

**ILPA Response to Legal Aid Agency consultation on statistics on legal aid providers,
31 May 2016**

1. Please tell us who you are and how you use legal aid statistics.

The Immigration Law Practitioners' Association (ILPA) is a registered charity and a professional membership association. The majority of members are barristers, solicitors and advocates practising in all areas of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Founded in 1984, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on advisory and consultative groups convened by Government departments, public bodies and non-governmental organisations. ILPA is represented on the Legal Aid Agency / Law Society Civil Contracts Consultative Group.

ILPA uses legal aid statistics to monitor the provision and gaps in legally-aided advice and representation in immigration, asylum and nationality law and to seek to hold the Legal Aid Agency to account.

We agree that the inclusion of data on legal aid providers is a valuable addition to the evidence base, but agree that its usefulness could be enhanced.

2. What is your opinion on including provider firms / office names in the provider section of the statistics?

Whilst ILPA is generally in favour of greater provision of data and transparency, the proposal to include the names of provider firms and offices as a standard feature of future editions of the statistics gives rise to particular risks which militate against publication of this data as a matter of course, as opposed to publication only on request as is currently the case through information requests made under the Freedom of Information Act 2000.

The identification of individual providers alongside the disclosure of case load volumes and spending on legal aid for immigration advice may place such providers and their clients at risk of unwanted attention and harassment as a result of high levels of hostility towards immigration by some sections of the public and the media.

There is also a risk of breaches of confidentiality in individual cases. For example, the Legal Aid Agency statistics for providers in 2014/15 indicate that 390 of 2222 legal aid providers in the immigration category (18%) claimed legal aid in just one case. There is a risk that the published legal aid sums could be linked to individual cases through the publication of the names of individual providers. This may arise as a concern in other areas of law such as family law.

The benefit of naming individual providers in relation to gross spend is unclear whilst being intrusive. It is more useful that the volume of legal aid cases be reported than the names of providers to monitor the level of advice and representation available under legal aid across the country to monitor the development of gaps in provision.

3. Do you think this is the most helpful geographic breakdown or might others be better?

No.

ILPA recommends that data be broken down by local authority area so that the data can be mapped onto and compared with existing Government data that might indicate need for legal advice and representation under legal aid. This would facilitate closer analysis and monitoring of legal aid provision against indicators of need and is particularly important in monitoring and taking action to prevent the development of advice deserts across the country.

Official indices of deprivation using measures across income, health, crime, employment and other barriers are published by the Department for Communities and Local Government and made available by local authority area. Other government statistics may indicate the need for legal advice provision more directly, such as the numbers of welfare benefit claimants, levels of homelessness, numbers of young people in care, number of exclusions from education etc. All of these datasets are published and reported by local authority area.

In terms of immigration, the numbers of asylum seekers supported under section 95 of the Immigration and Asylum Act 1999 are reported in Home Office quarterly statistics broken down by local authorities and the numbers of unaccompanied asylum seeking children supported by local authorities are also recorded for each area. This data would be relevant in analysing the availability of asylum advice and representation under legal aid compared with the demand for this advice across the UK.

In light of the need for closer monitoring of the development of advice deserts, the data on legal aid providers should be made available on a monthly or at least quarterly basis rather than annually.

4. Presentation of data

Given the importance of monitoring the level of legal aid provision (by workload volumes and spend) by category and geographic area discussed above, ILPA considers that this data should be made available in the main tables published rather than be accessible only via the *csv spreadsheet.

Tables 9.1 and 9.2 of the main data tables, which provide figures on the number of providers and level of legal aid spending divided into twelve regions of the UK, are currently too general to be useful. For example, the tables merge all areas of civil law into one category. The tables simply provide headline figures for the number of providers and level of legal aid spending generally which is not very meaningful without further context or breakdowns. The tables should be supplemented by the more detailed data discussed above.

The *csv spreadsheet for legal aid providers can be used by those who have a good command of Excel programmes but is difficult for others to use. Home Office quarterly statistics on immigration provide an alternative model for presenting large volumes of data in a more accessible format.

The difficulty with the *csv spreadsheet is that it does not provide sufficiently detailed information to facilitate analysis of the data on legal aid providers.

The *csv spreadsheet does not distinguish between certificated work and controlled work provided in the immigration category. These should be separated out in the data and broken down by asylum or other immigration work.

There is a continued failure to provide published statistics that would facilitate analysis of the impact of the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in April 2013. This applies to all statistical tables released by the Legal Aid Agency including the data on legal providers. Data on the categories of advice funded under legal aid should be further disaggregated using the codes collected by the Legal Aid Agency from providers distinguishing the different cohorts of cases funded under the old and new regimes. Data should also be provided on the categories of cases that are exceptions to the exclusion of immigration advice and representation from the scope of legal aid to monitor access to advice of these groups.

It is inaccurate to describe immigration work outside the area of asylum provided under legal aid in earlier years as 'Immigration, nationality and visit visas' in the *csv spreadsheet. Areas of advice and representation removed from the scope of legal aid by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 include applications under article 8 of the European Convention on Human Rights, applications made under family migration provisions and other areas of immigration advice and representation that assisted individuals to regularize their stay in the UK. A more inclusive description of this category should be used, for example "Immigration non-asylum".

Finally, the *csv guidance document does not provide guidance on the legal aid provider spreadsheet generally or on the category descriptions used within the spreadsheet and this would be a helpful addition.

5. Other comments

It would be useful if the legal aid quarterly statistics also disaggregated controlled work and certificated work in immigration cases and identified the number of certificated cases resolved with costs payable by the other side or settled before a full hearing.

The Legal Aid Agency should give consideration to analysing immigration advice and representation under legal aid by nationality as part of its monitoring of equality of access.

ILPA has previously commented on the statistics on legal aid published by the Legal Aid Agency in the submissions listed below. We raised concerns about the lack of disaggregation of data in Legal Aid Agency statistics which would permit analysis of the impact of the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in ILPA's response to the Ministry of Justice consultation on legal aid statistics on 20 February 2015. We raised these concerns directly with the Minister in correspondence dated 07 August 2015 to which we have not yet received a reply.

- ILPA response to the Legal Aid Agency Ministry of Justice consultation on the publication of Legal Aid Statistics in England and Wales, 20 February 2015 at: <http://www.ilpa.org.uk/resources.php/30761/ilpa-response-to-the-legal-aid-agency-ministry-of-justice-consultation-on-the-publication-of-legal-a>
- ILPA letter to Rt. Hon. Michael Gove MP, Lord Chancellor and Secretary of State for Justice, 07 August 2015 at: <http://www.ilpa.org.uk/data/resources/31242/15.08.07-ILPA-to-Lord-Chancellor-and-Secretary-of-state-for-Justice-re-report-on-immigration-appeals.pdf>