

Legal Aid Inquiry:

GREC & No Recourse North East joint response

Submitted 16 April 2025

What are the current barriers to accessing civil legal assistance? Can you give examples from your own experience, or refer to any research in this area?

Grampian Regional Equality Council (GREC) and No Recourse North East (NRNE) Partnership jointly identify several barriers within Scotland's civil legal aid system that hinder access to justice, particularly for marginalised groups. These barriers are rooted in structural, financial, and geographical challenges.

Geographical and Specialist Shortages of Legal Aid Lawyers

A critical barrier is the shortage of solicitors providing civil legal assistance, especially outside Scotland's Central Belt. For example, there are no immigration legal aid solicitors in the North East of Scotland, leaving vulnerable migrant communities in our region without local representation and dependent on lawyers located in the Central Belt. This hinders access to and quality of the legal advice.

Solicitors do not meet their clients in the North East, compelling them to have meetings online, or travel to cities like Glasgow or Edinburgh; adding significant extra financial and logistical burdens. Similar shortages exist in housing, family law, debt-recovery, social welfare, criminal law and discrimination cases. The current state of affairs forces people to rely on overstretched third-sector organisations like Shelter Scotland, Citizens Advice, and GREC, which lack the capacity to meet demand.

As an example, our casework team recently assisted an asylum seeker in finding a criminal law solicitor. Out of twenty criminal law firms in the North East, only two were willing to take the case. The main obstacle was that most firms were hesitant to take on Justice of the Peace cases because they were not profitable enough.

Lack of Solicitors and Recruitment Crisis

The sustainability of the legal aid system is threatened by a demographic crisis. Solicitors registered for legal aid aged over 40 outnumber those under 40 by two to one, compared to a near-equal split across other areas.¹ With an estimated one-third of legal aid lawyers retiring in the next decade and insufficient trainees entering the field, the Law Society of Scotland warns of a "complete collapse" of the system.²

¹ 'Legal Aid Crisis Looks "Unsolvable,"' Scottish Legal News, 19 November 2024:
scottishlegal.com/articles/legal-aid-crisis-looks-unsolvable

² 'Legal Aid Matters,' Law Society of Scotland, accessed 1 April 2025:
lawscot.org.uk/members/journal-hub/articles/legal-aid-matters

The primary deterrent is financial: legal aid work is not economically viable for many firms, as fees are disproportionately low compared to private work. Solicitors often operate at a loss, leading to burnout, high caseloads, and poor service quality.³ Law students from the University of Aberdeen, including one who works with GREC, have reported that they are deterred from working in legal aid fields not just due to the low pay, but also by the financial barriers to becoming a solicitor. The Diploma in Professional Legal Practice costs an average £10,200. SAAS provides a £7,000 loan for tuition and a £4,500 loan for living costs. However, Scottish students face annual living expenses of £12,000-£15,000, or even £17,500 in Glasgow, making access to the legal profession inaccessible for many.⁴

Financial Eligibility and Coverage Gaps

The current civil legal aid system's restrictive financial eligibility thresholds and fragmented scope of coverage create significant barriers. Many people fall into a "justice gap"; they earn too much to qualify for legal aid but too little to afford private representation. For example, a single parent challenging an unfair eviction might exceed the strict income cap for legal aid by a marginal amount, leaving them unable to pay £3,000-£5,000 in private fees.

While recent reforms to financial eligibility are welcome, the thresholds remain static and disconnected from current economic realities. Unless they are updated regularly in line with inflation, more individuals will fall into the justice gap — earning just above the legal aid limit, yet still unable to afford the cost of legal representation. Without regular adjustments, the system risks excluding those who are most in need of legal support. To truly bridge the justice gap, it is essential that the thresholds are regularly adjusted to reflect current economic conditions, ensuring that those who fall just above the existing limits are not left without access to justice.

Section 15 of the Legal Aid (Scotland) Act 1986 outlines the eligibility thresholds for disposable income and disposable capital. While the Scottish Government has the ability to revise these thresholds from time to time, such revisions are not mandated by the Act. As a result, the thresholds are only reviewed periodically. However, given that inflation and living

³ 'Beyond Breaking Point: Scotland's Legal Aid Crisis,' *The Herald*, 31 December 2024:

[heraldscotland.com/news/24822187.beyond-breaking-point-scotlands-legal-aid-crisis](https://www.heraldscotland.com/news/24822187.beyond-breaking-point-scotlands-legal-aid-crisis)

De Felice, Annamaria, 'Why Scotland Needs Legal Aid Reform', JustRight Scotland website, 2 August 2024:

justrightscotland.org.uk/2024/08/why-scotland-needs-legal-aid-reform

⁴ Glasgow Caledonian University, UK, 'Living and Study Costs,' accessed 20 March 2025:

gcu.ac.uk/currentstudents/fundingandfinance/moneymanagementanddebtadvice/livingandstudycosts

University of Dundee, UK, 'Living Costs in Dundee for Students,' accessed 9 April 2025:

dundee.ac.uk/student-life/city-dundee/living-costs

Save the Student, 'This Is How Much Students at Different Universities Are Spending Every Month,' 19 September 2024:

savethestudent.org/money/student-budgeting/what-do-students-spend-their-money-on.html

Pizarro-Escuti, Tomás, 'More Equal than Others: Legal Aid Crisis, Scots Law Students and Inequality in Access to Justice,' *Law Society of Scotland*, 26 February 2025: lawscot.org.uk/members/journal-hub/articles/more-equal-than-others-legal-aid-crisis-scots-law-students-and-inequality-in-access-to-justice

costs rise annually, introducing a statutory requirement for annual reviews would help ensure the thresholds remain fair and reflective of current economic realities.

Moreover, many individuals who genuinely need legal aid are falling outside the scope of eligibility. Even for those who do qualify, applicants may be required to contribute toward their legal costs, depending on where their income and capital fall within the threshold limits. This requirement places an additional burden on people already in financially vulnerable situations, and case-by-case assessments of contributions may deter individuals from seeking justice altogether. A more accessible and responsive legal aid system is essential to ensure no one is excluded from legal support due to financial constraints.

Inadequate Legal Services and Advice

GREC has identified that underfunding of legal aid has eroded the quality of legal services and their accessibility. Solicitors are often reluctant to take on complex cases and must carry heavy workloads to sustain their business. As a direct result, the quality of the services provided by lawyers is often poor. It is not rare to hear about clients who have never met their lawyers or who do not receive updates about their cases unless they proactively chase their solicitors, which is particularly challenging for vulnerable people.

For example, GREC's casework team supported a person seeking asylum with a serious illness who was also illiterate. Despite being instructed with three weeks' notice, their lawyer missed the deadline to appeal, resulting in the individual becoming homeless with no recourse to public funds. The incident was linked to the solicitor's inability to dedicate sufficient time to their client. Clients dissatisfied with their solicitors also have fewer alternatives due to the scarcity of legal aid firms, restricting their agency in seeking competent representation. Moreover, a lack of funding for interpretation and translation services exacerbates barriers for non-English speakers, directly undermining their right to access justice.

Do you have any suggestions for shorter-term improvements (not involving changes to the Legal Aid (Scotland) Act 1986) which could be made to the current system for civil legal assistance?

Increase Legal Aid Funding

Current legal aid rates are financially unsustainable, discouraging solicitors from specialising in legal aid work. Those who do provide such services often struggle to keep their practices afloat without compromising on quality. We recommend an immediate increase in fees to reflect the actual cost of providing quality legal representation. Fair remuneration would incentivise solicitors to take on legal aid work, while also bolstering the overall sustainability of legal practices and ensuring that people in Scotland continue to receive the support they need.

Reform Legal Education and Address Financial Barriers to Legal Training

Law curricula at Scottish universities currently place disproportionate emphasis on commercial law,⁵ whilst essential fields such as employment law, welfare and housing remain non-compulsory and are not commonly offered in most universities. It is noteworthy that there is a strong correlation between subjects not taught at law school and those where there are low levels of recruitment.⁶ This situation is creating significant gaps in practical skills needed for legal aid work. We recommend a curriculum overhaul where universities introduce compulsory modules in the fields covered by legal aid in order to equip graduates with the skills needed to serve the wider public. For example, only the University of Glasgow provides migration law education in Scotland.

The DPLP, as a mandatory qualification required to become a solicitor, acts as a barrier for students from lower-income backgrounds who cannot afford its price. We recommend the Equalities, Human Rights and Civil Justice Committee to find ways to make access to the DPLP more equitable. For example, SAAS could fund the postgraduate course on the same basis as the Professional Graduate Diploma in Education (PGDE) for future teachers. Many commercial law firms fund their future corporate solicitors, whilst those hoping to work in legal aid fields face significant financial challenges. Despite the number of legal trainees rising each year, if most students opt for commercial roles — enticed by DPLP funding, higher wages, and better working conditions — the legal aid sector will face a net loss, regardless of overall numbers.

Improved funding for the DPLP would ensure that more people can enter legal aid fields. We are not proposing to increase the overall number of trainees, but rather to ensure that trainee solicitors are more evenly distributed across different fields. This can be achieved through better access to legal education.

Expand Legal Aid Eligibility to NGOs and Community Groups

Currently, legal aid is limited to individuals, excluding third sector and grassroots community groups. This situation prevents organisations from addressing systemic issues and puts the burden of responsibility on individuals who might not have the resources, capacity and time to take legal action. We recommend that Regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002 expand legal aid eligibility to include the third sector and community groups. Such a measure would help organisations such as GREC provide support to vulnerable clients, including people seeking asylum, victims of hate crime, people in debt, and others.

⁵ Newman, Daniel, *et al.*, *Legal Aid and the Future of Access to Justice* (Oxford: Hart Publishing, 2023), p. 55.

⁶ *Ibid*, pp. 61-64.

It is worth noting that the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 introduced mechanisms for group civil proceedings. Additionally, the UNCRC Act, and the forthcoming Human Rights Bill expand legal standing to any party with a sufficient interest, paving the way for the third sector to take action in legal proceedings to safeguard the public good.

Organisations registered at OISC Level 1 or 2 face significant limitations in the scope of immigration advice they can provide, often requiring oversight or supervision from a qualified immigration solicitor or an OISC Level 3 adviser to handle more complex cases. However, many of these organisations struggle to secure such supervision due to the nationwide shortage of immigration solicitors willing or able to partner with them. This creates a bottleneck in service provision — organisations are eager to support vulnerable clients but are effectively blocked from doing so without the necessary legal oversight. As a result, many individuals are left without timely immigration advice or representation, further deepening the access to justice gap.

Furthermore, given the lack of training opportunities in the UK at firms specialised in legal aid fields,⁷ we recommend that third sector organisations that provide legal support (yet not legal advice) should be given support to provide traineeships. This could be conducted via a pilot scheme with strategic organisations that would receive professional legal support from the Scottish Government, the Legal Aid Board and other legal providers. Such a scheme could be beneficial in areas affected by legal aid deserts and would enhance access to justice in remote areas of Scotland.

Increase the Number of Legal Aid Lawyers Outside the Central Belt

There are severe shortages of legal aid solicitors outside the Central Belt, with no immigration legal aid solicitors north of Glasgow, for example. We recommend providing grants or subsidies to firms opening practices in areas outwith the Central Belt. Such an initiative could help to address the critical geographic inequalities in access to law.

What do you think are the strengths and weaknesses of the current system for providing civil legal assistance?

The current system retains foundational strengths, including its theoretical inclusivity — allowing solicitors across regions to register for legal aid — and its role in safeguarding access to justice for people who have low incomes through subsidised representation, which align with international human rights frameworks such as the ECHR. However, systemic weaknesses undermine these principles. Geographical disparities are stark, with rural and

⁷ Kinghan, Jacqui, 'Recruitment and Retention of Mid-Career Lawyers in Civil Society Organisations' (Baring Foundation, July 2023), pp. 8-9: baringfoundation.org.uk/resource/recruitment-and-retention-of-mid-career-lawyers-in-civil-society-organisations

non-Central Belt areas lacking legal aid, forcing ordinary people to rely on overstretched firms in Edinburgh and Glasgow.

Financial unsustainability exacerbates shortages, as stagnant legal aid fees, lagging behind inflation since 1999,⁸ deter trainees and push firms toward private work, creating unfortunate situations like that of a Highland mother of two: after enduring assault by her husband, she was forced to contact more than 116 law firms before finding a lawyer able to take her divorce case. She was able to secure a solicitor only thanks to financial help from her friends.⁹

Her experience highlights a critical barrier in the legal aid system: individuals must first find a solicitor who offers legal aid services in order to begin the application process. Without this initial access point, people are effectively shut out — unable to apply for support, regardless of need — leaving them without a pathway to justice at some of the most vulnerable moments in their lives. The Scottish Women’s Rights Centre reports that, on average, survivors contact around 30-50 solicitors before finding someone to take their case.¹⁰

Additionally, civil legal aid excludes many areas, such as small claims under £3,000.¹¹ This limits access to justice for people with lower incomes, even when the issues they face are no less significant. GREC has witnessed the effects of an underfunded legal aid system: poor-quality services, rushed cases, poor client communication, and missed deadlines—all of which not only impact people in vulnerable positions but also ordinary people who simply cannot afford a lawyer.

What do you think would be the strengths and weaknesses of reforming civil legal assistance along the lines recommended in the Evans Review (“Rethinking Legal Aid”, 2018)?

We welcome the emphasis placed on making the system simpler, more flexible and fairer. A key strength is the inclusion of third-sector organisations in the strategic planning and delivery of justice outcomes through membership of the Justice Board, which could foster collaboration, enhance accessibility for vulnerable groups, and ensure services are better tailored to community needs. A significant strength is the wide and inclusive definition of legal aid, which does not only include funding for lawyers but also for third-sector organisations providing advice services, alternative forms of dispute resolution, including mediation, and public legal education.

⁸ Just Right Scotland, Human Rights Consortium Scotland and Environmental Rights Centre Scotland, *A Call for Urgent Action to Reform Civil Legal Aid in Scotland*, p. 6.

⁹ Cowan, David, ‘Woman’s Divorce Case Was Turned down by 116 Legal Aid Lawyers,’ *BBC News*, 5 February 2025: [bbc.com/news/articles/cpdx5qjyw25o](https://www.bbc.com/news/articles/cpdx5qjyw25o)

¹⁰ *Op. cit.*

¹¹ Scottish Legal Aid Board, ‘Legal Aid Fees,’ accessed 3 April 2025: slab.org.uk/solicitors/legal-assistance-fees

The recommendation to make the legal aid fund available for group or multi-party actions is also welcome, as it could empower marginalised communities to address systemic issues collectively. Additionally, the review's focus on holistic support, technological innovation (e.g. online and telephone services), and local action plans could improve efficiency, reduce costs, and resolve disputes earlier.

However, some points such as maintaining the current scope of the legal aid fund are concerning. Some challenges were not comprehensively covered in the report, including resource constraints, recruitment and retention issues in the legal aid sector. While reforms aim to widen access to justice, success will depend on adequate funding, careful implementation, and balancing simplicity with flexibility to ensure no one is left behind.

What are your priorities for longer-term reform?

A robust legal aid system is fundamental for the future of Scotland. In order to ensure equitable access to justice, long-term reforms must aim to meet the legal needs of all individuals in our country, particularly those in vulnerable groups.

A strategic approach would involve employing comparative law methodologies to analyse how diverse jurisdictions – including those with innovative or unconventional models – deliver legal aid. For instance, Chile's *Defensa Jurídica Integral a Adultos Mayores* (Comprehensive Legal Defence for the Elderly), administered by the *Corporación de Asistencia Judicial* (equivalent to the Scottish Legal Aid Board) offers a compelling example. This programme guarantees free, holistic legal assistance to elderly people without prior financial assessment, recognising their inherent vulnerability as a group.¹² Such an approach acknowledges that systemic barriers, rather than individual circumstances, often hinder access to justice.

Ultimately, legal aid was designed to ensure that everyone, regardless of class and income, has real access to justice. In turn, access to justice is arguably the most important of all rights because the exercise of this principle underpins the enjoyment of all others. It is, therefore, a fundamental human right, without which there can be no genuine democracy or effective rule of law.

¹² Portuguese, Rodrigo Salas, 'Resumen ejecutivo Corporaciones de asistencia judicial (CAJ)/ Executive Summary Judicial Assistance Corporations (CAJ)' (Ministerio de justicia y derechos humanos Subsecretaría de justicia / Ministry of Justice and Human Rights Undersecretariat of Justice, July 2022), p. 18.