

What are the current barriers to accessing civil legal assistance? Can you give examples from your own experience, or refer to any research in this area?

Women, children and young people experiencing domestic abuse should receive free specialist legal advice and support they need, at the time they need it. They should be confident of getting protection against their abuser from the justice system, at all stages.

Women's poverty has a considerable impact on their ability to pay for legal services. They may have little or no access to household income or assets. Women earn less than men, and women are more likely to be in lower paid, part-time or insecure employment. As women access legal aid more than men,¹ women and children and young people experiencing domestic abuse are disproportionately affected. They will often need to access legal aid across a range of actions, including child contact and residence, divorce and protective orders.

Publicly funded legal assistance for legal advice and representation can be difficult to access and is often non-existent. Even if women and children can find a solicitor, they can get an inconsistent and piecemeal legal service. Victim-survivors often cannot source adequate, domestic abuse-competent advice and support for their most basic legal needs.

Remote and rural women's experiences

Women living in remote or rural parts of Scotland face even greater challenges in accessing legal aid solicitors.² Access to face-to-face support is limited by geography, access to transport, and local firms offering legal aid are often small with limited capacity, if they exist.³ Women also face the challenge of local providers representing the abusing partner, leaving the woman to source solicitors in other parts of the country, at increased time and cost to them.

Post-separation economic abuse can be perpetrated against victim-survivors through the legal system

Economic abuse can commence, continue or escalate post-separation and be facilitated through abusive litigation. Abusive (ex)partners will purposely delay legal proceedings, refuse to settle, and maliciously litigate against their ex-partner for the sole purpose of exerting continued power and control over the victim-survivor and their children; indeed, 95-99% of women who experience domestic abuse experience a form of economic abuse.⁴

¹ *Scottish Legal Aid Board Annual Report 2023-2024*, Appendix 7. Available from <https://www.slab.org.uk/app/uploads/2025/03/SLAB-Annual-Report-2023-24-Appendix-7-Age-and-sex-profiles-of-legal-aid-applications.pdf>

² A recent, high-profile example - *Divorce case turned down by 116 legal aid lawyers*, BBC News, 5/02/2025. Available from <https://www.bbc.co.uk/news/articles/cpd5x5qjyw25o>

³ Call for Evidence in relation to the Independent Strategic Review of Legal Aid 2017, Shetland Women's Aid. Available from

<https://webarchive.nrscotland.gov.uk/20180114003334/http://www.gov.scot/Publications/2017/06/2547/downloads#res521019>

⁴ *Surviving Economic Abuse (2020). Recognising and responding to the scale of coerced debt* p8. Available at: https://survivingeconomicabuse.org/wp-content/uploads/2020/11/SEA-EJP-Evaluation-Framework_112020-22.pdf

Do you have any suggestions for shorter-term improvements (not involving changes to the Legal Aid (Scotland) Act 1986) which could be made to the current system for civil legal assistance?

Is grant funding from the Scottish Legal Aid Board helping to support access to justice? Can you provide examples of any successes or problems with this funding stream?

See our response to question regarding the Evans Review.

What do you think are the strengths and weaknesses of the current system for providing civil legal assistance?

What do you think would be the strengths and weaknesses of reforming civil legal assistance along the lines recommended in the Evans Review (“Rethinking Legal Aid”, 2018)?

The Evans Review contains several recommendations we broadly support, particularly within the Strategic Aims of placing the voice and interest of the user at the centre and simplifying the process.

We fully support the recommendation (28) - *Solicitors providing publicly funded legal assistance should be located within third sector organisations which have a significant civil case workload.*

An example of best practice in providing free, trauma informed, domestic abuse competent legal support for victim-survivors, within a third sector organisation is the Edinburgh Women’s Aid Legal Service.⁵ The Civil Legal Support Initiative, launched in September 2023 and funded by the Scottish Government via SLAB, is a partnership between Scottish Women’s Aid, Edinburgh Women’s Aid, and Baker Gostelow Family Law. It provides legal advice, interventions, and services to women and children affected by domestic abuse within a specialist organisation.

We are in agreement that the experiences and views of victim-survivors should, not only be heard and considered, but should be actively involved in the design and delivery of legal aid and future improvements to its provision.

We have strong objections to recommendation 11 - *Mediation for family matters should be actively promoted in appropriate cases under publicly funded legal assistance.* We oppose mediation in cases of domestic abuse.

What are your priorities for longer-term reform?

⁵ Edinburgh Women’s Aid. (2024). 2023-2024 Impact Report, p31-32. Available from: <https://edinwomensaid.co.uk/files/2024/10/Impact-Report-2023-24.pdf>

Scotland's obligations under the Convention on the Rights of the Child and the Istanbul Convention requires the transformation of services, the current legal aid model is not adequate to achieve this transformation.

There is a crisis in the availability of legal aid solicitors. Grant-funded services that offer secure jobs at competitive wages would better support victim-survivors of domestic abuse.

For women, children, and young people experiencing domestic abuse seeking protection through the civil courts, a reformed and representative system facilitating and encouraging access to justice is needed. This requires adequate local availability of domestic abuse-competent solicitors practising family law who also provide advice and assistance and civil legal aid.

Means testing in the context of domestic abuse further disadvantages women and children. Legal services should be provided free for all women, children and young people experiencing domestic abuse, with no means test and no qualification on accessing this for women.