

## 2026 Election Policy Insights: Justice

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### Policy Insights by Fiona McPhail

#### The economic case for legal aid

Cost can easily dominate the debate about legal aid and legal aid reform. The benefits of investment can be lost in the focus on higher fees for solicitors particularly in a context of increasing fiscal restraint. For policymakers, the Cost–Benefit Analysis framework offers a way to express the impacts of legal aid programmes in fiscal terms, supporting more direct comparison with competing spending priorities and crucially the cost of doing nothing. A growing body of evidence demonstrates that investing in legal aid saves the government money and benefits the wider public. Legal aid reform therefore should not be held back on economic grounds.

#### The context

In 2025 a Scottish Parliamentary inquiry into Civil Legal Assistance in Scotland concluded that there is “an urgent need for action to improve...access to justice” as “[people's capacity to exercise their legal rights is being severely compromised](#)”. Since the Independent Strategic Review of Legal Aid in 2018 there has been little action on substantive legal aid reform in Scotland. There however now appears to be growing momentum for a new legal aid bill and with that an opportunity to revisit what legal aid can and should fund.

[£194.5 million has been allocated to legal aid in this year's Scottish Budget](#) up from £186.8 million in 2024-25. In a climate where public finances are stretched further spending on legal aid may appear unlikely however this policy insight draws on an

increasing body of evidence which demonstrates that spending on legal aid creates savings elsewhere and benefits wider society. **To quote the World Bank, it is ['smart economics' \(pg 8\).](#)**

The SNP government have already committed to a 13% fee increase for legal aid solicitors from September 2026 for most aspects of legal aid work. This will increase the hourly rate for Civil Advice & Assistance from £63.88 to £72.20. An independent Fee Review Mechanism Group has been convened to address the sustainability of legal aid fees in the longer term and funding has been earmarked [to support 40 legal aid traineeships](#). All of these initiatives address concerns raised by the legal profession who have seen a [steady decline in the number of solicitors willing to practice legal aid](#).

In its Parliamentary Inquiry Report, the EHRCJ committee made a number of further recommendations which focus on increasing the availability and accessibility of legal aid for those who need affordable or free legal advice - including [increasing the financial eligibility limits which were last revised in 2011](#) - and ensuring legal aid solicitors are able to provide trauma informed services.

The Scottish Legal Aid Board agree that the existing eligibility rates for Advice & Assistance are 'becoming a potential barrier to accessing legal assistance' and have estimated that increasing these rates could cost ['around £4 million per year'](#) (pg 11).

This policy insight focuses on the economic case for legal aid and takes a closer look at some of the Cost Benefit Analyses (CBA) and Social Return on Investment (SROI) work which has been undertaken to evaluate the economic benefit of spending on legal aid.

## The role of legal aid in upholding the rule of law and delivering access to justice

There are only three references to legal aid in the existing 36-page Justice Strategy ([The Scottish Government's Vision for Justice in Scotland 2022](#)). Yet legal aid is the means through which people access free or affordable legal advice and representation to help them in times of crisis. Those crises are often clustered: for

example unemployment resulting in financial stress, followed by the risk of eviction and relationship breakdown. That Scotland has a legal aid system where many legal issues can be dealt with at least initially through legal aid is one of its strengths. However, there is [growing evidence of people in crisis being unable to access the legal advice they need](#). The correlation between access to justice, poverty and human development was the subject of a global, people centred assessment of unmet justice needs in 2019 ([Measuring the Justice Gap | World Justice Project](#)).

The case for legal aid which stresses its role in preserving the rule of law, facilitating access to justice and building public confidence in our justice system must continue to be made. However, the principled case for legal aid must be accompanied by the economic case for legal aid if we are to be serious about closing the justice gap in Scotland.

## The attractiveness of the Cost Benefit Analysis framework

The Cost Benefit Analysis (CBA) framework is of particular interest to public policy makers for its reliance on robust data and its ability to monetize both the cost and benefit of legal aid programmes. The Social Return on Investment (SROI) framework is an extension of the CBA framework, which includes analysis of the wider social impact of legal aid.

There is a growing body of CBA research on legal aid programmes across different jurisdictions. In 2019 the World Bank and International Bar Association analysed in excess of 50 CBA from across the globe in the first comprehensive review of CBA use in legal aid – [A Tool for Justice the Cost Benefit Analysis of Legal Aid](#). Within that sample were two case studies from the United Kingdom: a 2010 report by Citizens Advice ([Towards a business case for legal aid](#)) and a 2017 report commissioned by the Law Society of Scotland. More recently, in 2024 the Law Society of Northern Ireland commissioned its own SROI [Value of Legal Aid document](#).

The **World Bank & IBA** report is valuable for the breadth of evidence it covers. Within the case studies examined are examples of programmes of legal aid which cover mediation as well as programmes focusing on legal advice as a form of prevention. Having examined in excess of 50 CBA studies in legal aid, the authors

then provide us with a [5-step technical guide for conducting a CBA of legal aid based on their analysis](#).

The **Citizens Advice report** looks to capture the “negative costs of legal advice problems to individuals and government” and sets those off against any spending on legal advice to ascertain whether there is any benefit. This report focuses on the following areas of social welfare law: Housing, Debt, Benefits and Employment and explains in detail some of the negative costs or adverse consequences suffered by individuals and governments where advice has not been sought or been made available together with providing us with an indication of the growing demand for advice in these areas. This report was written in the immediate aftermath of the 2008 Economic Recession. For example, the following are noted:

- Cost to the government of accommodating unemployed person in a hotel for a year £15,500 (Source Homeless Link)
- Average cost of job loss £1,057 (source Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems, Pleasance et al. Transforming Lives: Law and social process, 2007)
- Stress related ill-health leads to an average of 29 working days lost. Work related stress costs society between £3,7 billion and £3.8 billion per year.

As with other CBA studies, the Citizen’s Advice report errs on the side of caution and uses the most conservative figures in arriving at the following conclusion:

- For every £1 of legal aid expenditure on housing advice, the state potentially saves £2.34
- For every £1 of legal aid expenditure on debt advice, the state potentially saves £2.98
- For every £1 of legal aid expenditure on benefits advice, the state potentially saves £8.80
- For every £1 of legal aid expenditure on employment advice, the state potentially saves £7.13

The focus of the Citizens Advice report is on the provision of legal aid funded advice, rather than legal representation. Advice agencies in Scotland, including Citizens Advice play a similar role with some funded through SLAB grant funding, but so do legal aid lawyers through Legal Aid Advice & Assistance. This is the type of legal aid most commonly used to advise on legal issues before they escalate to court or tribunal covering the costs of negotiating with an opponent and trying to reach settlement.

Advice & Assistance is the type of legal aid where eligibility rates have remained unchanged since 2011, meaning only around 30% of the Scottish population are eligible for this type of legal aid. As noted above, SLAB have estimated that it would cost around £4 million per year to increase these rates.

The **Social Return on Investment studies in Scotland (2017)** and **Northern Ireland (2024)** are prepared by the same researchers, Rocket Science.

In attaching a monetary value to the economic benefit of providing legal aid, the SROI report on Northern Ireland relies on the Greater Manchester Unit Cost Database as well as data sources used in the SROI carried out in Scotland in coming up with the following financial proxies:

Outcome	Financial proxy source	Financial proxy source	Value (2022/23 prices)
Improved mental health	GMCA unit cost database	Average cost of service provisions for adults suffering from depression and/or anxiety disorders per person per year	£5,333
Improved financial situation	Community Investment Activities SROI	Relief from being heavily burdened with debt	£13,091

These financial proxies include a downward adjustment to account for any optimism bias and are further evidence of the level of rigour and caution which is used in carrying out a cost benefit analysis of legal aid.

Rocket Science conclude the following for Northern Ireland:

- For every £1 invested in family Legal Aid, it generates £3.62 in social value.
- For every £1 invested in civil (non-family) Legal Aid, it generates a £4.55 in social value.
- For every £1 invested in criminal Legal Aid, it generates £12.71 in social value.
- Overall, for every £1 invested in Legal Aid, it generates £8.32 in social value with 71% of the benefits going to the recipients and their families; 14% of the benefit going to public services and 13th percent going to the criminal justice system.

The SROI in Scotland is now almost ten years old. The following table sets out the findings of that Report (2017) and provides the estimated future savings per £1 spent by the Scottish Legal Aid Board separated into housing, family and criminal cases.

Type of case	Est. return for every £1 spent by SLAB on Legal Aid	Who benefits?	Exclusions from scope
Housing	Return of approximately £11	Made up of 80% for recipient of legal aid; 20 % for public services including NHS and local authorities	Further benefits of Legal Aid such as better physical health due to avoided homelessness, were excluded from scope
Family	Return of approximately £5	Made up of 95% for the recipient of legal aid; 5% for public services	Better outcomes in terms of child residence and contact were

			excluded from scope
Criminal	Return of approximately £5	Made up of 90% for recipient of legal aid; 10% for public services including Scottish Justice System	Reduced social security costs and increased income from taxes due to greater employment were excluded from scope

These three reports relate to three different jurisdictions where not only the justice system and its relevant processes and procedures will be different, but where the legal aid regimes themselves will be different in terms of scope, eligibility and fees. All three nevertheless point towards there being scope for savings and benefits to the wider public through investing in legal aid. With the important point being that we all benefit from this spending, whether or not we are direct recipients of legal aid.

## Conclusion

In the words of the World Bank and International Bar Association an emerging and continuing theme from the CBA and SROI work in legal aid across different jurisdictions is **“that the economic benefits of legal aid investment outweigh the costs, and that support for legal aid programs can bring significant budgetary savings to the government and economic savings to the society”**. ([A Tool for Justice](#), pg16)

The CBA/SROI evidence which presents a conservative picture of the savings possible, should give us confidence that we can be ambitious when we look to improve our legal aid system. A new legal aid bill is an opportunity to reap the economic and social benefits that legal aid systems provide to wider society. There is an opportunity with a new legal aid bill to emphasise the role legal aid plays in delivering access to justice by guaranteeing access to justice. A new bill should include a requirement on the Scottish Government to take positive action where legal aid becomes unavailable or inaccessible.

## Author

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## Policy Insights

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