

Debate Briefing

Equalities, Human Rights and Civil Justice Committee Debate: Civil Legal Assistance in Scotland

January 2026

Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Civil Legal Aid Committee welcomes the opportunity to provide comments ahead of the Equalities, Human Rights and Civil Justice Committee Debate: Civil Legal Assistance in Scotland, scheduled for 6 January 2026¹.

Law Society of Scotland Position on the Legal Aid Inquiry

We welcomed² the inquiry into civil legal aid³, and provided both written⁴ and oral evidence⁵ to ensure the committee understood the seriousness of the crisis, and the urgent need for adequate resourcing and reform.

Years of Scottish Government underfunding have led to a significant shrinking legal aid workforce, as remuneration does not support a sustainable business model. Many solicitors are nearing retirement, and younger lawyers are discouraged from entering, or remaining in, legal aid work due to low remuneration.

This has left vulnerable people without proper legal support in areas such as housing, family matters and employment.

While the parliamentary attention arising from the inquiry is a positive step, we stress that swift, practical solutions – in the form of a Legal Aid Bill – coupled with adequate remuneration are needed to place the system on a sustainable footing for the future.

Briefing Summary

The report⁶ confirmed our long-standing concerns about legal aid deserts and significant administrative barriers preventing people from accessing justice, and

¹ [S6M-20208 | Scottish Parliament Website](#)

² [Law Society to highlight civil legal aid crisis at Holyrood inquiry | Law Society of Scotland](#)

³ [Legal aid | Scottish Parliament Website](#)

⁴ [Written evidence](#)

⁵ [Equalities, Human Rights and Civil Justice Committee 12th Meeting, 2025 | Scottish Parliament Website](#)

⁶ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#)

backed our calls for the Scottish Government to urgently increase civil legal aid fees and pursue reforms to improve access to justice in Scotland.

The report called on the government to act quickly by raising fees, reducing bureaucracy, and providing greater certainty for those seeking support.

Legal aid reform will remain a key priority for the Law Society of Scotland ahead of the next Holyrood elections, with cross-party agreement that urgent action is needed.

Our priorities are:

- **Adequate resourcing:** an immediate increase in legal aid rates, followed by regular reviews of fee rates. This will encourage practitioners to continue to offer legal aid, commence practice in this area work, and create a financial framework that will allow legal aid practitioners make business decisions.
- **Simplification:** introducing primary legislation is required to provide systemic simplification, where it is appropriate.
- **Streamlining:** Many clients require multiple applications for different heads of work, sometimes in the same case. Overly complex or unnecessary procedures should be removed as part of a drive to create a simpler and more streamlined system.
- **Increase public legal education:** this will ensure the public know what legal assistance and advice is available to them, and how they can access it.

We have commented in more detail on specific recommendations in the report below.

Law Society of Scotland Research

We have produced research highlighting the numerous issues that the legal aid sector is experiencing, and what the future holds if the Scottish Government does not adequately resource or reform the system timeously:

- Legal Aid Research (June 2025): [Research | Law Society of Scotland](#)
- Smaller Firms Research (July 2025): [Smaller Firms Research](#)
- Impact of Legal Aid Deserts on Scotland's Deprived Communities (2022): [Legal aid crisis hitting Scotland's most deprived families | Law Society of Scotland](#)
- Social Return on Investment in Legal Aid (November 2017): [Social Return on Investment in Legal Aid Summary Report](#)

Clear parallels can be drawn between our research and datasets, and the [Geographic Trends Analysis](#) from the Scottish Legal Aid Board (SLAB) (published May 2025).

Report Key Themes

Advice deserts

The report refers to “legal aid deserts” - geographical areas and particular areas of law where limited, if not absent, access to legal aid is reducing access to justice.

The report notes that “the extent of this problem is very alarming to the Committee”, and that “this is not a new problem and the Scottish Government must take urgent action to address this situation.”⁷

The Committee recommended that the Scottish Legal Aid Board (SLAB) and the Law Society of Scotland collaborate to “develop a better evidence base for demand and supply of legal aid funded legal services”.⁸

Representatives from both organisations meet on a regular basis to discuss matters on mutual interest. This includes our respective research teams, CPD and training teams, and representatives of SLAB will engage with the Legal Aid Committee in 2026.

Our analysis from 2022 showed that the 139 most deprived communities in Scotland (approximately 100,000 people), share just 29 civil legal aid firms between them, with no civil legal aid firms at all in 122 of the 139 areas⁹. This statistic is made more concerning when coupled with SLAB’s correlating research that shows that “civil legal aid is concentrated among the more deprived areas of Scotland”.¹⁰

In addition, only 5% (approx.) of firms that received a payment from SLAB for providing legal aid services¹¹ were located outwith urban areas of Scotland despite accounting for 29% of Scotland’s population¹².

Furthermore, whilst every local authority, except East Ayrshire, saw a fall in the number of local branches providing legal aid funded services, the largest falls were in Scotland’s rural and remote areas¹³.

All these datasets illustrate the lack of access to local legal aid funded services.

Our position is that an increase in legal aid fees for solicitors would assist practices in these areas to become more sustainable, and support their business.

⁷ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 45

⁸ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 46

⁹ [Legal aid crisis hitting Scotland's most deprived families | Law Society of Scotland](#)

¹⁰ [Civil legal aid Geographic trends analysis](#)

¹¹ [Legal aid crisis to deepen with 41% of solicitors considering exit | Law Society of Scotland](#)

¹² [Official figures from the National Records of Scotland](#)

¹³ [Civil legal aid Geographic trends analysis](#)

Fee rates

Legal aid fees

The view of the Committee is that there is a “clear link between low fee rates and the lack of availability of lawyers willing to undertake legal aid work”¹⁴, noting in the report’s conclusion that the Government should “proceed with reforms to increase fees paid to legal practitioners”¹⁵.

We have repeatedly raised the urgent need for a significant and immediate across-the-board increase to civil and criminal legal aid fees. Our position comes from the lack of a meaningful increase in two years. Over the last six years, legal aid fees have increased as follows:

- In 2023: uplift for civil and criminal legal aid fees of 10.3% (an £11m funding allocation, announced by the Scottish Government July 2022^{16, 17});
- In 2022: uplift for civil and criminal legal aid fees of 5%¹⁸;
- In 2021: uplift for civil and criminal legal aid fees of 5%¹⁹ (£9 million covid recovery funding package);
- In 2019: uplift for civil and criminal legal aid fees of 3% - the first notable uplift in fees in many years.²⁰

The Committee report noted SLAB’s written response to the Committee inquiry, in which it says that “that there had been a number of increases to fees since the 2000s. These were complex and difficult to track but, since 2019, had amounted to a 25% uplift (not taking into account the impact of inflation).”²¹

Over the same period, data from the Office of National Statistics show that inflation has been 23.2%²².

Taking inflation into account, there has been a real terms legal aid fee increase of 1.8% in six years.

It is clear that the lack of fee increases is having a detrimental effect on the sector, and this is evidenced by our research which shows that one of the primary

¹⁴ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 63

¹⁵ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 180

¹⁶ [Legal Aid £11m package agreed - gov.scot](#)

¹⁷ [Legal Aid offer - gov.scot](#)

¹⁸ [Written question and answer: S6W-31039 | Scottish Parliament Website](#)

¹⁹ [Written question and answer: S6W-31039 | Scottish Parliament Website](#)

²⁰ [Written question and answer: S6W-31039 | Scottish Parliament Website](#)

²¹ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 52

²² Based ONS data relating to the Consumer Prices Index including owner occupiers’ housing costs (CPIH), annual inflation rates were: 2019: 1.7%; 2020: 1.0%; 2021: 2.5%; 2022: 7.9%; 2023: 6.8%; 2024: 3.3%: [CPIH ANNUAL RATE 00: ALL ITEMS 2015=100 - Office for National Statistics](#)

reasons for the exodus of legal aid practitioners is due to the real terms decline in pay²³.

We know many solicitors are ceasing legal aid funded work because fee levels offered by the Scottish Government fail to provide the financial return necessary to sustain a business.

Many solicitors who contributed to our legal aid research felt “morally obliged” to offer legal aid, in part due to a lack of alternatives for clients²⁴.

Discussions with the Scottish Government over an increase in legal aid fees are underway, though we are concerned that even with Ministerial sign off, a fee increase may not be realised until the new Government and Parliament are returned after the Scottish election in May 2025.

Taking Parliamentary timetabling into account, it could be September 2025 before the legal aid fees increase comes into effect.

This timescale is not sufficient to provide the support legal aid practices need now, and will further exacerbate the deterioration of access to justice in Scotland.

Traineeship fund

The Committee welcomed the Scottish Government's recognition of the need to build legal aid capacity, and noted the successful 2021 legal aid Traineeship Fund²⁵.

The previous Traineeship Fund commenced in 2021, covered 40 placements, and was highly successful.

Being oversubscribed, and recognised positively across the sector, it is evidently an important initiative which can help to future proof legal aid provision in Scotland.

The next iteration of the Traineeship Fund – whilst reduced to 20 placements – is expected to commence in spring 2026, and this welcome²⁶.

However, there are no guarantees for further funding when the current tranche ends. It is clear that the fund's continuation is a necessity for future-proofing the legal aid sector in Scotland.

A public commitment to the continuation of the legal aid traineeship fund, ideally with a greater number of placements, every two years would provide sectoral certainty in legal aid, and confidence in supporting business growth decisions.

²³ [Legal aid crisis to deepen with 41% of solicitors considering exit | Law Society of Scotland](#)

²⁴ [Law Society of Scotland Legal Aid Research \(June 2025\)](#)

²⁵ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 62

²⁶ [Letter from the Minister for Victims and Community Safety, 24 November 2025](#)

Fee Review Mechanism Group

The Committee commended the Minister for Victims and Community Safety's commitment to re-initiate fee review planning in 2025²⁷. The report highlighted that the review “is long overdue”, and that the Committee “hopes there can be tangible and positive outcomes before the end of the year”²⁸.

We welcomed the establishment of the Legal Aid Fee Review Mechanism Group, which was set up by the Scottish Government to advise on fair solicitor pay and ensure the long-term sustainability of legal aid.

Law Society of Scotland President, Patricia Thom, and Legal Aid Committee co-convenor, Ian Moir, attended the group's first meeting on 3 December 2025.

The group brings together key legal and consumer stakeholders after we were forced to withdraw from a previous remuneration project due to lack of progress.

We welcome the renewed effort, stressing the need for concrete outcomes, a regular fee review mechanism, and urgent action to address the deteriorating legal aid system.

Administration

The report raised serious concerns about current administrative systems, citing their harmful impact on relationships between legal practitioners and SLAB, and on the ability to deliver trauma-informed practice. The Committee urged the Scottish Government and SLAB to act, noting that while some changes may be constrained by existing legal frameworks, removing administrative burdens could ease system pressures, deliver cost savings, and improve experiences for users of civil legal assistance²⁹.

We share this position as our members regularly provide examples of the administrative burden slowing the delivery of remuneration for legal aid work carried out.

In the report's conclusion³⁰, the Committee urges the Scottish Government to introduce proposals that will reduce the administrative burdens and bureaucracy which, in turn, will improve relations between SLAB and legal practitioners.

²⁷ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 64

²⁸ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 65

²⁹ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 82

³⁰ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 180

As the Law Society President, Patricia Thom, said “The respect and trust between the Scottish Legal Aid Board and solicitors need to improve”.³¹

Abatements

In our written evidence³², we recommended that SLAB overhaul the abatement process, which currently generates excessive bureaucracy and places a significant burden on solicitors’ time and resources. Our members report that accounts are frequently abated for reasons that, when challenged, are often overturned.

Legal aid rates are already poorly remunerated when compared with private client rates, and are further eroded when substantial portions of fees are abated without clear justification.

We also noted that there appears to be inconsistency and confusion in correspondence between SLAB and solicitors regarding the abatement of work carried out in good faith. This in turn creates additional bureaucracy at the application stage, as firms submit unnecessary sanction requests or take other precautionary procedural steps to avoid the risk of later abatement. Consideration should therefore be given to overhauling and streamlining the abatement process so that only significant, clearly justified abatements are applied, and that they are applied consistently.

Eligibility

The report noted concerns about the financial thresholds for Advice and Assistance. Whilst it commended SLAB for reviewing thresholds, more needs to be done to remove the financial barrier to accessing justice. It was noted that many people were excluded from eligibility for advice and assistance (A&A), but could not realistically afford to pay private rates. The Committee recommended that all levels in A&A and Civil Legal Assistance should be increased in line with inflation since 2011.³³

In our written evidence, we highlighted that many people who cannot afford legal representation fall just outside the financial eligibility criteria for legal aid.

We believe that that the Scottish Government and SLAB should review and expand financial eligibility thresholds, ensuring those with low and middle incomes are able to qualify for legal aid where appropriate. In light of the current cost of living crisis, this should involve adjusting income and asset limits.

³¹ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 72

³² [Written evidence](#)

³³ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 90

Public interest litigation and group proceedings

The report welcomed the Minister and SLAB re-visiting Civil Legal Aid (Scotland) Regulations 2002, Regulation 15³⁴ – which allows for group action – in relation to environmental cases³⁵.

However, the report suggested this revisit should expand Regulation 15 more widely.

In our written evidence, we recognised calls to broaden the scope of legal aid to include Non-Governmental Organisations (NGOs) and community groups by amending Regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002.

These group actions (from charities, groups, communities) are not currently covered by legal aid. There is, anecdotally, a real struggle to find legal aid solicitors in Scotland who will accept environmental (and related planning law) cases – illustrating our concerns over legal aid deserts.

Short-term changes

The report raised the issue of potential changes in legal aid regulations, particularly with regard to proposed block fees for adults with incapacity, and asked the Scottish Government for further details³⁶.

In late October 2025, the Scottish Government undertook a targeted consultation on proposed changes to criminal, civil and children's legal aid fees, to be made by SSI, aligned to the short term changes that the report raises.

In our consultation response³⁷, we were generally supportive of proposed changes to criminal and children's legal aid, but expressed significant concerns about proposed changes to civil legal aid which would introduce block fees for adults with incapacity (AWI) cases.

We note that the changes to criminal and children's legal aid were taken forward through the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026, and Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026³⁸.

³⁴ [The Civil Legal Aid \(Scotland\) Regulations 2002](#)

³⁵ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland](#) | Scottish Parliament, para 111

³⁶ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland](#) | Scottish Parliament, para 122

³⁷ [Consultation Response](#)

³⁸ [Legislation.gov.uk](#)

There are no short term changes to civil legal aid in regard to adults with incapacity; and we welcome this decision.

The report noted issues with “clawback” - the right to recoupment from property recovered or preserved³⁹.

As we highlighted in our written submission, this is a very present problem if a successful applicant obtains, either by agreement or a court order, a pension sharing agreement which they are unable to realise for many years, or the other party's share in the family home which is required for the foreseeable future to house the children. There is provision for the applicant to make a hardship application but that is stressful and cumbersome. This leaves people with debts in an even more difficult position. Clawback is also an issue in other areas including employment, eviction and mortgage arrears cases.

Mixed model of delivery

The report explored a mixed model of provision as a means to address some of the challenges facing legal aid outwith judicare: grant funding, direct employment or contracting⁴⁰.

In our written response, we highlighted that a lack of access to early legal advice causes legal problems to escalate, increasing complexity and costs. Investing in early advice could reduce long-term legal aid demand, and whilst third-sector organisations play a crucial role in providing legal support, they are underfunded and overstretched. While additional funding and pro bono work are valuable, they cannot replace an adequately funded legal aid system.

Access to justice is threatened by a shortage of legal aid practitioners, driven by low fees, excessive bureaucracy, poor work-life balance, and retention issues. Grant funding has, essentially, remained static for over a decade without inflationary increases, making full cost recovery unsustainable and forcing organisations to absorb unpaid work. Funding priorities and subject areas are outdated, not aligned with current needs, and are in need of review.

Short-term and uncertain funding cycles create operational instability, and negatively affecting clients, and recent funding shifts have led to the closure of vital advice projects - worsening gaps in already overstretched areas. A comprehensive review of grant funding is needed, with input from frontline organisations, alongside longer-term funding commitments, flexibility, inflationary uplifts, and a properly funded legal aid system.

³⁹ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 138

⁴⁰ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#)

User voice

The report notes that the Committee supports stronger engagement with users to ensure the system meets their needs, but stresses that this engagement must be meaningful rather than tokenistic, and must include the most marginalised groups, who face the greatest barriers to accessing justice.

The Committee states that it would welcome more details on the Scottish Government's plans for capturing the user voice and asks to be kept informed of progress and developments⁴¹.

We recognise the importance of user voice being reflected in future developments, including solicitors as one of the key stakeholders in the legal aid system.

Other longer-term reform priorities

In our written response, we emphasised our priorities for long-term reform, and reiterated these in the Briefing Summary above.

⁴¹ [Report on the Equalities, Human Rights and Civil Justice Committee inquiry into Civil Legal Assistance in Scotland | Scottish Parliament](#), para 163

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