



Ministry
of Justice



Legal Aid
Agency

Ad hoc Management Information

Legal Aid Exceptional Case Funding
Application and Determination:
1 April 2014 to 30 June 2014

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Executive Summary

This publication provides information and data on legal aid Exceptional Case Funding (ECF) applications and determinations made under Clause 10 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO).

This publication covers all applications from 1 April 2014 to 30 June 2014 and determinations relating to these made on or before 30 June 2014. The data has been extracted from a live administrative database on 30 June 2014, and as such the information is subject to revisions. The extract taken for the official statistics will be on 31 August 2014 and so although the number of applications will remain the same, more cases will have a determination outcome.

The key points are:

Applications

- 270 ECF applications were received by the Legal Aid Agency (LAA) between 1 April 2014 and 30 June 2014. Of these:
- 209 were new applications and
- 61 were requests to review an earlier determination (see figure 1);
- Of the total ECF applications, family, inquest and immigration were the most requested categories of law (see figure 2);
- 12 ECF applications were made directly by the client, without solicitors formally submitting applications on their behalf. The remaining 258 applications were made by Legal Aid providers.

Determinations

- Determinations relate to the applications received between 1 April 2014 and 30 June 2014 and include all determinations made on or before 30 June 2014.
- 211 ECF applications were determined by the LAA with a further 59 waiting to be assessed as at 30 June 2014 (see figure 3);
- There were 21 ECF applications granted (see figure 4).

This ad hoc management information has been provided at this time to comply with a court order. Future updates of this information will be incorporated in the quarterly Legal Aid Official Statistics publications.

Introduction

Clause 10 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) introduced the practice of applying for Exceptional Case Funding (ECF) from 1 April 2013.

An ECF application for civil legal services is made where a case falls outside the scope of legal aid but the client or conducting solicitor believes there is evidence to support there being a requirement to provide funding because failure to do so would be a breach of, or having regard to any risk that failure to do so would be such a breach of, their Convention rights (within the meaning of the Human Rights Act 1998), or any rights of the individual to the provision of legal services that are enforceable EU rights.

An ECF determination can only be granted if:

- the above exceptional case criteria are met, and
- the relevant criteria set out in the Civil Legal Aid (Merits Criteria) Regulations are met, and
- the relevant criteria set out in the Civil Legal Aid (Financial Resources and Payment for Services) Regulations are met

Part 8 of the Civil Legal Aid (Procedure) Regulations 2012 informs that there are particular exceptions that apply to the procedures of ECF. There is no appeal provision; only a right to an internal review, there is no emergency provision, or delegated functions. There is however a provision that allows an ECF determination to take effect from a date earlier than the actual date of the determination.

Unlike other legal aid applications, Clients can make ECF applications directly to the Legal Aid Agency (LAA). If the ECF application sent directly by the Client is likely to be granted their application is given a Positive Preliminary View, subject to a full ECF Application being submitted in conjunction with a legal aid provider.

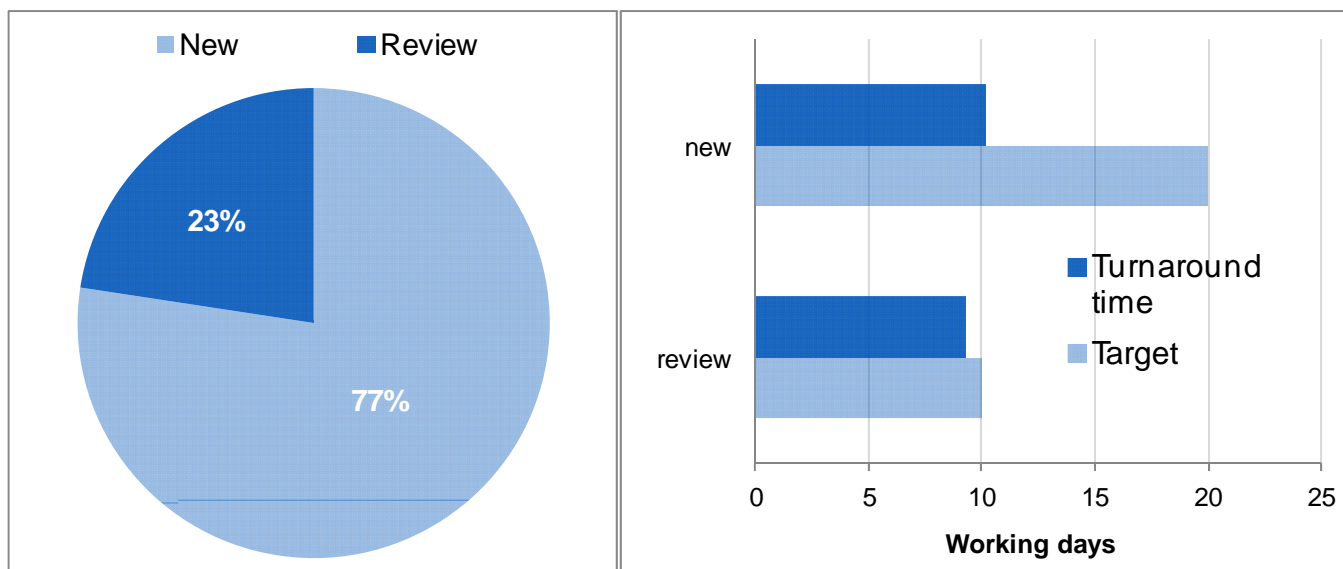
The Director of Legal Aid Casework determines which individual qualifies for services in accordance with the Act. To ensure that decisions are made independently and in accordance with the relevant legal aid legislation, the Director has put in place a robust organisational structure within the LAA. The LAA ECF Team was set up to assess ECF applications made under Clause 10 of LASPO from 1 April 2013.

This publication presents information on the number of ECF applications from 1 April 2014 to 30 June 2014 and determinations relating to these made on or before 2 July 2014.

Applications

The majority of ECF applications were new (77%). The average turnaround time for assessing new ECF applications during April 2013 to March 2014 was ten working days. There were 61 applications for review; for these the average turnaround time was nine working days (see figure 1).

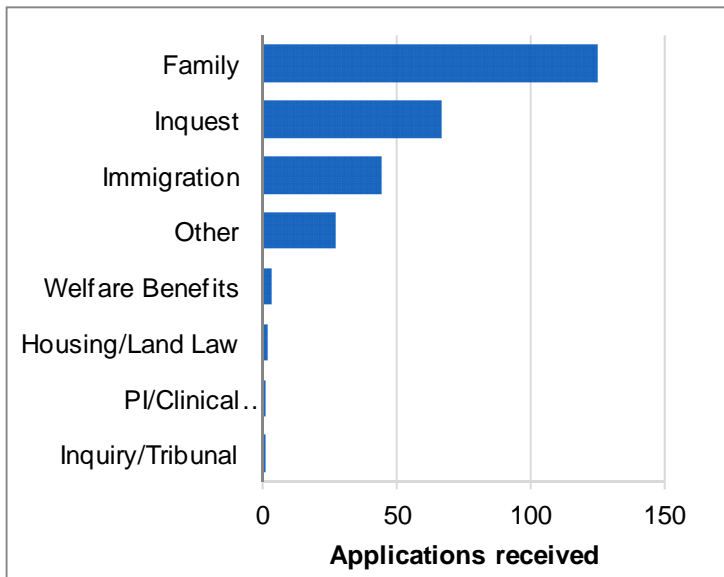
Figure 1: ECF applications (new or review) and turnaround time, April to June 2014.



Note: the turnaround time averages given above exclude cases currently awaiting assessment. The turnaround time for each ECF application starts on the date it is received by the LAA ECF Team and finishes when the case has been dealt with.

Of the total ECF applications, family, inquest and immigration were the most requested categories of law. There were 125 applications in the family category, 67 applications in the inquest category and 44 applications in the immigration category (see figure 2)

Figure 2: ECF applications received by category of law, April to March 2014.

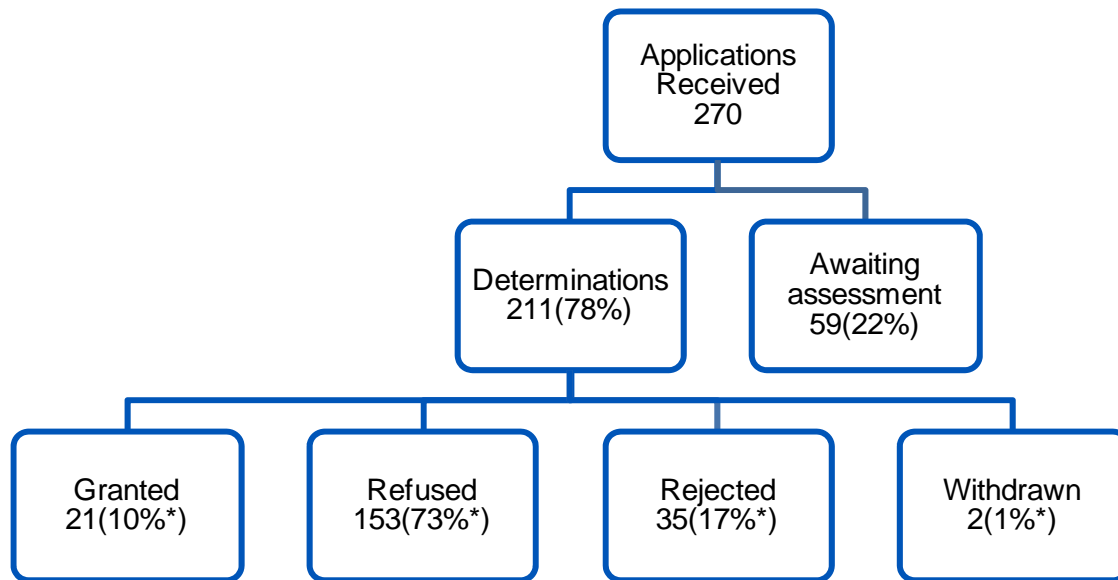


12 ECF applications (4%) were made directly by the client, without solicitors formally submitting applications on their behalf. ECF applications are the only legal aid applications that can be submitted directly by a client. The remaining 258 applications (96%) were made by Legal Aid providers.

Determinations

211 ECF applications were determined by the LAA with a further 59 awaiting assessment as at 30 June 2014. 21 (10%) of determinations were granted and 153 (73%) were refused (see figure 3). Two thirds of all applications granted were for inquest category cases (see figure 4).

Figure 3: Assessment of ECF applications received and determinations made, April to June 2014.



*as a percentage of determinations

Figure 4: ECF applications received, by category of law and by determination, April to March 2014.

Area of Law	Positive Preliminary						Total
	View	Awaiting	Granted	Refused	Rejected	Withdrawn	
Family	0	24	4	79	16	2	125
Inquest	0	18	14	27	8	0	67
Immigration	0	14	3	23	4	0	44
Other	0	2	0	18	7	0	27
Welfare Benefits	0	0	0	3	0	0	3
Housing/Land Law	0	1	0	1	0	0	2
Inquiry/Tribunal	0	0	0	1	0	0	1
PI/Clinical Negligence	0	0	0	1	0	0	1
Total	0	59	21	153	35	2	270

Glossary

For the purpose of this publication the following terms are used:

Determinations - this is the decision taken on an ECF application by the LAA ECF Team. Decision results are to either Positive Preliminary View, Grant, Refuse or Reject an application. Positive Preliminary View is only viable on ECF applications made directly by the client, prior to a full ECF Application being received in conjunction with a Legal Aid provider. An ECF application can only be granted if:

the exceptional case criteria are met, and

the relevant criteria set out in the Civil Legal Aid (Merits Criteria) Regulations are met, and

the relevant criteria set out in the Civil Legal Aid (Financial Resources and Payment for Services) Regulations are met.

ECF application – an ECF application for civil legal services is made where a case falls outside the scope of legal aid but the client or conducting solicitor believes there is evidence to support there being a requirement to provide funding because failure to do so would be a breach of, or having regard to any risk that failure to do so would be such a breach of, their Convention rights (within the meaning of the Human Rights Act 1998), or any rights of the individual to the provision of legal services that are enforceable EU rights.

New applications – this is the first application in relation to a particular set of proceedings.

Refuse – The application was assessed by the LAA ECF Team and the determination is to Refuse. ECF criteria were not met, so the application is refused with details for refusal provided.

Reject – The application was assessed by the LAA ECF Team and the determination is to Reject. Either the application was in scope for a non exceptional legal aid application, or not enough information has been provided in the application to make a determination, so the application is rejected with details for rejection provided.

Review applications – this relates to a request for an internal review of a determination previously made by the LAA ECF team.

Further details relating to Exceptional Cases can be found at:

www.justice.gov.uk/legal-aid/funding/exceptional-cases-funding

Data Quality and Limitations

There are a number of issues for users to be aware of when considering this information:

- The data has been extracted from a live administrative database on 30 June 2014, and as such the information is subject to revisions. Extracts taken at a later date will result in a greater proportion of cases being determined and a more complete data set. For this reason, this data is management information, not an official statistics publication.
- Results published in this release may differ from those already published and future publications may also reflect subsequent revisions made;
- Figures may vary from previously published figures for a number of reasons, including:
 - revision to the administrative system, including applications being entered onto the system outside of the month they were logged;
 - review following possible litigation.

Contacts

Press enquiries should be directed to the Ministry of Justice press office:

Tel: 020 3334 3536

Email: newsdesk@justice.gsi.gov.uk

Other enquiries about these statistics should be directed to the Legal Aid Statistics team:

Chandni Lakhani

Legal Aid Agency

7th floor

102 Petty France

London

SW1H 9AJ

Tel: 020 3334 3382

Email: statistics@legalaid.gsi.gov.uk

General enquiries about the statistical work of the Ministry of Justice can be e-mailed to:
statistics.enquiries@justice.gsi.gov.uk

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