

Director of Legal Aid Casework Annual Report 2023-2024

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Report presented to the Northern Ireland Assembly pursuant to section 5 (4) of the Legal Aid and Coroners' Courts (Northern Ireland) Act 2014.



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Foreword

I am pleased to present the ninth Annual Report of the Director of Legal Aid Casework for 2023-2024.

I have held the roles of Director of Legal Aid Casework and Chief Executive of the Legal Services Agency since 1 April 2015 when the Legal Services Agency was formed, and the role of Director was created under the Legal Aid and Coroners' Courts (Northern Ireland) Act 2014.

The role involves decision-making on individual applications for Civil Legal Services and ensuring that the decision-making process remains independent from Government, budgetary or other external considerations.

This report summarises the work carried out on behalf of the Director of Legal Aid Casework. It details the decisions made, the processes followed and the mechanisms that exist for holding the Director of Legal Aid Casework to account.



Paul Andrews
Director of Legal Aid Casework

Introduction

1. The Director of Legal Aid Casework (the Director) is designated by the Department of Justice (the Department) under section 2 of the Legal Aid and Coroners' Courts (Northern Ireland) Act 2014 (the Act). The role of the Director is to make determinations on applications for Civil Legal Services in individual cases. Criminal legal aid is granted by the courts.
2. The Director acts independently from the Minister and the Department. A range of processes and structures are in place within the Legal Services Agency (the Agency) to ensure this independence is maintained. These are set out in this report.
3. In practice, many of the functions exercised by the Director are delegated to the staff within the Agency under section 3 of the Act. The suite of delegations was revised during 2023/2024. These arrangements are set out in more detail in this report.
4. The roles of Director and Chief Executive of the Agency may be held by the same person. Different accountability and reporting arrangements have been established for the two roles and are detailed in the Agency's Framework Document. From the establishment of the Agency in April 2015 both roles have been held by Paul Andrews.
5. This report explains how the Director has carried out the functions specifically conferred on him under the Act during 2023-2024. The Agency separately published its [Annual Report and Accounts 2023-2024](#) which covers its wider remit.

Interaction with the Department

6. Under the Act, the Department may issue directions and guidance to the Director about how to carry out his functions. However, the Department must not issue such directions or guidance about the carrying out of the Director's functions in relation to an individual case. The Director must comply with any directions given and have regard to any guidance issued.
7. During 2023/2024 the Department did not issue any new directions or guidance to the Director or amend existing directions or guidance. All directions and guidance issued to the Director are available at [Guidance and Directions](#).
8. While there was no Minister in post until January 2024, when the Director met the Minister on 1 July 2024, he confirmed there had been no attempts to influence decisions brought to his attention throughout the year.

The Decision-Making Structure

9. To ensure decisions are made independently and consistently, a robust organisational structure with several review mechanisms is in place.

10. In accordance with the Director's Delegations, revised during 2023/2024, decisions on individual cases are made by caseworkers in in the Operations Directorate:
 - *Civil Determinations* - determining the financial eligibility of applicants as well as assessing the legal merits of applications for Civil Legal Services against the statutory criteria;

 - *Appeals and Reviews* - carrying out internal reviews on decisions to refuse Civil Legal Services for Representation (Higher Courts) and organising the listing of appeals to the Independent Appeals Panels and conveying their decisions to the applicant; and

 - *Exceptional Funding* – considering applications for funding applications which fall outside Civil Legal Services, typically inquests.

11. Throughout the year, the Agency continued to review and revise its processes, to develop guidance and deliver training for practitioners to enhance the effectiveness and efficiency of these processes.

Appeals and Reviews

12. Where an individual disagrees with the Director's determination on the merits of an application for representation (higher) they can appeal against the refusal. Appeals can be considered by an internal review process which can uphold the original decision or grant funding.
13. Subject to any internal review, the appeal will be considered by an independent Appeals Panel; comprising of a legally qualified Presiding Member and two other members, at least one of whom will also be legally qualified. The Panel considers appeals on the papers, but may in exceptional circumstances, permit oral representations. The decision of the Appeals Panel is binding on the Director.
14. The Agency engages with the Presiding Members to review the workload and the timeliness of decision-making, as well as gathering any learning points for the Agency. The Agency holds in-year seminars with the Presiding Members to consider a range of practical issues and provide topic training. The Appeals Panel sat on 53 occasions during 2023/2024.
15. If a client is dissatisfied with the final determination following an appeal, then the only recourse left is litigation.
16. Appeals Panel members are appointed by the Minister through the public appointments process.

17. There are separate internal reviews for refusals of representation (lower) and advice and assistance.
18. Details of the applications received and those granted, together with the number and outcome of appeals are set out in **Annex A**.

Litigation

19. Another avenue of redress which can be used to hold the Director to account is litigation in the courts, where the Director's decision-making, (or that of the independent appeals panel) can be challenged by way of judicial review. No material challenges by way of judicial review were brought in 2023/2024 in respect of the role of the Director.

Accountability

20. There have been no changes to the way the Director's function is open to public scrutiny.

Assembly Questions and Freedom of Information Requests

21. Five Assembly Questions were tabled in relation to the functions of the Director since the Assembly was restored in January 2024. In the main the questions were focused on the budget for legal aid generally.

22. Throughout the year, 27 requests for information under the Freedom of Information Act 2000 were received relating to the Director's functions. Most of these requests related to total legal aid paid in specific cases, internal processes within the Agency and data requests.

23. A total of 17 subject access requests for personal data were made under the Data Protection Act 2018. These requests were made by legal aid applicants and related to information on the determinations on the grant of Civil Legal Services made by the Agency.

24. Information about an individual legal aid client is likely to be personal data and can only be released where the case meets the criteria set out within the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018.

Complaints

25. The Agency has an internal complaints procedure with an onward appeal to the Northern Ireland Public Services Ombudsman.
26. Every complaint is investigated under the Northern Ireland Civil Service two tier complaints procedure. The initial complaint gives the Agency the opportunity to review the way the matter was handled at a local level and put the situation right if possible.
27. Should the individual or legal aid provider be dissatisfied with this engagement they can escalate their complaint to Stage 2 where it will be routinely reviewed by a Director, or if appropriate the Chief Executive. If the complainant is still dissatisfied, they can refer the matter to the Northern Ireland Public Services Ombudsman under the Public Services Ombudsman Act (Northern Ireland) 2016.
28. The Ombudsman's Office dealt with one complaint about the Director's functions in 2023-2024 but did not require the Agency to take any action.
29. During 2023-2024, 11 complaints were received. The Agency does not separately record complaints which relate specifically to the remit of the Director; however, a significant proportion of all complaints received by the Agency relate to individual cases and casework decisions.

Statistics

30. Civil Legal Services provides funding for a wide range of issues and court proceedings. The main areas of business are family matters (including proceedings relating to children), personal injury claims, bail applications, and advice at police stations in criminal matters.
31. The Agency has published [Official Statistics for 2023/2024](#) setting out the volume of business transacted as part of civil legal services and criminal cases.
32. During 2023-2024, the Agency received a total of 26,581 applications for civil legal services with 19,621 applications granted¹. This represented a decrease of 565 (or 3%) compared to the 20,186 civil applications granted in 2022-2023.

¹ Figures presented in Para 32 exclude criminal Advice and Assistance (PACE). Historically, counts of Advice and Assistance applications / grants have not distinguished between PACE (criminal) and non-PACE (civil), so figures will now appear to be lower.

Equality and Diversity

33. The Agency complies with NICS and Departmental policy to ensure that all eligible persons will have equal opportunity for employment and advancement. The Agency is committed to ensuring that the workplace is free from all forms of bullying, harassment, discrimination, and victimisation.

34. The Agency aims to provide opportunities for all sections of the community and continues to strive to create an inclusive working environment in which difference is recognised and valued.

35. The Agency's stated values and behaviours reflect these commitments.

Conclusion

36. The Agency made significant strides in improving the timelines for decision making and hearing appeals during the year. This was achieved with the commitment and resourcefulness of Agency staff through a combination of home and office-based working. The Agency has moved into 2024/2025 with significant improvements in the timeliness of decisions across all business lines.
37. I acknowledge the close working relationship with the Law Society and Bar throughout the year.
38. A copy of this report has been sent to the Department in accordance with section 5(3) of the Act. The Department has laid a copy of the report before the Northern Ireland Assembly in accordance with section 5(4) of the Act.

Annex A

Civil Legal Services (Representation Higher) Appeals and Outcomes 2023-24

	2023/2024	2022/2023	2021/2022
Appeals lodged	524	610	864
Appeals withdrawn	147	193	222
Appeals heard	372	390	584
Appeals allowed (full or in part)	136	206	333

Note:

When considering the appeals lodged vs appeals heard please be aware that some appeals lodged in-year are not necessarily listed or considered until the following year.