009-10. As a result of the Legal Services (Scotland) Act 2010 the Board is now under a duty to monitor availability and accessibility of legal services, including privately funded services and legal services such as conveyancing, insolvency and other private or public client work that would not normally fall within the scope of legal aid. To assist with this new duty the Board has convened the Access to Legal Services Reference group, made up of bodies with an active interest in, and experience of, the provision or use of legal services.

The Children's Hearing's (Scotland) Act 2010 transfers the responsibility for granting legal aid in some children's legal aid cases from the courts to the Board. This transfer is expected to take place in 2012 and we will prepare for this new responsibility in the coming year.

Working in partnership

The Board's approach is to work in partnership with the legal profession and to engage and consult with those with an interest in legal aid. We will prioritise this approach during the year. The levels of savings that the Scottish Government is seeking from legal aid are challenging, but they are also a shared responsibility. In order for them to be achieved in a way that does not reduce access to justice, joint working and constructive engagement will be more important than ever before.

Delivery of this plan

We have in place programme and project management to ensure the effective delivery of this plan. The Board's Executive Team is responsible for the delivery of the programme and progress is reported to the Board on a quarterly basis through our Operational Plan monitoring arrangements.

We also have well developed risk management arrangements. These are reviewed and monitored regularly by the Executive Team and through individual projects. Risk management is reported on periodically to the Board and the Audit Committee.

The cross justice elements of this plan will be managed and monitored through the Scottish Government's Making Justice Work Programme and the Justice Outcomes Group.

Delivery - Actions we will take and the outcomes we will deliver

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

Criminal legal assistance contributes to the effective operation of the justice system. It provides access to representation for those who would otherwise not be able to afford it and facilitates the efficient operation of the courts. The work done by solicitors and counsel and other costs, such as experts, are paid for by the Board through the Legal Aid Fund.

Outcome: Criminal legal assistance supports the effective operation of the criminal justice system

Project: Operation of the court duty solicitor scheme

The Board manages the availability of solicitors to provide representation to accused people through the court duty solicitor scheme.

The Scottish Government and the Board identified that savings could be made in 2011-12 and beyond by making changes to the court duty scheme, primarily through the increased use of the Public Defence Solicitors Office (PDSO) on the duty plans. In January 2011, after consultation with the Law Society of Scotland, the Scottish Government instructed the Board to increase the share of the PDSO on the duty plans and employ a small number of additional solicitors to be able to take on the additional work when necessary.

This year we will implement the necessary changes to the PDSO and the duty scheme. We will also monitor its effectiveness and contribution towards the savings required on the legal aid fund.

Project: Implementation of a police station duty solicitor scheme

In October 2010, the UK Supreme Court found that the law in Scotland which allowed 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. Interim arrangements were put in place, in consultation with the Law Society of Scotland, which allowed solicitors attending Police Stations to be paid for the work they did.

In response to the Supreme Court's decision, the Scottish Parliament passed the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010. The Act gives suspects the right to seek advice from a solicitor before being interviewed and to have the solicitor in attendance at the police interview.

This year we will work closely with the Scottish Government, Association of Chief Police Officers (ACPOS), the Crown and the Law Society to implement and monitor an interim statutory police station duty scheme from 4 July 2011.

Project: Implications of the Supreme Court judgement for advice provision in Scotland

In tandem with the work on the police station duty scheme, the Scottish Government has asked Lord Carloway to undertake a review of criminal law and practice in the light of the Supreme Court's decision on Cadder and the resultant legislation passed.

We will provide input to the Review through our membership of the Review's reference group.

Project: Reform to fees for summary criminal legal aid

The savings that are required to be made to the legal aid fund in 2011-12 are significant. Over two thirds of legal aid expenditure is on criminal legal assistance. Following consultation with the Law Society, the Scottish Government agreed to a lesser expansion of the PDSO network on the basis that certain revisions to the fees paid to solicitors for summary criminal legal aid would be made. These came into effect on 22 March 2011.

In close collaboration with our justice partners, we will closely monitor the impact of these changes. This will involve both analysis of summary justice outcomes and impacts on the courts as well as closely monitoring the contribution towards savings to the legal aid fund.

Outcome: Legal aid supports the effective operation of the justice system

Project: The Making Justice Work Programme

The Scottish Government carried out a review of justice governance in 2009. The conclusion of the review was that several existing national governance structures should be replaced. The review proposed a new structure based on a small number of outcome-focused programmes, delivered in partnership by justice organisations and overseen by a top level Justice Outcomes Group.

One of these outcomes-focused programmes is the Making Justice Work Programme. There are a number of projects aimed at improving the Scottish justice system, making it fairer, more accessible, highly cost effective and efficient.

The Chief Executive of the Board sits on both the overarching Justice Outcomes Group and the Making Justice Work Programme Board. The Programme covers:

- Delivering efficient court structures
- Improving court procedures and case management
- Widening access to justice
- Increased use of video conferencing
- Co-ordinating information technology and management information
- Establishing a Scottish Tribunals Service.

The Board will have a greater remit in some projects over others and will be the lead organisation on some occasions. Where this is the case this Plan includes the activity as a separate project.

The Making Justice Work Programme covers both criminal and civil justice.

Outcome: Criminal legal aid supports the effective operation of the solemn justice system

Project: Assessing applications for 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. This transfer of responsibility took place from 25 November 2010.

This year we will monitor the operation of this new responsibility and its impacts.

Outcome: The criminal legal aid system delivers value for money

Project: Scottish Government consultation on changes to financial eligibility and financial contributions in criminal legal aid

On 9 March 2011 the Scottish Government published a consultation on proposed

changes to financial eligibility and the introduction of financial contributions in criminal legal aid.

Scottish Ministers will take decisions on whether to introduce legislation to make these changes. We will work closely with the Scottish Government to develop how the scheme will operate.

This project forms part of the Making justice Work Programme concerned with reform of criminal legal aid.

Outcome: Criminal legal assistance services provided by solicitors and counsel are high quality

Project: Quality assurance in criminal legal assistance

In 2010-11 and in consultation with the Law Society, we developed and tested a quality assurance scheme for solicitors who provide criminal legal assistance. This year, we will carry out a cycle of peer reviews. The scheme will assist in providing assurance that the delivery of criminal legal assistance by solicitors is of a good standard.

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 and how they affect others

Civil and children's legal assistance helps people to access justice who would otherwise not be able to afford it; enables people to challenge inequalities and ensures that they can enforce or defend their rights; and makes advice available to allow people to help themselves and strengthen local communities.

We contribute to these outcomes, not only through the administration of the legal aid system but also through the direct provision of advice and representation through our network of employed solicitors in Civil Legal Assistance Offices and through the Board's grant funding programme.

The work done by solicitors and counsel and other costs, such as expert reports, are paid through the Legal Aid Fund by the Board.

Outcome: People get access to justice through being able to receive the appropriate kind of legal advice at the right time

Project: Funding of targeted advice services

In December 2010, the Scottish Government decided that the Board's £2.7m targeted funding programme, covering our network of Civil Legal Assistance Offices (CLAO) and 24 grant funded projects should continue while also delivering savings in line with the legal aid fund.

This year we will:

- administer grant funding of 16 projects to provide advice and representation services across Scotland
- continue the operation of CLAO in Highland and Islands, Argyll and Bute, Edinburgh and Aberdeen to provide legal services to people in need, particularly those facing repossession and other problems such as debt; and provide second tier advice to In-Court Advice projects and others

- fund the eight in-court advice projects across Scotland.
- Respond if necessary to potential gaps in provision of legal services if these result from the savings to the legal aid fund.

We will also identify the required savings to be made across the services and deliver those savings this year. We will also monitor the delivery of outcomes across this activity throughout the year and report on our findings.

Outcome: The justice sector can make informed decisions about planning and co-ordination of legal services to meet the needs of local people

Project: Additional responsibilities through the Legal Services (Scotland) Act 2010

We will work with the Scottish Government and others on the implementation of the Legal Services (Scotland) Act which was passed in late 2010.

The Act gives the Board the function of advising Scottish Ministers on the availability and accessibility of legal services in Scotland. To assist with this we will convene an Access to Legal Services Reference Group, consisting of a number of bodies with an interest in access to advice and legal services to assist us in this new duty.

The Act also transfers to the Board from the Law Society of Scotland and the Faculty of Advocates the power to prevent solicitors or advocates from providing legal aid. We will consult the Law Society of Scotland and the Faculty of Advocates on our proposed approach and implement and monitor the new arrangements.

Outcome: The legal aid system is fair and delivers value for money

Project: Changes to financial eligibility

In order to protect public funds and ensure that those that can afford to contribute to their legal assistance do so, the Scottish Government introduced regulations in January 2011 which allowed for the assets of those with an obligation of aliment to be taken into consideration when assessing the eligibility of children requiring advice and assistance or legal aid.

Where people can afford to pay a contribution towards their case or can borrow against the value of their home, then it is reasonable for them to do so. Regulations came into force on 1 April 2011 which removed certain exemptions from clawback in order to pay legal aid costs.

We will monitor and analyse the impact of these revised criteria on applications and expenditure and advise the Scottish Government of our findings. These findings may then influence activity in future years.

Project: Financial verification and eligibility

To protect the taxpayer, it is essential that solicitors assess their clients' eligibility for legal assistance correctly.

The Scottish Government introduced regulations in January 2011 which require that documentary evidence of financial eligibility is obtained by the solicitor in civil advice and assistance where necessary and practicable - bringing civil advice and assistance into line with criminal advice and assistance. The regulations also give the Board the power to refuse an increase in authorised expenditure for advice and assistance and ABWOR where the solicitor has failed to obtain sufficient verification. In addition, the Board also now has the power to withhold payment to solicitors where the statutory tests have not been correctly applied in civil and children's advice and assistance and ABWOR.

We will implement and analyse the impact of these revised controls on applications and expenditure and advise the Scottish Government of our findings.

Project: Best value review of Regulation 18 provisions - Special Urgency

In order to obtain best value for public funds, we carried out a review of the use of 'special urgency' applications by solicitors to ascertain whether the use of the provisions were appropriate, reasonable and cost effective. We published the results of this review on 14 March 2011. The Scottish Government introduced regulations which came into force on 1 April 2011 which changed the operation of Regulation 18.

We will monitor and analyse the impacts of these changes and advise the Scottish Government on our findings. We will also work with stakeholders to fully implement the elements of the review that are not dependant on regulatory change.

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

In the coming years there will be considerable pressure on public finances. We carried out a major review in 2010-2011 to identify scope for further reductions in our administration costs and the Legal Aid Fund and we will now implement this. Delivery of our outcomes will contribute to an efficient, high quality public service which is responsive to stakeholders' needs.

Outcome: The legal aid system delivers value for money to the taxpayer

Project: Monitoring savings to legal aid

The Scottish Government's non-cash limited budget for the Legal Aid Fund in 2011-12 is £12.6m less than 2010-11. This Corporate Plan includes a number of projects that will contribute to these savings.

We have put in place processes to capture the savings being delivered through these initiatives throughout the year. This is a complex process and will involve detailed analysis of trends and statistics.

We will also work with key justice partners to identify further proposals for savings.

Project: Reducing the Board's running costs

The funding for the Board's running costs has reduced by £1.1m in 2011-12 - this will be all the more challenging considering the additional responsibilities that the Board now has.

We carried out a review of our running costs in 2010-11 with the aim of highlighting areas where expenditure could be reduced. This included reducing our staff numbers, reducing our accommodation costs and further development of our online processes.

This year we will deliver this savings plan while minimising the impact on the legal aid fund and our external services.

Outcome: The efficiency of the legal aid system is further improved

Project: Legal Aid Online

Legal Aid Online allows solicitors to submit legal aid applications and accounts through the internet. This allows the Board and solicitors' firms to work more efficiently. From April 2011, all applications for legal aid are being made online only.

In 2011-12, we will also put our remaining legal aid processes online, most notably for accounts. We will also make the system available to applicants and Law Accountants. We will concentrate in future years on further development of this system, including the possibilities of offering the technology to other public bodies as a shared service.

Project: Best value review of the cost of civil legal aid cases

This year we will carry out a *Best Value Review* which will identify the scope for reducing the costs associated with civil legal aid cases. In particular this will cover:

- cases where both parties are in receipt of legal aid;
- high cost cases;
- the use of stage reporting;
- the cost of bar reports.

We will carry out this work in consultation with the legal profession and make recommendations to the Scottish Government.

Project: Best value review of the use and cost of outlays

We have been reviewing the cost to the legal aid fund of outlays to identify ways of reducing the cost. This included standardising the payment rates for the work done by interpreters and translators and also reviewing the rates paid for solicitors' travel time. In March 2011, the Scottish Government revised the rates paid to solicitors for time spent travelling.

This year we will be reviewing the costs of expert witnesses and will do this in conjunction with the legal aid authorities across the UK and Ireland.

Project: Implementing the best value review of legal aid in mental health cases

Since the inception of the Mental Health Tribunal for Scotland in 2005, the cost of advice, assistance and representation for those who become subject to the terms of the Mental Health (Care and Treatment) Act 2003 has grown very significantly. Expenditure from the legal aid fund is currently around £4.2 million.

As a result, we carried out a best value review of legal aid in mental health cases and published our findings in February 2011. We proposed a number of actions, some of which have already been implemented and some which will now be taken forward. These included:

- facilitating a greater supply of local firms across the country;
- reducing the current cost of provision, in the short term by reducing the fees payable for travel and in the medium term by developing a system of block or fixed fees;
- working with stakeholders to encourage an approach to service delivery grounded in best practice and with greater assurance as to the quality of services being provided;

- standardising the cost of psychiatric reports.

We will continue to work closely with the legal profession, the Mental Health Tribunal and the Mental Welfare Commission to implement the proposals made in the review.

Project: Implementing the best value review of legal aid in immigration and asylum cases

In March 2011 we published the findings of our best value into legal aid for immigration and asylum cases. This was carried out following our concerns over increasing expenditure in recent years, the supply of legal services and the operation of the asylum system more widely.

As a result of the review we identified a number of actions that have already been taken or will be taken shortly 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 introducing an onsite service at Dungavel Immigration Removal Centre;
- new regulations to allow for greater scrutiny of the merits of judicial review cases.

We will continue to work closely with the UK Borders Agency, the First Tier Tribunal and the legal profession to deliver the proposals in the review.

Project: Fee comparisons across the United Kingdom and Ireland

Benchmarking is an important way of improving performance or cost effectiveness by making meaningful comparisons across similar operations. Although legal aid operates differently across the UK and Ireland, there are similarities in the types of work done by the legal profession and the expert witnesses used. This comparison work is complex because of the differences in legal systems.

We are leading a cross jurisdictional project to compare feeing arrangements. We expect initial findings to be available in 2011 and further work to continue thereafter.

Outcome: Evidence is proactively used to make further improvements to legal aid and access to justice

Project: Monitoring the effect of changes to counsel fees

The Scottish Government introduced regulations in February 2011 which updated the existing table of fees for counsel acting in civil legal aid cases in the Court of Session and, for the first time, a table of fees for counsel acting in civil legal aid cases in the Sheriff Court. These regulations came into force on 1 April 2011.

Regulations were also introduced which changed the fees for counsel in criminal appeals.

We will monitor the impact on legal aid of these changes and advise the Scottish Government of any significant findings.

Project: Trends analysis

We will continue to conduct trends analysis to compare and contrast firms' behaviour and practices as well as highlighting areas for further review and investigation or where access to justice issues may arise. We will continue our work to verify legal aid suppliers' accounts by checking account entries against third party records, such as prisons, courts and tribunals.

Project: Research programme

Our research programme provides a strong evidence base for operational and policy development. We will continue to invest in engaging with our stakeholders for their views of how we are managing and delivering services. This year that will include speaking with service users of both the CLAO and PDSO networks.

Project: Equalities strategy

We work hard to make equalities at the heart of how we manage and deliver legal assistance and in how we recruit and manage our staff.

The Board is one of the bodies which has a general duty under the Equality Act 2010 and which came into force in April 2011. The duty requires bodies to have regard to a number of things in the operation of their functions in the interests of equalities. This year we will implement plans in order to fulfil this duty.

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

The operation of the Board and the delivery of legal aid have an environmental impact. We will look at ways in which legal aid and our own operations can further reduce carbon and therefore the impact on climate change. The Climate Change (Scotland) Act 2009 introduced new duties for public bodies to help achieve the Scottish Government's targets on emissions reductions and we will have regard to guidance in on this in the course of our duties.

Outcome: The environmental impact of the services that we fund is reduced

Project: Managing the carbon impact of the Board's operations

The Board is committed to reducing the environmental impact of its own operations. This includes better use of our assets, for example, the amount of heat, light and water we use through our buildings and encouraging our staff to travel to work through public or active transport. We have already made significant progress and achieved a 65% reduction in our CO2 emissions in 2009-10 through saving energy and using low emission cars.

We will continue making our operations more sustainable over the coming years. As part of our ongoing review of environmental management, we will review the work we have done so far to identify further opportunities for improvements and ensure our approach and measurements are in line with best practice.

Public bodies also have obligations under the recently enacted Climate Change (Scotland) Act 2009. Bodies must exercise their functions in a way that will best contribute to the Scottish Government's targets for emissions reductions. The Scottish Government published guidance on the obligations in February 2011 and we will have regard to this guidance in the course of our operations.

Project: Reducing the cost and environmental impact of solicitors' travel

Total expenditure from the legal aid fund for solicitors, counsel and experts to travel in order to advise clients or appear in court is significant - around £8m in 2009-10. Payment rates and rules across the different aid types are varied. The environmental impact of this is also substantial with millions of car miles being clocked up every year.

In order to get the best value for public money, and to reduce the environmental impact of vehicular emissions, all travel must be necessary and the fees paid as a result proportionate.

For this reason, and following consultation with the legal profession, the Scottish Government introduced regulations in February 2011 which reduced the hourly rate paid when solicitors travel time. More in line with the approach in the rest of the United Kingdom, the fees have been set at ½ the appropriate hourly rate. Apart from making savings in public expenditure these changes are expected to reduce the legal aid fund's carbon footprint.

This year we will monitor the impact of these revised payment arrangements. We will not only look at efficiencies and cost savings but also analyse the impact on the environment and estimate the reduction in carbon achieved.

Project: Using video conferencing in courts, prisons and police stations to increase efficiencies and reduce environmental impacts

As part of the Scottish Government's Making Justice Work Programme, we are taking the lead on a project that is studying the feasibility of greater utilisation of video conferencing in court proceedings, legal agents' prison visits and advice from solicitors at police interviews.

The aim is that video conferencing will reduce the need for solicitors and others paid through legal aid to travel unless where it is absolutely necessary. This will have the effect of reducing the amount of vehicular emissions and the carbon impact of legal aid expenditure.

This project has the potential for reducing the time solicitors spend travelling to different courts, prisons and police stations, reducing the time spent on proceedings and reducing the amount

of expenditure through the legal aid fund on travel expenses.

We aim this year to pilot this technology and report on our findings.

Legal Aid Expenditure Forecast

Analysis of trends in case volumes and expenditure gives the context for resource planning to enable us to achieve our strategic objectives.

Legal aid is not cash limited and can be affected by numerous factors. Estimating the cost of legal aid is complex, particularly during times of changes to the justice system, the legal aid system and substantial changes in volumes of applications. For 2008-09 and 2009-10 legal aid expenditure was affected by the reduction in the VAT rate, to 15%, announced in 2008. In 2010-11, the reversal of this change has added over £2 million to the forecast spend. The further increase in VAT, to 20%, from January 2011 will increase expenditure by approximately £0.6m in 2010-11 and by approximately £3.6m in 2011-12.

The Board has developed a model to estimate future legal aid spend. It relies heavily on assumptions about the number of cases that will go through the justice system. We rely on information from other justice system organisations to make informed assumptions. The forecast is based on the information currently available, current legislation and the operational approach to legal aid. In addition, the table below reflects the anticipated savings arising from the Scottish Government's plans to reduce legal aid expenditure, necessitated by the current reductions in public expenditure:

	2010/11 Forecast	2011/12 Forecast	2012/13 Forecast	2013/14 Forecast
	£m	£m	£m	£m
Criminal Legal Assistance	104.4	104.1	106.0	105.9
Civil Legal Assistance	63.8	65.7	62.2	59.8
Children's Legal Assistance	5.0	5.1	5.0	5.8
Gross Legal Aid Expenditure	173.2	174.9	173.2	171.5
Income	-11.9	-11.1	-11.0	-10.0
Estimated Total Expenditure	161.3	163.8	162.2	161.5
Anticipated Scottish Government Savings	0	(10.0)	(16.5)	(17.4)
Forecast Net of Savings	161.3	153.8	145.7	144.1

Criminal legal assistance

Overall volumes of criminal legal aid applications are affected by many factors such as crime levels, police clear up rates, use of police direct measures and the decisions of the Crown Office and Procurator Fiscal Service to prosecute individual cases. Changes in the volume of applications for legal aid have a direct effect on spending.

Summary criminal legal assistance

In 2008-09, the Scottish Government introduced major changes to criminal legal assistance to support the summary justice reforms. As anticipated, this has led to a shift in cases from summary criminal legal aid to ABWOR and a change in the courts in which cases are prosecuted. With other justice sector partners, we continue to monitor the impact of these changes and other changes in the justice system that impact legal aid.

Previous increases in the combined volume of summary and ABWOR applications have increased the cost of these for 2010-11. However, recent volume reductions mean we are forecasting that the cost of summary and ABWOR together for 2011-12 will reduce despite the recent increase in VAT (to 20%) to £53.8 million prior to the netting off of any savings.

Solemn criminal legal aid

Volatility in volume of solemn cases makes prediction of volumes, and therefore expenditure, very difficult, and highlights the importance of shared intelligence on volumes and a shared understanding on the assumptions underpinning the forecast. Solemn criminal legal aid expenditure is increasingly impacted by individual cases that can be very large and very expensive. We are currently monitoring several such cases that are in the system at present and the forecast includes an amount for these cases.

Volumes of grants in 2010-11 have fallen and in developing our forecast we have assumed that the volumes of solemn cases will continue at current levels. We are forecasting that solemn expenditure will be £40.2 million (excluding the impact of the savings packages).

Civil legal assistance

The recession has resulted in a substantial increase in applications for civil legal aid and advice and assistance with large changes being seen in areas such as family/matrimonial and debt. 2009-10 saw an overall 24% increase in civil legal aid applications and subsequently led to large increases in expenditure in 2010-11. However, in 2010-11 applications for civil legal aid fell slightly. It is anticipated that this fall, and a lower grant rate will slightly reduce expenditure in 2011-12 before the impact of VAT is added.

In civil advice and assistance, there has been a reduction in grants in 2010-11 and we expect that grants of civil advice and assistance will remain at this level in 2011-12. We expect that the forecast for gross civil legal assistance expenditure in 2011-12 will be £65.7 million (excluding the impact of the savings packages).

Children's legal assistance

We have assumed that case volumes will stay at the same level as 2010-11 and expenditure on children's legal assistance to be around £5.1 million in 2011-12 (excluding the impact of the savings packages). However, it is anticipated that we will see an increase in expenditure from 2012-13 onwards due to the impact of the Children's Hearings (Scotland) Act 2011. This total is particularly susceptible to the impact of a small number of very expensive cases.

Service standards and targets

Our targets enable us to measure our performance to deliver ever higher service levels for applicants and their solicitors

We have performance targets for making correct decisions within set timescales.

Our main roles include taking decisions on legal aid applications and assessing and paying the accounts of solicitors and counsel. Our indicators and targets provide a measure of our performance in these tasks. 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 to help achieve an appropriate balance between the measures for speed of processing and the quality of decisions. They measure the time from the date of receipt of the application or account until the date of final decision or a payment is made, excluding any periods where the application or account has been continued for further information.

Feedback we have received from stakeholders and applicants shows that they understand our system and that they consider the indicators to be meaningful and linked strongly to the operation of our business and the provision of a quality service.

Our continuing move in recent years towards online processing of applications and accounts has meant that we have been able to significantly improve the speed and cost effectiveness of our decisions when compared to paper processes. This has been welcomed by the legal profession. From April 2011, legal aid applications can only be submitted to the Board through Legal Aid Online and we will aim to roll this requirement out to legal aid accounts in the future. This again will lead to significant benefits for solicitors compared to paper processing.

Moving to online submission of applications means that the service standards are generally shorter than for paper applications. For example, the service standard for an online application for summary criminal legal aid is 5 working days. Previously, the standard for a paper application was 8 days. Achieving our standards this year will be challenging given we are experiencing a significant cut in our running costs this year of £1.1m.

Criminal legal aid timeliness and accuracy service standards and targets

Criminal legal aid applications

	2011-2012	
	Service standard (working days)	Target
Timeliness (percentage of applications actioned within service standard time)		
Initial applications in summary cases	5 days	99%
Sanction to for counsel, experts or unusual costs	5 days	99%
Requests to change solicitor	5 days	99%
Reviews of refusal of initial application	5 days	99%
Applications to make an appeal in court	5 days	99%
Requests to reconsider a decision by the Board	5 days	99%
Special urgency	2 days	99%
Exceptional cases	5 days	99%
All application types		99%
Accuracy		
All application types	Error free	98%
Headline indicator		99%

Criminal legal aid accounts

	2011-2012	
	Service standard (working days)	Target
Timeliness		
All fixed fee account types	15 days	97%
All other criminal account types	30 days	97%
Accuracy		
All account types	Error free	98%
Headline Indicator		97%

Civil legal aid timeliness and accuracy service standards and targets

Civil legal aid applications

	2011-2012	
	Service standard (working days)	Target
Timeliness (percentage of applications actioned within service standard time)		
Initial applications	32 days	96%
Sanction for counsel, experts or unusual costs	6 days	96%
Requests to change solicitor	7 days	96%
Reviews of refusal of initial application	29 days	96%
Requests to extend the scope (14 day)	20 days	96%
Requests to extend the scope of the case (28 day)	28 days	96%
Reassessment of financial eligibility	28 days	96%
Special urgency cases received	2 days	97%
Stage Report	8 days	96%
All application types		96%
Accuracy		
All application types	Error free	98%
Headline indicator		97%

Civil legal aid applications correspondence

	2011-2012	
	Service standard	Target
Timeliness		
Case correspondence	14 days	95%

Civil legal aid accounts

	2011-2012	
	Service standard (working days)	Target
Timeliness		
Judicial Expenses Accounts	15 days	97%
All other civil account types	30 days	97%
Accuracy		
All account types	Error free	98%
Headline Indicator		97%

Children's legal aid timeliness and accuracy service standards and targets

Children's legal aid applications

	2011-2012	
	Service standard (working days)	Target
Timeliness (percentage of applications actioned within service standard time)		
Sanction to for counsel, experts or unusual costs	5 days	99%
Requests to change solicitor	5 days	99%
Applications to make an appeal in court	5 days	99%
Requests to reconsider a decision by the Board	5 days	99%
Special urgency cases	2 days	99%
All application types		99%
Accuracy		
All application types	Error free	96%
Headline indicator		98%

Children's legal aid accounts

	2011-2012	
	Service standard (working days)	Target
Timeliness		
All account types	30 days	97%
Accuracy		
All account types	Error free	98%
Headline Indicator		97%

Advice and assistance timeliness and accuracy service standards and targets

Advice and assistance applications

	2011-2012	
	Service standard (working days)	Target
Timeliness (percentage of applications actioned within service standard time)		
Registration of grants of A&A by solicitors and issue of Accounts Synopsis by the Board	5 days	97%
Standard request for increase in authorised expenditure	5 days	96%
Templated request for increase in authorised expenditure	2 days	96%
Requests to reconsider a decision by the Board	5 days	96%
All application types		96%
Accuracy		
All application types	Error free	98%
Headline indicator		97%

Advice & Assistance Accounts

	Proposed 2011-2012	
	Service standard (working days)	Target
Timeliness		
All account types	30 days	97%
Accuracy		
All account types	Error free	97%
Headline Indicator		97%

	Standard	Target
Complaints handling	20 working days	-
<p>We aim to deal with complaints as soon as possible and in any event within 20 working days. However, if the complexity of the case means that we are unable to meet this standard, we will write to the complainant explaining the reasons and when their complaint will be dealt with.</p>		
Payment for goods and services	10 working days	93%