



House of Commons  
Committee of Public Accounts

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# Value for Money from Legal Aid

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24

*Report, together with formal minutes relating  
to the report*

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# Contents

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<b>Summary</b>	<b>3</b>
<b>Introduction</b>	<b>4</b>
<b>Conclusions and recommendations</b>	<b>5</b>
<b>1 Access to legal aid</b>	<b>9</b>
Understanding demand for, and supply of, legal aid	9
Impact of gaps in provision of legal aid on disadvantaged groups	11
Accessing legal aid for immigration issues	12
Impact of financial eligibility thresholds on access to legal aid	13
<b>2 Cost effectiveness and sustainability of legal aid</b>	<b>15</b>
Understanding the wider costs of reform	15
Ensuring a sustainable legal aid market	16
<b>Formal minutes</b>	<b>18</b>
<b>Witnesses</b>	<b>19</b>
<b>Published written evidence</b>	<b>20</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>21</b>



## Summary

The government has a statutory duty to fund legal advice for the most vulnerable people in society. The Ministry of Justice (MoJ) introduced reforms to legal aid in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), implemented in April 2013. However, nearly a decade on from this Committee's last report on the subject, MoJ still lacks an understanding of the costs and benefits of its 2013 legal aid reforms and whether those who are eligible for legal aid can access it.

We are deeply concerned about MoJ's and the Legal Aid Agency's (LAA's) lack of curiosity on the impact of decreasing numbers of providers on people's access to legal aid, despite evidence which suggests access is getting more difficult. In most categories of law, the proportion of people within ten kilometres of a legal aid office has fallen since 2013. Capacity within the housing and immigration advice, and police station duty schemes, are of particular concern. For example, there are areas of the country where people can only access housing advice remotely, but MoJ and LAA do not know enough about how this impacts vulnerable groups who may find it more difficult to access legal aid in this way.

Considerable wage inflation has meant a smaller proportion of the population has been eligible for legal aid each year, but MoJ has been slow to review financial eligibility thresholds and implement any changes. MoJ did commit to review thresholds in February 2019, but did not propose changes until May 2023 and does not expect to fully implement them until 2026. It has not set out how it plans to keep thresholds under review in future.

MoJ's legal aid reforms have undoubtedly led to reductions in direct spending on legal aid, with a £728 million (28%) real-terms reduction in legal aid spending in 2022–23 compared with 2012–13. But both MoJ and His Majesty's Courts and Tribunals Service (HMCTS) have failed to improve their understanding of where costs may have shifted to other areas of the justice system or wider government. For example, MoJ acknowledges that the removal of early legal advice for issues such as immigration and family issues may have led to additional costs, but it has failed to make progress in identifying or addressing them. HMCTS's failure to improve the data it collects on the impacts of increasing numbers of people representing themselves ("litigants-in-person") on courts, which have been under immense pressure in recent years, is particularly disappointing.

The Committee recognises that MoJ has taken steps to address issues with the market sustainability of legal aid through its large-scale reviews of criminal and civil legal aid. But the pace of its response has been troublingly slow, particularly in civil legal aid, where fees have not increased for 28 years. MoJ must take a more proactive and routine approach if it is to ensure the future provision of legal aid.

## Introduction

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Legal aid refers to publicly funded legal advice or representation in courts and tribunals for people who meet the government's eligibility criteria. This includes support for people accused of a crime (criminal legal aid) and those involved in civil legal matters (civil legal aid), for example, family law cases involving children being taken into care. In England and Wales, the Ministry of Justice (MoJ) is responsible for setting legal aid policy. Its executive agency, the Legal Aid Agency (LAA), is responsible for administering legal aid funding, which was around £2 billion in 2022–23. Legal professionals from private firms or not-for-profit-organisations provide legal aid advice for those eligible for support, and bill LAA based on rates set in legislation.

In 2013, MoJ introduced reforms to legal aid in the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), with the aim of reducing spending on legal aid and of targeting support at those who need it most. LASPO reduced the circumstances in which legal aid was payable, in particular it significantly limited the types of civil cases for which legal support was available, such as most issues relating to employment, consumer matters, debt and clinical negligence. It also made some financial eligibility thresholds more restrictive and reduced fees paid to civil legal aid providers.

When this Committee last reported on civil legal aid in 2015, it reported that MoJ was on track to significantly reduce legal aid spending. However, MoJ had not assessed whether it had made any progress on its other objectives of discouraging unnecessary litigation, targeting legal aid to those who need it most, and of delivering better overall value for money.

## Conclusions and recommendations

1. **Over a decade since the legal aid (LASPO) reforms, the Ministry of Justice (MoJ) and the Legal Aid Agency (LAA) still do not have sufficient data to assess whether those eligible for legal aid can access it.** In 2015 this Committee reported that, contrary to MoJ's assurances to Parliament, neither MoJ nor LAA had a robust mechanism for identifying and addressing shortfalls in the provision of legal aid. Disappointingly, this remains the case. The Committee has seen strong evidence that potentially eligible clients are routinely turned away by providers due to lack of capacity. For example, MoJ's survey of civil legal aid providers shows that the majority of providers turn away an average of 26 eligible cases each per month and experience a high level of demand. However, MoJ and LAA do not collect routine data on people who attempt to access legal aid services unsuccessfully, nor do they consider specific local variations such as deprivation levels. For example, MoJ is aware of cases where people did not take legal advice as a result of long waits for duty solicitors at police stations; but has no data on how frequently people request a duty solicitor but do not get one.

**Recommendation 1:** *In its Treasury Minute response, the Ministry of Justice and the Legal Aid Agency should set out how they intend to improve the data they collect on demand for and access to legal aid so that they can better monitor:*

- *whether an area has sufficient provision for a particular category of law to meet demand. This should include details of how they plan to consider specific local variation such as deprivation or access to public transport and demographics such as disability; and*
  - *the extent to which capacity constraints may mean people are unable to access legal aid in areas where there are providers.*
2. **There are areas of the country lacking face-to-face provision of legal aid, which risks penalising vulnerable groups disproportionately.** Stakeholders have consistently raised the issue of 'legal aid deserts' where large geographic areas lack a legal aid provider for specific categories of law. For example, large areas of the South West and North West have no face-to-face housing or debt support. MoJ has stated that where there is no provider, people can seek remote advice, which can work well for many. But it does not understand the impact of remote advice on vulnerable groups, for example those with limited access to public transportation, English as a second language or people with a disability. Charities such as the Child Poverty Action Group report that many of their clients struggle to obtain relevant evidence of their eligibility due to having limited access to technology or low digital capabilities: this is exacerbated when services are provided remotely as many are unable to travel, for example due to a disability.

**Recommendation 2:** *In its Treasury Minute response, the Ministry of Justice should:*

- *clarify what the options are for those who are unable to make use of remote advice. It should specifically consider vulnerable groups in areas with no face-to-face legal aid provision, whose issues may be too complex to solve via telephone; and*
  - *set out how it plans to better understand the impact of remote provision on vulnerable groups and address any problems identified.*
3. **We are concerned about access to legal aid for immigration matters which often involve extremely vulnerable people, and the effectiveness of the Exceptional Case Funding (ECF) scheme for some of these cases.** Organisations including the Immigration Law Practitioners' Association provided evidence to the Committee of a 'supply crisis' in the immigration and asylum legal aid market. People eligible for support are often unable to find a provider with capacity to take their case. Additionally, those applying for help via the ECF scheme, intended as a safety net to ensure an individuals' human rights are protected, face several hurdles accessing support. MoJ acknowledges that a shortage of immigration and asylum legal aid providers in some areas is concerning. It is trying to address expected increases in demand due to the new Illegal Migration Act 2023 (IMA) by increasing fees for work related to the policy. However, this risks exacerbating access issues for other immigration cases where MoJ has not increased fees, as providers may prioritise higher paying work. MoJ is looking at whether the ECF scheme is the most efficient route for immigration cases given the high rate of approval of applications (87%) and the additional administrative burden for LAA.

**Recommendation 3: *The Ministry of Justice should set out in its Treasury Minute response:***

- *how it plans to monitor the impact of the Illegal Migration Act 2023 on the capacity of other areas of immigration advice and how it plans to respond where evidence suggests people are unable to access advice; and*
  - *details of its plans to assess whether the Exceptional Case Funding scheme is the most efficient route for immigration cases.*
4. **The Ministry of Justice has been slow to review financial eligibility thresholds, leaving fewer people eligible for legal aid, and it has not set out how it plans to review thresholds in future.** One of the aims of MoJ's 2013 reforms was to target legal aid at those who need it most. However, it did not create a mechanism for reviewing financial eligibility thresholds for legal aid and has not altered them since. Consequently, each year a reducing proportion of people have been eligible for legal aid due to wage inflation. For example, over the period from 2012–13 to 2020–21 the proportion of UK income taxpayers eligible for civil legal aid decreased by 11 percentage points (73% to 62%). In February 2019, MoJ announced its plans to review means testing for legal aid, but it took until 2023 for it to propose changes, and changes will not be fully implemented until 2026 due to "wider competing Government priorities". It has assured the Committee that thresholds will be adjusted for inflation before they are implemented as they are currently based on



2019–20 data. However, MoJ could not provide us with clear plans for how it will routinely review and update thresholds in the future, as it considers this to be a political matter.

**Recommendation 4:** *In its Treasury Minute response, the Ministry of Justice should set out what it will do to:*

- *ensure that financial eligibility thresholds for legal aid are kept under review in light of changes in the economy; and*
- *ensure that any proposed changes can be implemented quickly and efficiently.*

5. **The Ministry of Justice has still not made sufficient progress in identifying or addressing wider system costs of its legal aid reforms.** Almost a decade ago, this Committee urged MoJ to get a better understanding of the wider costs of its reforms. While MoJ has taken some steps to understand where additional costs may lie, its overall progress in measuring the scale of these costs is disappointing. For example, MoJ acknowledges that the removal of most early legal advice via the reforms is likely to have led to additional costs to the public sector. However, its attempts to understand the costs and benefits of providing early advice have been unsuccessful to date. Similarly, evidence suggests that MoJ’s attempts to reverse the decline in legally-aided mediation following its reforms are not working, and the proportion of litigants-in-person in courts remains high. Shortcomings remain in HM Courts and Tribunals Service’s data on litigants-in-person remain, which mean that its analysis in this area provides limited insight. MoJ says it is now working with other government departments such as the Department for Levelling Up, Housing and Communities to better understand where its reforms may have shunted costs to other government departments, but we are yet to see the results of this work.

**Recommendation 5:** *The Committee recognises that it will not be possible to calculate a precise figure of the costs of the reforms to other areas of government and the justice system. However, the Ministry of Justice should set out in its Treasury Minute response:*

- *how it plans to work with other government departments such as Department for Levelling Up, Housing and Communities and the Department of Health and Social Care to better understand where reforms may have led to cost-shunting and the potential scale of these costs. This should include looking at the extent to which local authorities are funding immigration legal advice; and*
- *how it intends to work with HM Courts and Tribunals Service to improve available quantitative analysis on the impacts of litigants-in-person on the administration of justice, as recommended in the PAC’s 2015 report.*

6. **We are not convinced that the Ministry of Justice has put in place sufficient measures to ensure the future sustainability of the legal aid market.** MoJ has been slow to initiate and complete its large-scale sustainability reviews of both criminal and civil legal aid. While its review of criminal legal aid is complete, it has yet to implement some of the changes. Of particular concern is the civil legal

aid sector as MoJ will not complete its review of the sector until July 2024, despite not increasing fees for the last 28 years. Before these reviews, MoJ and LAA did not collect the routine data needed to respond to sustainability issues proactively. Low fees can impact firms' ability to train and recruit new staff and impact their long-term sustainability. MoJ has assured the Committee that the Criminal Legal Aid Advisory Board will be able to make recommendations to ensure that criminal legal aid fees are reviewed more regularly in future. But it has not yet set out similar arrangements for the continued review of civil legal aid fees.

**Recommendation 6:** *The Ministry of Justice should set out in its Treasury Minute response how it plans to improve its ability to respond to emerging sustainability issues in a timely manner. This should include:*

- *how it plans to work with providers to keep the profitability of legal aid work in view;*
- *how it plans to implement the recommendations from the Criminal Legal Aid Board; and*
- *what mechanisms it will put in place to review the sustainability of civil legal aid more routinely once its review is complete in July 2024.*

# 1 Access to legal aid

1. On the basis of a report by the Comptroller and Auditor General, we took evidence from the Ministry of Justice (MoJ), the Legal Aid Agency (LAA), and His Majesty's Courts & Tribunals Service (HMCTS) on value for money from legal aid, following reforms to the system in 2013.<sup>1</sup> We also received submissions from a wide range of organisations, which have been very valuable in informing our approach to this report.<sup>2</sup>

2. Legal aid refers to publicly funded legal advice or representation in courts and tribunals for people who meet the government's eligibility criteria. This includes support for people accused of a crime (criminal legal aid) and those involved in civil legal matters (civil legal aid), for example, family law cases involving children being taken into care or cases where people are facing eviction. The Lord Chancellor, as Secretary of State for Justice, has a statutory duty to ensure that legal aid is made available to those eligible for support. MoJ is therefore responsible for ensuring that the legal aid market is sustainable and accessible both in the short and long-term. LAA is responsible for commissioning and administering legally aided services.<sup>3</sup>

3. MoJ introduced reforms to legal aid in April 2013 as part of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). Through the reforms, MoJ aimed to make significant savings to legal aid costs by discouraging “unnecessary and adversarial litigation” and by targeting legal aid to those who need it most. The reforms significantly reduced the types of civil cases for which people could claim legal aid, including removing access for most employment and debt issues. In other areas, support remained only for issues that MoJ judged to be the highest priority. For example, housing support was largely limited to cases involving eviction or serious disrepair. Through the reforms, MoJ also made some financial eligibility thresholds more restrictive and reduced the fees paid to civil legal aid providers.<sup>4</sup> Following LASPO, case volumes decreased and legal aid spending fell from £2,584 million in 2012–13 to £1,856 million in 2022–23 (both in 2022–23 prices); a real-terms reduction of 28% (£728 million).<sup>5</sup>

4. This Committee last reported on civil legal aid in 2015, two years after the reforms were introduced. In that report we warned that MoJ had introduced changes without evidence in many areas and that it had been slow to fill gaps in its understanding. For example, it did not know whether those who were still eligible for legal aid could access it and it had shown little interest in the wider costs of its reforms to the public sector.<sup>6</sup>

## Understanding demand for, and supply of, legal aid

5. Our 2015 report on civil legal aid warned that MoJ had not established a robust mechanism to identify and address gaps in the demand for, and supply of, legal aid, despite setting out that it would do so in its 2012 impact assessment.<sup>7</sup> During the current inquiry,

1 C&AG's Report, [Government's management of legal aid](#), Session 2023–24, HC 514, 9 February 2024

2 Committee of Public Accounts, [Written evidence submissions for Legal Aid inquiry](#)

3 C&AG's Report, paras 1.2, 1.5, 3.2

4 C&AG's Report, paras 1.4, 1.5, Figure 1

5 C&AG's Report, para 6

6 Committee of Public Accounts, [Implementing reforms to civil legal aid](#), Thirty-sixth Report of Session 2014–15, HC 808, 4 February 2015

7 Committee of Public Accounts, [Implementing reforms to civil legal aid](#), Thirty-sixth Report of Session 2014–15, HC 808, 4 February 2015

we asked MoJ and LAA about what data and information they now hold concerning provision of legal aid, and where there may be gaps in services. LAA explained that it uses local contract managers and quarterly capacity reviews to understand existing or potential gaps. The information collected allows LAA to tender for a new provider in that area if a gap emerges, or identify whether providers in neighbouring areas may be able to cover the gap.<sup>8</sup>

6. However, LAA and MoJ do not have an accurate picture of where gaps in provision may exist. LAA sets minimum thresholds for the number of providers in a geographical area and determines the size of those areas. For most categories of law it considers there to be a gap only when there is no legal aid provider in that area.<sup>9</sup> However, as the number of providers has fallen over time, LAA has significantly increased the size of some of these areas, although it acknowledges that doing so risks masking gaps in provision. LAA explained that these changes to geographical areas were necessary to “balance sufficient work volumes with access to a quality service”, and to align procurement areas with other associated services.<sup>10</sup> We asked MoJ about the extent to which it considers local data when assessing the adequacy of legal aid provision. For example, data on issues such as deprivation and ethnicity, or whether an area is a “city of sanctuary” with a likely higher number of refugees and asylum seekers. It told us that it does not look at the data in this way but said that these factors may be taken into account more broadly through conversations with providers. LAA also said that it was in constant dialogue with the Home Office around dispersal plans for refugees and asylum seekers.<sup>11</sup>

7. Neither MoJ nor LAA estimate demand for legally aided services, nor do they capture routine data on whether providers are turning potential clients away.<sup>12</sup> MoJ and LAA told us that this was partly because they do not want to place too high a burden on providers by requiring them to submit additional data.<sup>13</sup> But this means that they do not have a good overall view of the impact of providers’ capacity on access to legal aid. Evidence indicates that it is getting harder to obtain legal aid and that providers cannot meet demand. MoJ’s survey of civil providers in September 2023 found that 80% were experiencing more demand than capacity, and among those providers an average of 26 eligible cases each were turned away in the month preceding the survey.<sup>14</sup> This supports other evidence received by this Committee. For example, the Independent Provider of Special Education Advice, a charity that provides free legal advice to parents and carers of children with special educational needs, informed us that in over 20% of the cases they supported, the person was eligible for legal aid but had been unable to find a provider.<sup>15</sup> Similarly, MoJ is aware of criminal cases where clients did not take legal advice due to no duty solicitor being available.<sup>16</sup> Further, the Law Society provided examples of cases where

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8 Qq 11, 32–33

9 C&AG’s Report, para 2.11

10 Q 5

11 Qq 39–40, 55

12 C&AG’s Report, para 2.10

13 Q 25

14 [Survey of civil legal aid providers in England and Wales, January 2024](#)

15 [VMLA0005](#)

16 C&AG’s Report, para 2.21

suspects have been released from a police station as there is no duty solicitor available to represent them.<sup>17</sup> They also noted that it was unclear how many people initially request a duty solicitor but do not receive one.<sup>18</sup>

## Impact of gaps in provision of legal aid on disadvantaged groups

8. Stakeholders, including the Law Society, have often raised concerns about “legal aid deserts”, where large geographical areas do not have a legal aid provider for a particular category of law.<sup>19</sup> For example, 183 local authorities had no legal aid provider office for housing issues in 2022–23, with particular gaps in large areas of the South West and the North West. A declining number of providers have made it harder for people to get to their nearest legal aid office. Analysis undertaken by the National Audit Office showed that for most categories of civil law, less than 50% of the population was within 10 kilometres of a legal aid office in 2022–23. In some areas the nearest housing legal aid office is today more than 20 kilometres further away than it was in 2013–14. These distances may be understated as it does not take into account offices that are unable to take on new cases due to a lack of capacity.<sup>20</sup> Evidence from Dr Jo Wilding at the University of Sussex also highlighted that even if a client has access to a provider with capacity to take their civil case, some may only provide legal advice services but not representation in court, or vice versa.<sup>21</sup>

9. LAA explained that for some places where there are local gaps in legal aid providers, people could seek remote advice from providers elsewhere in the country, providers in neighbouring areas or via its telephone service. MoJ stated there were some benefits of remote provision for many in providing a more discreet service and in ease of providing interpreter services. It also told us that remote provision could be beneficial in bringing more providers into the market. LAA does not collect data on the extent to which firms are providing their services remotely.<sup>22</sup> However, it accepted that remote provision would not be suitable for everyone.<sup>23</sup>

10. We asked LAA and MoJ how they can be sure that people in areas without face-to-face provision can access advice, and what they are doing to assist vulnerable people. This might include people with limited transportation means, those for whom English is a second language or those with a disability<sup>24</sup>. Child Poverty Action Group reported that their clients face barriers to completing the means test due to limited access to technology or low digital capabilities which is exacerbated when services are only provided remotely.<sup>25</sup> LAA gave examples of specific engagement at courts which had no housing advice service to ensure that people were aware they could seek remote advice from other providers or

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17 [VMLA0002](#)

18 [VMLA0002](#)

19 [VMLA0002](#)

20 C&AG’s Report, paras 2.18–2.19, Figure 8

21 [VMLA0009](#)

22 Q 49

23 Qq 9–10, 40

24 Qq 11, 45–47

25 [VMLA0013](#)

the telephone helpline.<sup>26</sup> MoJ also explained that it was carrying out research into the impact of remote legal advice in police stations to better understand the groups for whom remote advice may or may not be appropriate.<sup>27</sup>

## Accessing legal aid for immigration issues

11. The LASPO reforms significantly reduced the types of immigration cases that are eligible for legal aid. The reforms removed funding for all immigration cases except for asylum cases and a limited number of non-asylum cases, such as immigration detention and applications for leave to remain where the individual is a victim of trafficking or domestic violence.<sup>28</sup> Several organisations provided evidence of particular capacity issues within the legal aid immigration market and the impact on people unable to get help. For example, the Immigration Law Practitioners Association described a “supply crisis”, with those eligible for support unable to find providers with capacity to take their case.<sup>29</sup>

12. MoJ said that a shortage of immigration and asylum legal aid providers in some areas is concerning. It told us that it has taken steps to address capacity issues by increasing fees for cases related to the Illegal Migration Act 2023 (IMA) by 15% and providing additional funding to meet the cost of accreditation for new immigration asylum lawyers.<sup>30</sup> However, the increase in fees specifically addresses an anticipated increase in demand for immigration work due to the IMA, which widened the scope of legal aid to support government’s aim of removing people swiftly if they have entered the UK illegally. MoJ has acknowledged that diverting effort to the IMA may risk exacerbating access issues for other immigration cases where MoJ has not increased fees, as providers may prioritise higher paying work.<sup>31</sup>

13. The government also runs a separate Exceptional Case Funding (ECF) scheme for legal aid, intended as a safety net to provide legal aid for people whose human rights would be breached without it.<sup>32</sup> Immigration cases that are no longer within scope of legal aid may still be eligible for legal aid via this separate assessment process. Immigration cases account for two-thirds of applications to the ECF scheme but people still face challenges in finding a legal aid provider even once the funding is approved.<sup>33</sup> The Public Law Project’s (PLPs) survey of immigration practitioners found that for every 16 referral attempts that were made across nine organisations, only one attempt was successful (83 out of 1,337 attempts). Submissions also highlighted that the reduced scope of legal aid means that those applying for support are often extremely vulnerable, for example they may include victims of modern slavery.<sup>34</sup>

14. We asked MoJ whether it thought that the ECF scheme was the appropriate route for immigration cases given that LAA approves around 87% of immigration applications and that this funding is more difficult to access for claimants.<sup>35</sup> Evidence also suggests

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26 Qq 9–10

27 Q 41

28 C&AG’s Report, Figure 1

29 [VMLA003](#), [VMLA0004](#), [VMLA0012](#)

30 Qq 52–54

31 C&AG’s Report, para 3.12

32 C&AG’s Report, paras 2.23, 2.25, Figure 1

33 C&AG’s Report, paras 2.23–2.25, Figure 1

34 [VMLA004](#), [VMLA0012](#)

35 Q 56

that cases take longer for LAA to process, although LAA explained that calculating the additional cost of processing an ECF scheme case is challenging.<sup>36</sup> In a subsequent letter to the Committee, LAA confirmed that it does not hold data on the time spent administering individual applications. However it estimated that an average ECF scheme case cost £203, almost six times the average cost of a standard application (£34), but only slightly higher than other complex civil applications (£197).<sup>37</sup> On the ECF scheme, LAA told the Committee that it plans to take a more proactive stance in matching ECF applicants with providers.<sup>38</sup> MoJ also confirmed that it was beginning some stakeholder engagement to look at whether the ECF scheme was the right route for these cases, but stated that ultimately any decision to add something back into scope of legal aid was a question of policy.<sup>39</sup>

## Impact of financial eligibility thresholds on access to legal aid

15. Through LASPO MoJ aimed to target legal aid at those who need it most. Aside from scope changes, MoJ can use its financial eligibility criteria to achieve this goal. LAA assesses people’s financial eligibility for legal aid using a means test based on disposable income and capital. LASPO reforms made some changes to financial eligibility criteria, but did not fundamentally change existing thresholds. Neither did they create a mechanism to review financial eligibility thresholds routinely. Since 2009, anyone earning over £31,884 has not been eligible for legal aid for civil cases, unless they are in receipt of certain benefits.<sup>40</sup>

16. Considerable wage inflation means the proportion of the population now eligible for legal aid has fallen. From 2012–13 to 2020–21, the proportion of UK income taxpayers eligible for civil legal aid decreased by 11 percentage points (73% to 62%). There was also a 16 percentage point decrease in those whose gross income made them eligible for legal aid for criminal cases in magistrates’ courts (53% to 37%).<sup>41</sup> Evidence from Commons Law, a specialist criminal defence firm, told us that at present, someone working 40 hours a week at the minimum wage would earn too much to be eligible for support in the magistrates’ court.<sup>42</sup> MoJ told us that its means test review, published in 2023, committed to implementing higher financial eligibility thresholds, which means that more people will be eligible for legal aid. MoJ expects this change to require an additional £25 million a year of legal aid funding.<sup>43</sup>

17. MoJ first announced its means test review in 2019 but the review process has taken several years. MoJ wrote to us in March 2024 explaining that while it had implemented some minor changes identified in the review, such as removing means testing for children, it had delayed implementation of the remaining changes planned for 2025 until 2026.<sup>44</sup> We asked why MoJ was taking so long to implement the changes and how it planned to review and uprate thresholds in the future. MoJ told us that delays were due to the complexity of the policy, which required a “huge amount” of stakeholder consultation,

36 C&AG’s Report, paras 2.25–2.26

37 [Correspondence from Jane Harbottle](#), Chief Executive, Legal Aid Agency, 3 April 2024

38 Q 54

39 Q 57

40 C&AG’s Report, paras 2.2 & 2.6

41 Q 60 ; C&AG’s Report, para 2.6

42 [VMLA0010](#)

43 Q 60

44 [Correspondence from Lord Bellamy KC](#), Parliamentary Under-Secretary of State for Justice, re Legal aid means test review: implementation update, dated 12 March 2024; C&AG’s report, para 2.7 & 2.8

and that there were challenges in updating LAA's digital systems.<sup>45</sup> It also identified competing government priorities such as developing and making changes resulting from the IMA as a contributing factor.<sup>46</sup> MoJ assured the Committee that although the new thresholds are currently based on 2019–20 data, they would be updated for inflation since 2020.<sup>47</sup> MoJ told us that it would consider future reviews once the current changes were complete.<sup>48</sup> It stated that it would not intend for a future review to take as long but that the frequency of reviews was a question for Ministers.<sup>49</sup>

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45 Qq 60, 62

46 [Correspondence from Lord Bellamy KC](#), Parliamentary Under-Secretary of State for Justice, re Legal aid means test review: implementation update, dated 12 March 2024; C&AG's report, para. 2.8

47 Qq 60, 62; C&AG's Report, para. 2.8

48 Q 62

49 Q 61



## 2 Cost effectiveness and sustainability of legal aid

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### Understanding the wider costs of reform

18. When this Committee looked at legal aid in 2015, it noted the lack of analysis MoJ had undertaken of the wider impacts of the reforms on itself and other government departments and stressed that MoJ needed to do more. At the time, MoJ told the Committee that it was not possible to know what the wider impact of the reforms might be outside of the Ministry. However, there were already indications at that time from organisations that costs may have shifted elsewhere. For example, a survey of GPs indicated that GPs had noticed an increase in patients who would have benefited from legal advice on social welfare issues. The number of people representing themselves in court (litigants-in-person) had also increased, but MoJ lacked reliable data on the impact of this on courts.<sup>50</sup>

19. During this inquiry, we asked MoJ what it had done to look at the impact of reducing the scope of legal aid on other parts of government. While MoJ maintained that it is difficult to get an accurate measure of wider costs to the public sector, it acknowledged that it is usually possible to tell if costs have shifted elsewhere. It explained that its post-implementation review of the reforms had identified early legal advice as a “key area of focus” and that it had launched several pilots to better understand the costs and benefits of earlier intervention. It acknowledged that it had “failed fast” in its 2019 pilot – which had aimed to promote early legal advice – due to limited take-up, but stated that it would take lessons from this into future research. MoJ told us that it is working very closely with other departments, such the Department for Health and Social Care and the Department for Levelling Up, Housing and Communities, to identify if earlier intervention would be more beneficial. It agreed that intervening earlier could be a lot cheaper for the system as a whole, if not necessarily for MoJ. We look forward to seeing the outcomes of this work.<sup>51</sup>

20. MoJ had expected that, following LASPO, more people with family law disputes would use mediation instead of court to resolve their disputes. However the number of legally aided mediation assessments (which determine whether a case is suitable for mediation) fell significantly following the reforms.<sup>52</sup> MoJ told us that its mediation voucher scheme, aimed at encouraging family mediation, had “plugged the gap” as last year the number of publicly funded mediation cases was higher than before the pandemic.<sup>53</sup> However MoJ’s statistics show that legally aided family mediation assessments had remained at around 40% below pre-reform levels even by 2022–23. The Family Mediation Council also noted that the number of legally aided family mediation starts had not recovered.<sup>54</sup> Further, MoJ’s analysis of its non-means-tested voucher scheme suggests that only a very small number of people who would have qualified for legal aid had instead used the voucher scheme. So this route would not substantially improve take-up by those who were eligible for legally-aided mediation.<sup>55</sup>

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50 Committee of Public Accounts, [Implementing reforms to civil legal aid](#), Thirty-sixth Report of Session 2014–15, HC 808, 4 February 2015

51 Qq 65–68, 75

52 C&AG’s Report, para 1.19

53 Q 79

54 C&AG’s Report, para 1.19; [VMLA0008](#)

55 C&AG’s Report, Figure 5

21. We asked MoJ and HMCTS what they were doing to improve their understanding of the impact of litigants in person (LIPs) on courts.<sup>56</sup> Following reforms, the number of LIPs in family courts increased significantly. Between January and March 2023, in 40% of family disputes around children both parties were LIPs, an increase from 14% on the same period in 2013.<sup>57</sup> HMCTS told us that cases where both parties do not have a representative take slightly less time than when both parties are represented. However, it acknowledged that its data on LIPs remained very limited. HMCTS has not analysed this since 2018, and the data could not distinguish between a LIP who is very actively involved in their case and one that does not participate.<sup>58</sup> HMCTS explained that cases where only one respondent is legally represented take much longer, which is generally where LIPs are more likely to be active.<sup>59</sup>

### Ensuring a sustainable legal aid market

22. MoJ has been slow to initiate and complete its large-scale reviews of the sustainability of civil and criminal legal aid. Lord Bellamy's review of the criminal legal aid system was published in 2021, eight years after the reforms were introduced. While MoJ has now increased most criminal fees by the minimum 15% recommended in report, it has yet to make some of the recommended changes. Fees paid to civil legal aid providers have not increased since 1996, which means they are approximately half what they were 28 years ago in real terms.<sup>60</sup> This Committee previously highlighted that MoJ reduced the fees paid to civil legal aid providers by 10%, but it did not assess the costs or providing legal aid or model the impact of the changes.<sup>61</sup> MoJ's review of civil legal aid is now underway but will not be completed until July 2024.<sup>62</sup>

23. MoJ told us that the volume of information it has needed to collect from providers, including surveys on profitability, is the main reason that the reviews have taken so long to complete.<sup>63</sup> While MoJ and LAA have collected information on the profitability of providers through these reviews, they do not have routine access to financial data to allow them to assess sustainability issues before they arise.<sup>64</sup>

24. Maintaining a supply of qualified staff in the legal aid sector is crucial to ensuring the sustainability of legal aid. However, providers continue to raise concerns about their ability to train and recruit new staff.<sup>65</sup> Evidence provided by the Law Society described its research which found that low fee rates leave little room for training and recruitment activities and means that practitioners struggle to grow their firms or secure a future pipeline of talent.<sup>66</sup> MoJ acknowledged that recruitment into the sector was an issue. It told us that it was looking at what it could do to reduce barriers to entry into the civil legal aid profession as part of its review of civil legal aid and that the Criminal Legal Aid

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56 Q 70

57 C&AG's Report para 1.15

58 C&AG's Report para 1.17, Q77

59 Qq 77–78

60 C&AG's Report, para 3.9

61 Committee of Public Accounts, [Implementing reforms to civil legal aid](#), Thirty-sixth Report of Session 2014–15, HC 808, 4 February 2015

62 Qq 81–83

63 Qq 81–84

64 C&AG's Report para 3.6

65 C&AG's Report, para 3.13

66 [VMLA0002](#)

Advisory Board (CLAAB) will help to monitor the number of crime practitioners.<sup>67</sup> It also assured us that the CLAAB would keep criminal legal aid fees in view and could consider Lord Bellamy's recommendation that there should be a mechanism for uprating fees on an annual basis. However, MoJ has not yet set out any arrangements for reviewing civil legal aid fees.<sup>68</sup>

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67 Q 91

68 Q 85

# Formal minutes

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**Monday 20 May 2024**

## **Members present**

Sir Geoffrey Clifton-Brown, in the Chair

Olivia Blake

Mr Jonathan Djanogly

Mr Mark Francois

Richard Fuller

Peter Grant

Ms Marie Rimmer

## **Declaration of interests**

The following declarations of interest relating to the inquiry was made:

25 March 2024

Olivia Blake declared the following interest: Co-Chair of the APPG on Migration and a recipient of research support provided by the Refugee, Asylum and Migration Project, of which she is a Principal.

## **Value for money from legal aid**

Draft Report (*Value for money from legal aid*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 24 read and agreed to.

Summary agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

*Resolved*, That the Report be the Thirty-third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

## **Adjournment**

Adjourned till Thursday 23 May at 10.30 a.m.

# Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Monday 25 March 2024

**Antonia Romeo**, Permanent Secretary, Ministry of Justice; **Jerome Glass**, Director General Policy and Strategy Group, Ministry of Justice; **Jane Harbottle**, CEO, Legal Aid Agency; **Jason Latham**, Development Director, HM Courts and Tribunals Service

[Q1-91](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

VMLA numbers are generated by the evidence processing system and so may not be complete.

- 1 Anti Trafficking and Labour Exploitation Unit (ATLEU) ([VMLA0012](#))
- 2 CILEX ([VMLA0006](#))
- 3 Child Poverty Action Group ([VMLA0013](#))
- 4 Commons Law CIC ([VMLA0010](#))
- 5 Curran, Dr Liz (Nottingham Law School, Nottingham Trent University) ([VMLA0001](#))
- 6 Family Mediation Council ([VMLA0008](#))
- 7 Gaskell, Mr Mark (Solicitor/Legal Consultant, MG Legal Solutions Limited) ([VMLA0007](#))
- 8 Independent Provider of Special Education Advice (IPSEA) ([VMLA0005](#))
- 9 Immigration Law Practitioners' Association (ILPA) ([VMLA0003](#))
- 10 Law Centres Network ([VMLA0015](#))
- 11 Public Law Project ([VMLA0004](#))
- 12 Riaz, Ayesha (University of Greenwich) ([VMLA0014](#))
- 13 The Bar Council ([VMLA0017](#))
- 14 The Centre for Public Data ([VMLA0018](#))
- 15 The Law Society of England and Wales ([VMLA0002](#))
- 16 The Legal Services Board (LSB) ([VMLA0016](#))
- 17 Wilding, Dr Jo (Lecturer in Law, University of Sussex) ([VMLA0009](#))
- 18 Wilson Solicitors LLP ([VMLA0011](#))

# List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

## Session 2023–24

Number	Title	Reference
1st	The New Hospital Programme	HC 77
2nd	The condition of school buildings	HC 78
3rd	Revising health assessments for disability benefits	HC 79
4th	The Department for Work & Pensions Annual Report and Accounts 2022–23	HC 290
5th	Government's programme of waste reforms	HC 333
6th	Competition in public procurement	HC 385
7th	Resilience to flooding	HC 71
8th	Improving Defence Inventory Management	HC 66
9th	Whole of Government Accounts 2020–21	HC 65
10th	HS2 and Euston	HC 67
11th	Reducing the harm from illegal drugs	HC 72
12th	Cross-government working	HC 75
13th	Preparedness for online safety regulation	HC 73
14th	Homes for Ukraine	HC 69
15th	Managing government borrowing	HC 74
16th	HMRC performance in 2022–23	HC 76
17th	Cabinet Office functional savings	HC 423
18th	Excess Votes 2022–23	HC 589
19th	MoD Equipment Plan 2023–2033	HC 451
20th	Monitoring and responding to companies in distress	HC 425
21st	Levelling up funding to local government	HC 424
22nd	Reforming adult social care in England	HC 427
23rd	Civil service workforce: Recruitment, pay and performance management	HC 452
24th	NHS Supply Chain and efficiencies in procurement	HC 453
25th	Scrutiny of sound financial practice across Government	HC 673
26th	The BBC's implementation of Across the UK	HC 426
27th	Government resilience: extreme weather	HC 454
28th	Student loans issued to those studying at franchised higher education providers	HC 455

29th	Progress in implementing Universal Credit	HC 458
30th	Non-executive appointments	HC 460
31st	Department of Health and Social Care 2022–23 Annual Report and Accounts	HC 459
32nd	Delivering value from government investment in major projects	HC 456
1st Special Report	Eighth Annual Report of the Chair of the Committee of Public Accounts	HC 628

### Session 2022–23

Number	Title	Reference
1st	Department for Business, Energy & Industrial Strategy Annual Report and Accounts 2020–21	HC 59
2nd	Lessons from implementing IR35 reforms	HC 60
3rd	The future of the Advanced Gas-cooled Reactors	HC 118
4th	Use of evaluation and modelling in government	HC 254
5th	Local economic growth	HC 252
6th	Department of Health and Social Care 2020–21 Annual Report and Accounts	HC 253
7th	Armoured Vehicles: the Ajax programme	HC 259
8th	Financial sustainability of the higher education sector in England	HC 257
9th	Child Maintenance	HC 255
10th	Restoration and Renewal of Parliament	HC 49
11th	The rollout of the COVID-19 vaccine programme in England	HC 258
12th	Management of PPE contracts	HC 260
13th	Secure training centres and secure schools	HC 30
14th	Investigation into the British Steel Pension Scheme	HC 251
15th	The Police Uplift Programme	HC 261
16th	Managing cross-border travel during the COVID-19 pandemic	HC 29
17th	Government's contracts with Randox Laboratories Ltd	HC 28
18th	Government actions to combat waste crime	HC 33
19th	Regulating after EU Exit	HC 32
20th	Whole of Government Accounts 2019–20	HC 31
21st	Transforming electronic monitoring services	HC 34
22nd	Tackling local air quality breaches	HC 37
23rd	Measuring and reporting public sector greenhouse gas emissions	HC 39
24th	Redevelopment of Defra's animal health infrastructure	HC 42



<b>Number</b>	<b>Title</b>	<b>Reference</b>
25th	Regulation of energy suppliers	HC 41
26th	The Department for Work and Pensions' Accounts 2021–22 – Fraud and error in the benefits system	HC 44
27th	Evaluating innovation projects in children's social care	HC 38
28th	Improving the Accounting Officer Assessment process	HC 43
29th	The Affordable Homes Programme since 2015	HC 684
30th	Developing workforce skills for a strong economy	HC 685
31st	Managing central government property	HC 48
32nd	Grassroots participation in sport and physical activity	HC 46
33rd	HMRC performance in 2021–22	HC 686
34th	The Creation of the UK Infrastructure Bank	HC 45
35th	Introducing Integrated Care Systems	HC 47
36th	The Defence digital strategy	HC 727
37th	Support for vulnerable adolescents	HC 730
38th	Managing NHS backlogs and waiting times in England	HC 729
39th	Excess Votes 2021–22	HC 1132
40th	COVID employment support schemes	HC 810
41st	Driving licence backlogs at the DVLA	HC 735
42nd	The Restart Scheme for long-term unemployed people	HC 733
43rd	Progress combatting fraud	HC 40
44th	The Digital Services Tax	HC 732
45th	Department for Business, Energy & Industrial Strategy Annual Report and Accounts 2021–22	HC 1254
46th	BBC Digital	HC 736
47th	Investigation into the UK Passport Office	HC 738
48th	MoD Equipment Plan 2022–2032	HC 731
49th	Managing tax compliance following the pandemic	HC 739
50th	Government Shared Services	HC 734
51st	Tackling Defra's ageing digital services	HC 737
52nd	Restoration & Renewal of the Palace of Westminster – 2023 Recall	HC 1021
53rd	The performance of UK Security Vetting	HC 994
54th	Alcohol treatment services	HC 1001
55th	Education recovery in schools in England	HC 998
56th	Supporting investment into the UK	HC 996
57th	AEA Technology Pension Case	HC 1005
58th	Energy bills support	HC 1074

<b>Number</b>	<b>Title</b>	<b>Reference</b>
59th	Decarbonising the power sector	HC 1003
60th	Timeliness of local auditor reporting	HC 995
61st	Progress on the courts and tribunals reform programme	HC 1002
62nd	Department of Health and Social Care 2021–22 Annual Report and Accounts	HC 997
63rd	HS2 Euston	HC 1004
64th	The Emergency Services Network	HC 1006
65th	Progress in improving NHS mental health services	HC 1000
66th	PPE Medpro: awarding of contracts during the pandemic	HC 1590
67th	Child Trust Funds	HC 1231
68th	Local authority administered COVID support schemes in England	HC 1234
69th	Tackling fraud and corruption against government	HC 1230
70th	Digital transformation in government: addressing the barriers to efficiency	HC 1229
71st	Resetting government programmes	HC 1231
72nd	Update on the rollout of smart meters	HC 1332
73rd	Access to urgent and emergency care	HC 1336
74th	Bulb Energy	HC 1232
75th	Active travel in England	HC 1335
76th	The Asylum Transformation Programme	HC 1334
77th	Supported housing	HC 1330
78th	Resettlement support for prison leavers	HC 1329
79th	Support for innovation to deliver net zero	HC 1331
80th	Progress with Making Tax Digital	HC 1333
1st Special Report	Sixth Annual Report of the Chair of the Committee of Public Accounts	HC 50
2nd Special Report	Seventh Annual Report of the Chair of the Committee of Public Accounts	HC 1055

### Session 2021–22

<b>Number</b>	<b>Title</b>	<b>Reference</b>
1st	Low emission cars	HC 186
2nd	BBC strategic financial management	HC 187
3rd	COVID-19: Support for children's education	HC 240
4th	COVID-19: Local government finance	HC 239
5th	COVID-19: Government Support for Charities	HC 250

<b>Number</b>	<b>Title</b>	<b>Reference</b>
6th	Public Sector Pensions	HC 289
7th	Adult Social Care Markets	HC 252
8th	COVID 19: Culture Recovery Fund	HC 340
9th	Fraud and Error	HC 253
10th	Overview of the English rail system	HC 170
11th	Local auditor reporting on local government in England	HC 171
12th	COVID 19: Cost Tracker Update	HC 173
13th	Initial lessons from the government's response to the COVID-19 pandemic	HC 175
14th	Windrush Compensation Scheme	HC 174
15th	DWP Employment support	HC 177
16th	Principles of effective regulation	HC 176
17th	High Speed 2: Progress at Summer 2021	HC 329
18th	Government's delivery through arm's-length bodies	HC 181
19th	Protecting consumers from unsafe products	HC 180
20th	Optimising the defence estate	HC 179
21st	School Funding	HC 183
22nd	Improving the performance of major defence equipment contracts	HC 185
23rd	Test and Trace update	HC 182
24th	Crossrail: A progress update	HC 184
25th	The Department for Work and Pensions' Accounts 2020–21 – Fraud and error in the benefits system	HC 633
26th	Lessons from Greensill Capital: accreditation to business support schemes	HC 169
27th	Green Homes Grant Voucher Scheme	HC 635
28th	Efficiency in government	HC 636
29th	The National Law Enforcement Data Programme	HC 638
30th	Challenges in implementing digital change	HC 637
31st	Environmental Land Management Scheme	HC 639
32nd	Delivering gigabitcapable broadband	HC 743
33rd	Underpayments of the State Pension	HC 654
34th	Local Government Finance System: Overview and Challenges	HC 646
35th	The pharmacy early payment and salary advance schemes in the NHS	HC 745
36th	EU Exit: UK Border post transition	HC 746
37th	HMRC Performance in 2020–21	HC 641
38th	COVID-19 cost tracker update	HC 640

<b>Number</b>	<b>Title</b>	<b>Reference</b>
39th	DWP Employment Support: Kickstart Scheme	HC 655
40th	Excess votes 2020–21: Serious Fraud Office	HC 1099
41st	Achieving Net Zero: Follow up	HC 642
42nd	Financial sustainability of schools in England	HC 650
43rd	Reducing the backlog in criminal courts	HC 643
44th	NHS backlogs and waiting times in England	HC 747
45th	Progress with trade negotiations	HC 993
46th	Government preparedness for the COVID-19 pandemic: lessons for government on risk	HC 952
47th	Academies Sector Annual Report and Accounts 2019/20	HC 994
48th	HMRC's management of tax debt	HC 953
49th	Regulation of private renting	HC 996
50th	Bounce Back Loans Scheme: Follow-up	HC 951
51st	Improving outcomes for women in the criminal justice system	HC 997
52nd	Ministry of Defence Equipment Plan 2021–31	HC 1164
1st Special Report	Fifth Annual Report of the Chair of the Committee of Public Accounts	HC 222

### Session 2019–21

<b>Number</b>	<b>Title</b>	<b>Reference</b>
1st	Support for children with special educational needs and disabilities	HC 85
2nd	Defence Nuclear Infrastructure	HC 86
3rd	High Speed 2: Spring 2020 Update	HC 84
4th	EU Exit: Get ready for Brexit Campaign	HC 131
5th	University technical colleges	HC 87
6th	Excess votes 2018–19	HC 243
7th	Gambling regulation: problem gambling and protecting vulnerable people	HC 134
8th	NHS capital expenditure and financial management	HC 344
9th	Water supply and demand management	HC 378
10th	Defence capability and the Equipment Plan	HC 247
11th	Local authority investment in commercial property	HC 312
12th	Management of tax reliefs	HC 379
13th	Whole of Government Response to COVID-19	HC 404
14th	Readying the NHS and social care for the COVID-19 peak	HC 405

<b>Number</b>	<b>Title</b>	<b>Reference</b>
15th	Improving the prison estate	HC 244
16th	Progress in remediating dangerous cladding	HC 406
17th	Immigration enforcement	HC 407
18th	NHS nursing workforce	HC 408
19th	Restoration and renewal of the Palace of Westminster	HC 549
20th	Tackling the tax gap	HC 650
21st	Government support for UK exporters	HC 679
22nd	Digital transformation in the NHS	HC 680
23rd	Delivering carrier strike	HC 684
24th	Selecting towns for the Towns Fund	HC 651
25th	Asylum accommodation and support transformation programme	HC 683
26th	Department of Work and Pensions Accounts 2019–20	HC 681
27th	Covid-19: Supply of ventilators	HC 685
28th	The Nuclear Decommissioning Authority's management of the Magnox contract	HC 653
29th	Whitehall preparations for EU Exit	HC 682
30th	The production and distribution of cash	HC 654
31st	Starter Homes	HC 88
32nd	Specialist Skills in the civil service	HC 686
33rd	Covid-19: Bounce Back Loan Scheme	HC 687
34th	Covid-19: Support for jobs	HC 920
35th	Improving Broadband	HC 688
36th	HMRC performance 2019–20	HC 690
37th	Whole of Government Accounts 2018–19	HC 655
38th	Managing colleges' financial sustainability	HC 692
39th	Lessons from major projects and programmes	HC 694
40th	Achieving government's long-term environmental goals	HC 927
41st	COVID 19: the free school meals voucher scheme	HC 689
42nd	COVID-19: Government procurement and supply of Personal Protective Equipment	HC 928
43rd	COVID-19: Planning for a vaccine Part 1	HC 930
44th	Excess Votes 2019–20	HC 1205
45th	Managing flood risk	HC 931
46th	Achieving Net Zero	HC 935
47th	COVID-19: Test, track and trace (part 1)	HC 932
48th	Digital Services at the Border	HC 936

<b>Number</b>	<b>Title</b>	<b>Reference</b>
49th	COVID-19: housing people sleeping rough	HC 934
50th	Defence Equipment Plan 2020–2030	HC 693
51st	Managing the expiry of PFI contracts	HC 1114
52nd	Key challenges facing the Ministry of Justice	HC 1190
53rd	Covid 19: supporting the vulnerable during lockdown	HC 938
54th	Improving single living accommodation for service personnel	HC 940
55th	Environmental tax measures	HC 937
56th	Industrial Strategy Challenge Fund	HC 941