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Karen Adam MSP
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Equalities, Human Rights and Civil Justice
Committee
The Scottish Parliament
Edinburgh
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Dear Convener

I welcome the publication of the Committee's report following its inquiry into Civil Legal Assistance in Scotland and thank the Committee for its thoughtful and thorough work.

I would also like to express my gratitude to the organisations and individuals who contributed written and oral evidence. Their input has been invaluable in shaping the inquiry and the resulting report, which underscores the strong cross-party ambition, enthusiasm, and consensus for reforming our legal aid system.

I am pleased to now respond to the issues raised, as outlined in the Annex to this letter, and I hope the Committee finds this response helpful. Should the Committee have any further reflections or suggestions, I would of course welcome them as we continue to work collaboratively towards meaningful reform.

Yours sincerely

SIOBHIAN BROWN

Scottish Government Response to Committee Recommendations

Overview

The Scottish Government agrees with the Committee's view that long-term structural reform of the civil legal assistance system is needed which is why we are already actively progressing a programme of work that lays the foundation for future reform and takes meaningful steps in the interim. We agree that the current system must evolve to meet the needs of a modern justice system and to ensure equitable access to legal support across Scotland. The [Legal Aid Reform Discussion Paper](#), published in February 2025, sets out three key strands of work being undertaken in 2025–26:

Simplification of the Judicare Service Delivery Model

Regulations will be laid in Parliament in December 2025 to simplify the judicare model, which underpins the majority of legal aid-funded services. These changes are designed to make it easier for solicitors to engage with legal aid and for individuals to access assistance. This regulatory reform is a significant step that can be taken without primary legislation ahead of dissolution.

Research and Reform of Legal Aid Fees

Work has resumed on research into legal aid fee structures, with the aim of implementing reforms that promote fairness, sustainability, and responsiveness to case complexity. This includes the development of a regular fee assessment mechanism to support a modernised funding model. I have committed to progressing the Fee Review Mechanism Group, which will be established before the end of 2025.

Stakeholder Engagement to Develop a Reformed Legal Assistance System

We continue to engage with private firms, third sector organisations, and service users to co-design a future model of legal assistance that is flexible, user-centred, and capable of meeting the challenges of the 21st century. This collaborative approach will be stepped up in coming months to inform the development of future legislation.

Our approach to legal aid reform is guided by the four principles set out in the [Vision for Justice in Scotland](#) paper:

- Equality and human rights
- People-centred service design
- Evidence-based policy
- Collaboration and partnership

In addition to these strands, the Government is exploring short-term measures to improve access to legal aid.

On 27 March 2025, a commitment was made to make legal aid free and non-means tested for families involved in death in custody Fatal Accident Inquiries (FAIs). I acknowledged that this will ultimately require primary legislation which, given where we were in the parliamentary session, will be for a new session of Parliament. However, we did not want families to wait for this important support, and Scottish Ministers used the discretionary powers available to them to put in place an interim measure that provides non-means tested

legal aid for close family members participating in deaths in custody FAIs. From 7 April 2025, close family members who are involved in death in custody FAIs had access to non-means tested legal aid from the point they are notified that there will be an FAI. The provision covers families whose loved ones died while in legal custody, or where a child died while they were required to be kept or detained in secure accommodation.

Family members of a person who dies in custody who were in receipt of legal aid granted before 7 April 2025 may withdraw their application or decline a grant of civil legal aid and apply to the Scottish Legal Aid Board (SLAB) for a grant under the exceptional provision made by Ministers.

We remain committed to ensuring that Scotland's legal aid system continues to be one of the most comprehensive and accessible in Europe and we are taking forward the actions needed to improve the system and prepare for future transformation including through legislation. Furthermore, the Scottish Government supports the Committee's recommendation that any future administration should continue to prioritise legal aid reform.

Funding and Resources

Scottish Ministers have maintained the wide scope of access to legal aid in Scotland, including for civil and family cases and Scotland's legal aid system is one of the leading jurisdictions in Europe in terms of scope, eligibility and cost. However, in spite of significant financial pressures from the UK Government, the Scottish Government must operate within these significant fiscal constraints, and we have maintained our resourcing of legal aid and have not cut its availability; it is a demand-led budget and all who are eligible will benefit from it.

The Scottish Government is committed to maintaining public finances on a sustainable trajectory and ensuring value for money for the taxpayer. And we need to ensure the legal aid budget is also fair for taxpayers whilst ensuring access to justice.

The Legal Aid Fund expenditure is directly linked to application numbers and the Scottish Government continues to meet all legal aid costs in full. SLAB's Annual Accounts and Report 2024-25 show that the total cost of legal aid has increased 12% on the previous year, with expenditure reaching £169 million last year - the highest ever in cash terms and the highest since 2016-17 in real terms. Total grants of legal assistance rose from the previous year by 8.6% to 176,000.

Payments to legal professionals show £126 million paid to solicitors and solicitor advocates, which is an 11% increase, and £16 million to advocates which is up 8% on last year. In addition, criminal legal assistance rose 15% to £81 million. The increase in criminal legal assistance expenditure has largely been driven by the uplift in criminal expenditure which is up 13% to £97 million. Within this SLAB have seen a large increase in the cost of criminal Advice By Way Of Representation of 21%. This is linked to the expansion nationally of the Summary Case Management project in criminal justice.

Civil and Children's legal assistance expenditure have also increased. All areas are seeing rising costs as the cumulative effect of recent years' fee increases is now being seen in accounts received and processed.

In terms of the trends this year, SLAB report that Civil Advice and Assistance cases granted have declined but grants of asylum cases are increasing further and more increases are expected. Advice and Assistance for housing and judicial review for housing are also showing large increases.

Civil legal aid grants are mostly level: Non-family is declining although Fatal Accident Inquiry cases have increased. Civil firm fees paid have also increased. Criminal Solemn grant volumes have decreased by 8% but these are expected to increase again based on courts data and Children's case volumes show a slight increase.

Total fund gross judicare expenditure has increased by 5% in the past 12 months to £166 million, up from £160 million in the 12 months to Sep 2024. Civil legal aid expenditure increased by 8% and Children's by 7% in the 12 months but Criminal spend was flat. However, Criminal costs have seen a steeper increase over the past 6 years.

Legal Aid

I note the Committee's concern regarding the reported prevalence of 'legal aid deserts'. The evidence presented during the inquiry further highlights the need to address both geographic and subject-matter gaps in civil legal aid provision. The Scottish Government is committed to working collaboratively with SLAB, the Law Society of Scotland (LSS), and other stakeholders to build a robust evidence base on unmet need and agree targeted interventions. For example, these may include grant funding and capacity-building initiatives aimed at improving access to legal services in underserved areas.

It is important to acknowledge that while we cannot compel private solicitors to undertake legal aid work, we continue to invest in the legal aid system. Notably, although the number of active civil legal aid solicitors has decreased (from 1,067 in 2014/15 to 791 in 2023/24) the average number of grants per solicitor has increased from 12 to 17, indicating a more concentrated and active cohort of providers.

We recognise, however, that challenges persist in relation to certain case types and geographic locations. Since 2014/15, there has been significant variation in the number of civil legal aid grants at local authority level. We are aware of reported issues in areas such as Forth Valley and Orkney, while other areas, including Shetland Islands, Perth & Kinross, and West Lothian, have seen increases in activity.

We also note a growing trend of applicants instructing solicitors outside their own council area. This reflects both the flexibility of the legal assistance schemes and the willingness of solicitors to travel to rural and remote parts of Scotland to provide services where local provision is limited.

Solicitor availability is a key issue being considered by the Future of the Legal Profession Working Group which brings together senior representatives from legal professional bodies, the legal profession, the wider justice sector, and other organisations. This group is tasked with supporting the planning, collaboration, and improvement of legal services and its aim is to propose solutions that increase diversity, capacity, and equality of opportunity across the legal profession. We anticipate that the outcomes of this group will make a meaningful contribution to addressing long-term structural challenges within the sector and strengthen the planning and delivery of legal services nationwide.

While the number of active legal aid solicitors has remained broadly stable since 2020, we acknowledge the challenges faced by individuals seeking help in specific types of cases or locations. SLAB has recently undertaken a comprehensive analysis to assess legal aid activity at both geographic and subject-matter levels. The Civil Legal Aid: Geographical trends analysis was published by SLAB in May 2025 alongside the key findings from this analysis. This work was undertaken to assist with SLAB's function of monitoring the

availability and accessibility of legal services. The analysis also mentions that previous reports from the LSS have focused on the location of civil legal aid solicitors' firms and the location of criminal legal aid practitioners, whereas this work allows us to understand the location of applicants as well as firm branches.

This analysis will inform future policy and funding decisions and help us understand how trends in applications and active practitioners at the sub-national level compare to the national trends between areas, by applicant and by firm branch location. In the interim, we continue to engage with stakeholders to identify short-term improvements to support the sustainability of legal aid provision.

One such initiative is the development of a new Legal Aid Traineeship Fund in order to attract new entrants to the legal profession and increase the capacity and capability of the supply base. I have committed to fund up to 20 traineeships initially, and officials are currently working in collaboration with the LSS and the wider legal profession, including firms and trainees who participated in the previous fund. We are taking on board the lessons learned from the previous Traineeship Fund in order to shape the new scheme's design and eligibility criteria which we aim to commence in early spring 2026.

I am encouraged by the continued engagement of LSS and the Scottish Solicitors Bar Association to work productively to identify measures that will improve and reform Scotland's legal aid system. We agree with the Committee that any effective response must begin with a clear understanding of unmet need. We fully support the Committee's recommendation for SLAB and the LSS to collaborate in developing a stronger evidence base around both the demand for and supply of legal aid-funded services.

In addition, members are also very aware of the changes that will occur due to the Regulation of Legal Services (Scotland) Act 2025 which represents a significant step forward in expanding access to justice. The Scottish Government recognises that stakeholders need sufficient time to prepare for the changes resulting from this Act which will likely require to be phased. However, once commenced this significant legislation will remove restrictions that prevent charities, law centres, and citizens advice bodies from directly employing solicitors to provide certain legal services to some of the most vulnerable in society. This reform enables third sector organisations to deliver 'reserved legal services', such as court representation, without needing to rely on external legal firms. This provision is anticipated to be included in a commencement order to be laid before the Scottish Parliament in January 2026 as part of the first phase of implementation. Furthermore, the Act will allow non-profit organisations to become licensed legal services providers, creating new pathways for community-based ownership of legal services, intended to aid in addressing potential gaps in provision, this element will be introduced in subsequent phases to ensure a managed and sustainable implementation.

Fees

The Scottish Government notes the Committee's concerns regarding the sustainability and fairness of legal aid fees. We also welcome the Committee's support for the establishment of a regular, independent fee review mechanism and will continue to keep the Committee updated on progress.

We recognise that fee structures and levels are central to maintaining a viable legal aid system that supports equitable access to justice across Scotland and remain committed to ensuring legal aid is a sustainable public service.

In response to calls from the legal profession, and recommendations from both the Evans Review (2018) and the Legal Aid Payment Advisory Panel (2021), we are establishing a Fee Review Mechanism Group (FRMG) and aim to have this established by the end of the year. This group will:

- Be independent of Government, chaired by an individual who is also independent of the legal profession.
- Include a diverse membership, with representation from academia, the advice sector, SLAB, the legal profession, and independent analysts.
- Be supported by Scottish Government officials in a secretariat capacity.

The FRMG will provide non-binding, evidence-based recommendations to Ministers on legal aid fee levels and structures. All recommendations will be published alongside a Scottish Government response, ensuring transparency and accountability.

This approach draws on best practice from other jurisdictions, including Northern Ireland and England and Wales, and will complement broader reform efforts and inform future legislative proposals.

Administration

The Scottish Government recognises that the administrative burden on legal aid practitioners is a recurring concern. We support the Committee's call for simplification and are exploring options to streamline processes, improve payment systems, and reduce duplication. While some of this may require primary legislation, we are taking forward a series of reforms through secondary legislation that will be laid in the Scottish Parliament on 15 December 2025. Broadly these regulations will seek to:

- Provide quicker access to legally aided services where eligible.
- Reduce administration for solicitors and SLAB.
- Reduce the number of multiple legal aid applications required for payment.
- Provide greater certainty of payment.

We recognise the importance of embedding trauma-informed practices across the legal aid system, particularly in how services are delivered to vulnerable individuals, including children and survivors of abuse. This is a key consideration in both our immediate reforms and future policy development.

Our immediate reforms, particularly the proposed removal of means testing for children's advice by way of representation and the reduction in the number of applications required, are expected to have a direct positive impact on trauma-informed service delivery. These changes will simplify access to legal aid, reduce administrative hurdles, and eliminate common trauma triggers associated with repeated and intrusive financial assessments.

These efforts, alongside preparations for prospective primary legislation in the next Parliamentary session, aim to establish a legislative framework that will embed trauma-informed principles more systematically across the legal aid system.

Eligibility

The Scottish Government is committed to ensuring that civil legal aid is accessible to all who need it, particularly survivors of domestic and gender-based violence as highlighted in the Committee report.

Legal aid remains available to victims of domestic and gender-based violence seeking protection through civil actions, provided they meet statutory eligibility criteria. We would note, there is no residency test and no requirement to prove that abuse has occurred. We work closely with stakeholders to understand and address barriers to access, and listening to lived experiences continues to shape our approach.

Alongside the existing judicare system, we have provided sustained support to specialist services. For the past eight years, we have awarded annual grant funding of £230,000 to the Scottish Women's Rights Centre. More recently, we committed up to £432,000 to a pilot project in Edinburgh, delivered by Scottish Women's Aid in partnership with Edinburgh Women's Aid and Baker Gostelow Family Law Ltd. Early feedback from the pilot indicates it is working well, and the model will be evaluated once the current funding concludes in March 2026.

Learning from targeted initiatives such as these is vital. It enables us to shape future service design and direct funding to where it is most needed, ensuring legal aid provision remains responsive and inclusive.

We welcome SLAB's updated guidance, which acknowledges the challenges faced by applicants who have fled abusive or controlling relationships. SLAB has clarified that, where appropriate, it will use discretion to disregard income or capital when assessing financial eligibility. This is not a change in policy, but an important step in raising awareness of SLAB's existing approach and ensuring it is applied with sensitivity.

We will continue to consider the Committee's recommendations regarding civil legal aid eligibility as part of our longer-term reform work. We are reviewing options to reform financial eligibility, including the Committee's recommendation to align Advice and Assistance thresholds with those for civil legal aid and uprate them in line with inflation since 2011. As part of ongoing legal aid reform, we will work with stakeholders to consider a range of financial eligibility options.

The Committee report also touched upon evidence from stakeholders relating to domestic abuse and homelessness. The Scottish Government is committed to tackling the housing crisis, including reducing the number of children in temporary accommodation and improving housing outcomes for women experiencing domestic abuse. As part of the Housing Emergency Action Plan announced by the Cabinet Secretary for Housing on 2 September, we are investing £1.5 million in a new national "Fund to Leave" in 2025–26. Women and their children will be able to apply for financial support to pay for essentials when leaving an abusive partner. The fund will also be open to women with no recourse to public funds.

Aligned to this, the Housing (Scotland) Act 2025 builds on the strong housing rights that already exist for people who are homeless by introducing a renewed focus on prevention. This includes a new legal duty on social landlords to develop and implement a domestic abuse policy outlining how they support tenants experiencing domestic abuse.

Provisions in the Act also ensure that social landlords fully consider domestic abuse-related financial control and support individuals experiencing abuse before commencing legal action to recover possession of a property. This will help protect the rights of women and children experiencing domestic abuse to remain in their homes or be re-housed if that is their wish and ensure that arrears accrued due to abuse are not a barrier to accessing social housing in the future.

The statutory guidance accompanying the duty to develop and implement a domestic abuse policy will be crucial in setting out how tenants can be supported. This includes enabling people to remain safely in their homes and encouraging social landlords to consider writing off rent arrears, in whole or in part, where these have accrued as a result of domestic abuse. We will work closely with the housing sector and the Violence Against Women and Girls sector to develop this guidance.

Public Interest Litigation and Group Proceedings

We acknowledge the Committee's recommendation to revisit regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002 more broadly, beyond its current application to environmental cases. We also note the Committee's view that, while civil legal assistance has been granted in some cases under regulation 15, these remain isolated. We share the ambition to explore how the regulation could be used more effectively to support strategic litigation and collective redress.

We will continue to consider the Committee's recommendations on regulation 15 as part of our longer-term legal aid reform work. This includes exploring options to broaden its application and ensure that legal aid supports collective action where appropriate, in line with our commitment to improving access to justice and advancing equality and human rights.

Short-Term Changes

We note the Committee's recommendation regarding the use of block fees in Adults with Incapacity (AWI) cases and recognise that while block fees can offer administrative and financial efficiencies, they may not be suitable for all case types, particularly those involving complex or sensitive circumstances.

A targeted consultation on proposed legal aid reform regulations, including fee reforms for AWI proceedings, ran from 20 October to 9 November 2025 and sought views from legal professionals, representative bodies, and service users on the practical implications and effectiveness of the proposed changes. As part of this process, SG officials engaged extensively with key stakeholders to test the general policy direction underpinning the regulations. Constructive discussions were held with the Scottish Solicitors Bar Association, the Law Society of Scotland (LSS), Citizens Advice Scotland, and the Scottish Association of Legal Centres to name a few. Two open "pop-in" sessions were also held providing a forum for questions and discussion. Overall engagement during the consultation has been broadly positive with stakeholders offering constructive input.

The Scottish Government will fully consider all consultation responses before finalising the approach. Subject to those views, we will determine the best way forward in relation to AWI block fees. This will ensure that any changes strike the right balance between fair remuneration for solicitors and sustainable access to justice for those involved in AWI proceedings.

We will continue to engage with stakeholders and the Committee to ensure that any changes to fee structures are proportionate, transparent, and support access to justice, particularly in complex AWI cases.

We note the Committee's recommendation regarding standardised personal allowances and the concerns raised about potential impacts on eligibility. The Scottish Government has commissioned SLAB to explore options to simplify and modernise the financial eligibility framework for civil legal aid, including the potential introduction of standardised personal

allowances. We recognise the importance of ensuring that any changes do not inadvertently reduce access to legal aid for those who need it most. I have asked SLAB to implement these changes as soon as possible and they plan to consult on these proposals by the end of this year.

Furthermore, we acknowledge the importance of the clawback recommendations and are actively engaging with SLAB to explore the Committee's proposals. These align with the broader objectives of the legal aid reform programme, particularly in relation to improving access to justice and simplifying the legal aid system.

While we recognise the urgency of these reforms, limited parliamentary time in the current session means that these specific proposals cannot be progressed immediately. However, they remain a priority and will be considered as part of future reform work, including the development of potential primary legislation for a new government.

Mixed Model of Delivery

We welcome the Committee's support for our ambition to provide greater certainty of funding and note its recognition that this is not being pursued as a cost-saving measure. We acknowledge the Committee's view that additional short-term grant funding could help address the advice needs of vulnerable individuals, including women experiencing domestic abuse, asylum seekers, and people facing homelessness. While recognising the limitations of grant funding, we remain committed to exploring how best to support these groups.

We will consider the Committee's recommendations on multi-year settlements and alternative delivery models, including contracting and directly employed solicitors, as part of our longer-term reform programme. These considerations will also inform discussions during the upcoming budget process. We will continue to work closely with SLAB to ensure that all viable options are assessed in the context of improving access to justice for all.

User Voice

Our approach to embedding user voice to inform and deliver is aligned to Scotland's Public Service strategy. We are committed to working with SLAB to ensure that meaningful engagement is at the heart of the legal aid reform programme. As this work develops, it will be crucial to gather views from the legal profession, users of the system, the third sector and other relevant justice organisations. We know too that this work will cross-cut other areas of Government delivering social policy benefits, for example health, housing, debt, and criminal justice.

We will continue to work systematically to engage with stakeholders to obtain a wide range of views that are reflective of opinions and experiences across all of Scotland to inform legal aid reform. As set out in the Legal Aid Reform Discussion Paper, we are committed to delivering a reformed legal aid system that is accessible, person-centred, and responsive to the needs of the people of Scotland.

In practice, this means taking clear and practical steps to ensure engagement is collaborative, meaningful and inclusive, including:

- Coordinating with national organisations, such as SLAB, the Law Society of Scotland, and Scottish Solicitors Bar Association, to streamline engagement and avoid duplication of effort.

- Using varied engagement methods, such as including targeted workshops for specialist practitioners, online forums for wider participation, and informal ‘pop-in’ sessions for open dialogue, to reach different audiences and avoid over-consultation.
- Working through intermediary organisations such as Citizens Advice Scotland and advocacy groups to ensure that user voices are represented in discussions.
- Developing tailored engagement materials to make participation accessible to all.
- Piloting innovative techniques like scenario-based exercises or case studies during consultations to test and apply practical implications of proposed reforms.
- Gathering and analysing evidence from previous consultations, research reports, and lived experience case studies to inform engagement and policy decisions.
- Creating feedback loops by publishing summaries of stakeholder input and explaining how it has influenced decisions, reinforcing transparency and trust.

Importantly, we will make a concerted effort to bring disparate and challenging voices into the conversation. Our approach will be inclusive, transparent, and evidence-based, with a strong emphasis on two-way communication to ensure that people who rely on legal aid services are meaningfully involved in shaping the engagement process.

Other Long-Term Reform Priorities

We are grateful for all the views expressed by stakeholders in contributing to the Committee’s inquiry. Their input is invaluable as we explore collaborative ways to improve access to justice, including raising public awareness and developing preventative tools and measures. The SG will continue to work with and engage stakeholders on a range of matters as part of the legal aid reform programme.