

Access to justice for immigration matters is severely restricted in Wales. With immigration legal aid services at the point of collapse and limited provision for non-legal aid cases, immigration legal provision is in crisis. Many migrants and sanctuary-seekers are unable to access justice, with devastating consequences for them and their families. This paper gives an overview of current immigration legal provision in Wales and illustrates its decline since the last civil legal aid contracts began in 2018.

### 1. Legal Aid

Most immigration casework was removed from the scope of legal aid in 2012. Legal aid is still available for asylum cases, with very restricted availability for certain non-asylum matters, e.g. detention and bail applications, cases of human trafficking, and domestic violence.

Exceptional Case Funding (ECF) is a theoretical safety net, available where denying legal aid would risk violation of human rights. The low fixed fees offered for ECF work make it financially unviable, and most immigration solicitors in Wales do not offer it.

#### How much immigration legal aid provision is needed in Wales?

A conservative estimate calculates that in 2022 over 3,500 people in Wales presented with **new** immigration and asylum cases within the scope of legal aid.<sup>1</sup>

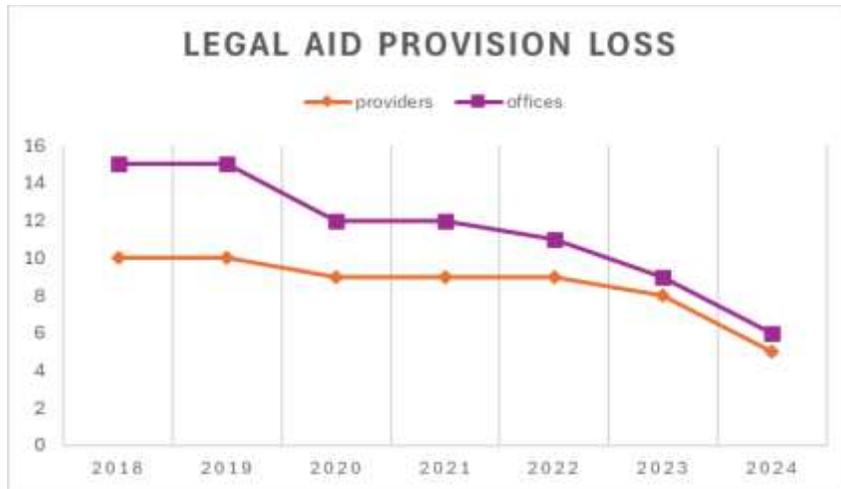
Based on an annual average of 1380 legal aid matter starts<sup>1</sup> in Wales, the author, Dr Jo Wilding, calculated a Primary Legal Aid Deficit (cases clearly within scope but unable to find representation in Wales) of 2,226. Since this report was written, need has risen, while the number of matter starts opened in 2023-24 dropped to just over 1,080, a figure only slightly higher than at the height of the Covid-19 pandemic in 2020-21.

#### Providers

The number of legal aid providers and offices in Wales has dropped steeply, from 13 offices and 9 providers in September 2018, to only five providers today, operating 6 offices between them. This represents a 60% reduction in legal aid provision points for people needing access to immigration justice in Wales.

---

<sup>1</sup> A 'matter start' is a case started within a legal aid contract. More information about legal aid, plus a glossary of terms, can be found in the Bevan Foundation report *Firefighting: protecting legal aid funded immigration legal services in Wales, 2023* <https://www.bevanfoundation.org/resources/firefighting-protecting-legal-aid-funded-immigration-services-in-wales/>

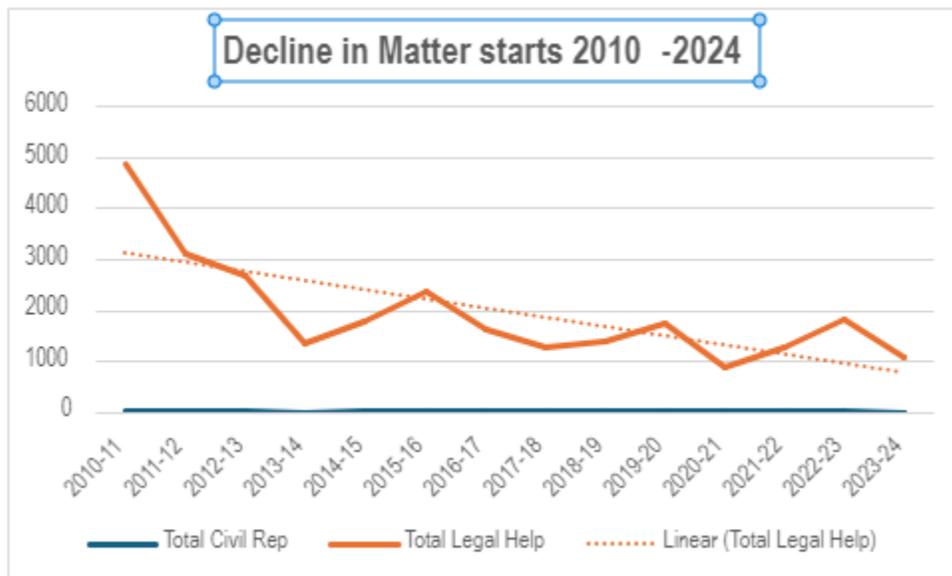


1 - Source: Ministry of Justice, Legal Aid Agency

## Matter starts

Ministry of Justice figures show a steep decline in matter starts opened in Wales since the last financial year, with a 40 percent drop since 2022-3. An increase in new applications following a sharp drop during the Covid-19 pandemic may be a contributor, but the loss of providers, including one of Wales's largest providers, is a major cause.

The decline is entrenched and long-term. Since 2015-15, there has been a 55% drop in immigration legal aid matter starts in Wales. The drop since 2010-11 is 80%.



2 - Source: Ministry of Justice, Legal Aid Agency

## 2. Out of scope provision

The greatest demand for immigration legal services falls outside the scope of legal aid. In the Refugee Action report cited above, its author Dr Jo Wilding estimated the numbers of urgent and pressing immigration cases in Wales that fall outside of the scope of legal aid to be just under 48,000. As noted by Dr. Wilding in her report for the Welsh Government, this need is spread throughout Wales, whereas the limited immigration legal provision that exists in Wales is overwhelmingly concentrated in the South East, in recognised 'dispersal areas'.<sup>2</sup>

### OISC Services in Wales

The Office of the Immigration Services Commissioner regulates the provision of immigration advice in Wales. Non-fee-charging work outside of legal aid is provided predominantly through OISC-regulated advisors in the third sector. These are vital legal services that serve some of Wales's most vulnerable migrants. There are three levels of OISC competence which cover two categories of work: Immigration; and Asylum and Protection.

Of the six organisations providing OISC services in Wales, three provide a service that is restricted to people applying for a particular type of visa or to a particular ethnic group or group of experience (eg. sanctuary seekers or EU migrants).

Of the two organisations operating above OISC Level 1 (the most basic level), only Asylum Justice offers casework to a broad cohort, focusing on refugees and 'vulnerable' migrants (i.e. those in most challenging circumstances). This makes Asylum Justice unique in Wales: it offers a range of casework and representation at the highest level (OISC Level 3), free of charge, to migrants of all backgrounds. There is a huge demand for Asylum Justice's services

Other than the Welsh Refugee Council service situated in BAWSO's Wrexham office, there are no OISC regulated services outside of Cardiff, Newport and Swansea.

The table overleaf shows the three OISC levels; a short summary of the work that the advisor can undertake (the precise scope of work varies between the Immigration and the Asylum Protection categories); and the providers in Wales operating under that accreditation. (Note that above Level 1, providers can offer work at lower levels of competency.)

OISC Accreditation		Work	Providers in Wales	Region
Level 1	Advice and assistance	Basic advice and straight forward applications.	<b>Welsh Refugee Council</b> (Immigration, Asylum & Protection)	Cardiff, Newport, Swansea and Wrexham
			<b>TPG Cymru</b> (Immigration- EUSS only in partnership with Settled)	Cardiff
			<b>Swansea Law Clinic</b> (Immigration, Asylum & Protection)	Swansea
Level 2	Casework	Complex and discretionary casework. Representation to UKVI on illegal entry, overstayers, removal and deportation, applications for Secretary of State bail.		
Level 3	Advocacy and Representation	Most complex casework. Substantive appeals work. Pre-action protocol letters in advance of judicial review. Instruct and support counsel in certain circumstances.	<b>Settled</b> (Immigration, Asylum & Protection)	Newport
			<b>Asylum Justice</b> (Immigration, Asylum & Protection)	Cardiff

## The impacts of exclusion from justice

Evidence indicates that people are increasingly unable to access immigration justice in Wales. Representation for appeals is particularly difficult to find in Wales. Support agencies report routinely referring people from Cardiff to Birmingham and Manchester.

Delays in finding advice and representation contribute to stress and impact well-being. Failure to access justice at the right time can result in the loss of employment, housing, immigration status, and ultimately lead to destitution or deportation. Due to the lack of legal literacy and knowledge of rights amongst migrants and people seeking sanctuary, it is difficult for people to assess whether or not an advisor is genuine, leading to alarming reports of exploitation and damage to immigration cases as a result of using unqualified and unregulated advisors.

The Bevan Foundation is currently undertaking research into people lived experiences of seeking and using immigration legal services in Wales. We are working with a working group of experts by experience, who will produce their own recommendations based on the findings of our research. More information on this work is available from the Bevan Foundation.

---

<sup>1</sup> Wilding, No Access to Justice, how legal aid deserts fail refugees, migrants, and our communities, 2022, Refugee Action <https://www.refugee-action.org.uk/no-access-to-justice-how-legal-advice-deserts-fail-refugees-migrants-and-our-communities/>

<sup>2</sup> Wilding, The adequacy and availability of legal advice services for forced migrants living in Wales, Welsh Government, 2023 <https://www.gov.wales/adequacy-and-availability-immigration-legal-advice-forced-migrants-wales-introduction-html>

Copyright Bevan Foundation  
Bevan Foundation, 145a High Street, Merthyr Tydfil CF47 8DP  
[info@bevanfoundation.org](mailto:info@bevanfoundation.org)      [www.bevanfoundation.org](http://www.bevanfoundation.org)

Registered charity no. 1104191

Company registered in Wales no. 4175018