

**Legal Services Agency Northern Ireland**

**Annual Report and Accounts**

**For the year ended 31 March 2020**

*Laid before the Northern Ireland Assembly under  
Section 11(3) (c) of the Government Resource  
and Accounts Act (Northern Ireland) 2001  
by the Department of Justice*

*on*

13 November 2020



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## **PERFORMANCE REPORT**

### **OVERVIEW**

This purpose of this overview is to provide information to enable readers to understand the remit and purpose of the Legal Services Agency Northern Ireland (LSA). The Overview includes:

- the Chief Executive's perspective on the performance of the LSA over the period;
- the purpose and activities of the LSA; and
- the key issues and risks that could affect the LSA in delivering its objectives.

### **FOREWORD BY CHIEF EXECUTIVE**

I am pleased to present the Annual Report and Accounts of the Legal Services Agency (LSA) for the financial year ended 31 March 2020.

The main aim of the LSA is to be a responsive and impartial Agency, efficiently administering publicly funded legal services for the benefit of all the citizens of Northern Ireland through innovative and digitally enabled services. In essence, the Agency applies statutory tests to determine whether an individual should receive civil legal aid and, if eligible, makes payments to the legal profession on behalf of the assisted person for the legal services provided. While the Agency is not responsible for granting criminal legal aid, it funds and makes payments to the legal profession for criminal legal aid services that are granted by the Judiciary.

LSA is an Executive Agency of the Department of Justice (DoJ) and as such is committed to delivering the draft Programme for Government outcome 7 'We have a safe community where we respect the rule of law'. LSA has developed its own business Indicator against this outcome which is 'to continually improve the efficiency of the Agency'.

The LSA focused on its four main strategic objectives during the financial year, with particular focus on the delivery of the Transformation Programme. Undoubtedly, 2019-20 was a challenging and rewarding year for the Agency as it marked the successful delivery of its new digital case management system (Legal Aid Management System - LAMS) on 1 July 2019. This brought significant challenges with the migration from a paper based system to the new on-line system. The Agency rose to this challenge and continued to deliver its core functions to ensure access to justice. LAMS bedded in quickly and has supported significant improvements in delivery of core on-line services.

By 31 March 2020, 2,125 practitioners and businesses had registered with LAMS. The system has greatly increased the scope for the Agency to improve efficiency, transparency and compliance for determination of applications as well as for the assessment and payment of bills. It also provides increased assurance over the appropriate stewardship of public funds.

The successful implementation of LAMS depended on engagement with the legal profession and the establishment of a Stakeholder Forum, with appropriate representation from the Law Society and Bar Council. This Forum provided a means to promote shared aims and understanding and continued to meet after implementation until March 2020 in order to bed in the new mechanisms.

A revised staff structure was required to support the Transformation and the result was a more business focused model with the payment and assessment functions brought together under one Directorate. A series of recruitment exercises were conducted during the year leading to the appointment of two new Directors, of Operations and Corporate Services, and a revised Head of Branch structure which strengthened the management cadre. During 2019-20 the LSA also embedded the in-house team established to assess the Financial Eligibility of applicants for civil legal services. This work was previously conducted by the Legal Aid Assessment Office (LAAO) within the Department for Communities (DfC) but transferred to LSA in March 2019. This move has provided opportunities to realise processing efficiencies and enhance the visibility and accuracy of assessments.

Other elements of the Transformation Programme planned for delivery during 2020-21 will also strengthen the assurance which the Agency can provide for the public funds allocated to legal aid, through robust fraud and error measures, enhanced forecasting capability and working towards the establishment of a registration and compliance regime.

The LSA values its people and encourages working with legal service providers and the wider justice system to facilitate access to justice. As part of this commitment the LSA continues to work with policy colleagues to support ongoing reforms to legal aid and other justice system initiatives. Staff also continue to work closely with colleagues in DfC across a range of activities focusing on identifying and countering fraud and error and exploring opportunities in debt management.

The LSA continued to strengthen its relationships with external bodies and providers of legal services. With the re-establishment of the Assembly the Agency will work to support the Minister's reform priorities including the establishment of a compliance and registration function which will interface with providers of publicly funded legal services to provide the necessary assurances in respect of practitioner working practices.

Like all other organisations, at the end of the financial year the Agency had to come to terms with the impact of the Covid-19 pandemic and LAMS acted as a key enabler to the maintenance of front line services throughout the pandemic. The Agency was able to move seamlessly to contingency arrangements to ensure urgent applications were processed immediately while maintaining a high throughput of payments. The new digital system allowed the Agency to interface with the legal profession remotely and, as the Agency secured laptops to facilitate remote working, LSA quickly moved to deliver a very high level of productivity which was only possible with the LAMS infrastructure in place. Indeed in April 2020 the highest monthly payments to date from LAMS, of £8.3m were authorised as the Agency focused available staff on front line services.

Since the end of the financial year, the Agency has developed and delivered an Interim Payment Scheme (IPS) to support suppliers during these unprecedented times, in addition to continuing to deliver our core services. The IPS ran for a three month period between May and August and supported the cashflow of practitioners. An interim fee could be paid where a certificate had been granted more than three months previously and would be recouped from the final fee when payable.

In view of the pressures on suppliers of publically funded legal services the Agency has met in an Operational Forum each month with the Law Society and Bar Council. It has reported on its operational delivery and provided an array of advice and guidance to practitioners to improve the efficiency of the system and enhance fraud and error measures.

As Chief Executive, I wish to acknowledge the work of our former Transformation Director, Marcella McKnight who led the development and delivery of the new digital platform for legal aid and retired in January 2020. Marcella's role was key in the success of the implementation. I also acknowledge the contributions made by the Agency's former Director of Civil Legal Services, Sheila McPhillips, who retired in March 2020 after 47 years in legal aid administration and the former Director of Payment Services, Jill Herron.

The Transformation Programme has made 2019-20 one of the most demanding years since the Agency was established. The additional impact of Covid-19 at the end of the financial year has presented further challenges to the Agency, but I would like to personally thank all staff within the LSA for their very hard work and commitment which has continued during the difficult times since year end, and the LSA Board for its support, oversight and guidance to the Agency. I also acknowledge the engagement with the Law Society and Bar Council to ensure that individuals continue to have access to justice in a difficult environment and that the supplier base is well supported. All of these contributions have ensured that the Agency has emerged stronger and better equipped to move forward to improve our services and governance in 2020-21.

**Paul Andrews**  
**Chief Executive and Accounting Officer**

## STATEMENT OF PURPOSE AND ACTIVITIES

### Who we are

The Legal Services Agency Northern Ireland (abbreviated as LSA) has been established under the Legal Aid and Coroners' Courts Act (NI) 2014 to administer the provision of publicly-funded legal aid.

As an Executive Agency within DoJ, LSA operates under the direction and control of the Minister of Justice. However, the Chief Executive is also a Statutory Office Holder, as Director of Legal Aid Casework, with obligations to take decisions in relation to individual civil legal aid decisions in Northern Ireland, in accordance with the relevant legislative provisions and independent from any Ministerial or Departmental interference.

Applications for civil legal services are considered on the merits of the individual case, based on the application of statutory tests to determine whether an individual should receive funding. The Courts are responsible for granting criminal legal aid for defendants in criminal cases.

### What we do

The LSA funds and makes payments to the legal profession for services provided under both the criminal and civil legal aid schemes while attaining value for money. Our functions include:

- considering applications for civil legal services in respect of advice, assistance, and representation;
- considering requests for civil and criminal authorities to include expert witnesses and interpreter/translator requests;
- conducting internal reviews and redeterminations as necessary;
- assessing and making payments of bills received for civil and criminal legal aid;
- operational delivery of interpreting services;
- supporting the development and implementation of the legal aid reform programme;
- supporting the independent appeals function: and
- maintaining and developing systems, procedures and relationships which support all of our key activities and the wider strategic aims of the DoJ.

### Our vision

The LSA vision is to transform client-focused publicly funded legal services through digital services to facilitate access to justice.

## **Our values**

At all times we strive to:

- enable access to justice for the citizens of Northern Ireland;
- demonstrate consistency and impartiality;
- continually improve the quality of service delivery;
- ensure that public money and resources are used appropriately, effectively and efficiently;
- value and empower our people to build high performing teams; and
- be outwardly focused, work together and take responsibility.

## **Our strategic aim**

Our aim is to support the justice system by administering publicly funded legal services impartially, effectively and efficiently within the governing legislation and policy framework set by the Minister of Justice, including achieving value for money across our processes.

As an Agency of the DoJ, the LSA operates under a Framework Document which sets out the arrangements for the effective governance, financing and operation of the LSA. A copy of the LSA Framework Document can be found at [www.lsan.gov.uk](http://www.lsan.gov.uk).

## **Our strategic objectives**

The Agency's four strategic objectives for 2019-20 focus on:

1. Delivering and embedding our Transformation Programme;
2. Delivering Legal Aid Services;
3. Contributing to the Department of Justice Business Plan; and
4. Strengthening our Governance and Accountability.

The Agency has also developed an associated business indicator, namely to "continually improve the efficiency of the Agency".

The work of the LSA is taken forward in the areas outlined below.

## The organisational structure

The LSA administers publicly funded legal services in Northern Ireland. The core of the LSA's work is to:

- process applications for civil legal services and authorise independent legal representation for litigants; and
- assess and pay bills for the provision of both civil legal services and criminal legal aid.

A new LSA organisational structure was introduced during 2019-20 as part of the Transformation Programme with new Directors of Operations and Corporate Services appointed from the end of October 2019 and start of November 2019 respectively.

### Operations Directorate

The Operations Directorate was established to amalgamate the former Civil Legal Services and Payments Directorates and rationalise services within the Agency. The work of the Operations Directorate is taken forward under four strands:

#### i. Civil Operations

The Civil Operations Unit considers the 'means and the merits' of a grant of legal aid and has two main functions:

##### ***Civil adjudication***

The Civil Adjudication Unit makes merit adjudication decisions on all applications for civil legal aid, applying statutory tests in order to assess whether legal aid should be granted and, if so, the scope of the Certificate to be granted. When a Certificate is in place, Adjudicators determine amendment and authority requests received from suppliers, for example where authority is sought to instruct a barrister or an expert witness. The greatest volume of business is in respect of family matters (including child welfare), personal injury claims, bail applications and advice at police stations in criminal matters.

##### ***Assessment of financial eligibility***

As part of the Agency Transformation Programme the assessment of the financial eligibility of applicants has been brought in-house within the Directorate for the first time. This work was previously conducted by the Legal Aid Assessment Office (LAAO) within the Department for Communities but transferred to LSA from 4 March 2019. The Financial Eligibility Unit (FEU) assess every applicant for civil legal aid to ensure their financial means fall within the scope of eligibility and to determine whether the applicant may be required to make a contribution towards their legal costs. FEU request financial information on the applicant and then conduct searches to confirm their benefit entitlement or produce financial assessments based on the documentation submitted. FEU also conduct benefit checks on behalf of the Northern Ireland Courts and Tribunals Service in relation to applicants for criminal legal aid which is determined by the Courts.

Criminal legal aid is granted by the judiciary if applicants before the Magistrates' Courts, County Court on appeal and Crown Court have insufficient means to pay for their own defence and it is in the interests of justice that applicants should be represented. Similar provisions apply to cases before the Criminal Court of Appeal.

## **ii. Exceptionality and Criminal Authorities**

The Exceptionality and Criminal Authorities Unit are responsible for managing cases which fall outside the scope of civil and criminal standard fee remuneration. The Exceptional Preparation rules are intended to cater for particularly complex, novel and unusual cases in the Northern Ireland jurisdiction. It allows representatives to receive an additional payment in cases (based on a specific hourly grant) to ensure appropriate remuneration. The Exceptional Funding scheme allows cases that would otherwise not qualify for civil legal aid, but due to the circumstances of the case it is in the interests of justice, that legal aid is granted. The Unit assesses cases against the legislative requirements and cases are then managed through tracking of hours utilised, analysis of work records and consideration of additional hour requests.

The Team are also responsible for the management of legal aid in respect of inquests and most particularly the body of 52 legacy inquests that the Lord Chief Justice, as President of Coroners Courts, has secured additional funding for and committed to have completed within the next five years.

The Team also deal with criminal authorities requests, advice and assistance and interpreter or translation requests.

## **iii. Payments Team**

The Payments Team are responsible for the assessment of requests for payments for civil or criminal legal aid services supplied by practitioners and for ensuring they are remunerated on a timely basis in line with legislation. The Team also process requests for advice and assistance.

## **iv. Appeal and Review Administration Unit**

The Appeals and Review Administration Unit provides the administrative support to the Civil Legal Services Appeal Panel, which is an independent appellate body responsible for determining appeals against LSA decisions in relation to Representation Higher cases. These appeals can be in relation to:

- whether to fund, or continue to fund, civil legal services for an individual by way of representation (higher Courts); and
- the level of representation authorised for that individual.

The Unit also deals with reviews of decisions in relation to refusal to grant a certificate of exceptionality, review of the amount of hours granted under a certificate of exceptionality and redeterminations in relation to remuneration where a practitioner is dissatisfied with the level of remuneration assessed by the Agency.

## Corporate Services Directorate

The Operations Directorate and wider Agency is supported by a range of Corporate Services functions:

**Counter Fraud and Error Team** - investigate cases of reported fraud and are responsible for developing a strategy to measure and counter practitioner (supplier) fraud;

**Debt Recovery Team** - oversee the collection of monies due to the LSA, interpreting and assessing recoverability and taking action to recover or write off;

**Information and Analysis Unit** - including independent Northern Ireland Statistics and Research Agency (NISRA) staff, the Unit leads on the development of Qlik Sense reporting based on LAMS, oversees the production of legal aid Management Information for LSA and the Department and provides statistical assurance in support of the Fraud and Error work-stream;

**Finance function** - prepares forecasts of anticipated demand for services and the payments which are to be made for the operation of the LSA, and enables the Agency to meet its statutory obligations for financial management;

**IT and LAMS Support Teams** - support delivery of key change programmes and the LSA's move to digital services; and

**Business Support Unit** - promotes effective communications, oversees governance, business cases and contract management, and enables the LSA to deal with legal challenges and meet its statutory requirements under the Freedom of Information and Data Protection Act.

## Going concern

In accordance with the Government Financial Reporting Manual, the financial statements for the LSA in respect of the financial year to 31 March 2020 are prepared on a going concern basis. The going concern basis is set out in Note 1.2 to the Accounts.

The Statement of Financial Position as at 31 March 2020 shows a liability of £146 million (2018-19: £129 million). This reflects the inclusion of liabilities for legal aid provisions falling due in future years, which are to be financed by drawings from the Northern Ireland Consolidated Fund. Such drawings will be from expenditure approved annually by the Northern Ireland Assembly, to meet the Net Cash Requirement of the Department of Justice which funds the Agency. Under the Government Resources and Accounts Act 2001, no money may be drawn from the Fund by the Department other than required for the service of the specified year or retained in excess of that need. There is no reason to believe that the future approvals will not be forthcoming. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of the Agency's financial statements for 2019-20.

## Shared services

As part of the wider DoJ grouping, the LSA makes use of a number of departmental and Northern Ireland Civil Service (NICS) centralised functions including:

- Human Resources - HR Connect and NICS HR;
- Procurement - Construction and Procurement Delivery (CPD);
- IT Services - IT Assist (for PCs and Network Services) and NI Direct (for call handling and citizen facing services);
- Finance Functions - Account NI and DoJ Financial Services Division (FSD);
- Management Information - DoJ Analytical Support Services (FSD) and NISRA statisticians;
- Legal Services - Departmental Solicitor's Office (DSO) and Crown Solicitor's Office (CSO); and
- Internal Audit Services - DoJ Internal Audit Service (IAS), under the NICS Internal Audit team.

There are also a number of other NICS wide and DoJ Shared Services that LSA would be mandated to use in the first instance should a need arise.

## The LSA's people

The LSA's people are at the heart of delivering publicly funded legal services efficiently and effectively. Throughout this year the Agency has restructured its team and invested in its people to ensure they are equipped to face the new challenges of digitalisation and transformation, including a range of new functions and different ways of delivering services. The LSA aims to make the Agency a better place to work by:

- delivering effectively;
- valuing our people;
- working together;
- being outwardly focused; and
- taking responsibility.

## Working with partners and providers

Legal aid is an important component of the justice system in Northern Ireland; the LSA works with a wide range of providers of legal services and other justice system stakeholders. These include the Office of the Lord Chief Justice, the judiciary, the Law Society of Northern Ireland, the Bar of Northern Ireland, the Guardian Ad Litem Agency, the Northern Ireland Courts and Tribunals Service, the Public Prosecution Service, the Police Service of Northern Ireland and voluntary sector organisations.

The LSA's relationships with these stakeholders and providers are central to the work of the Agency.

The LSA has been actively engaged in the following:

- monthly and ad hoc, stakeholder engagement with the Law Society and Bar Council to progress the Transformation Programme and digitisation project and the development and implementation of the Legal Aid Management System (LAMS);
- Magistrates' and Family Courts working groups to ensure that the LSA supports the work of the Courts;
- periodic engagement with the Law Society and Bar to manage long term relationships with legal service providers and ensure key information is provided to suppliers on a timely basis;
- interaction with the Enabling Access to Justice Division in DoJ to develop legal policy and deliver improvements in efficiency and effectiveness;
- interfacing with the Courts to resolve issues in particular cases or improve interaction policies;
- reform projects which impact on civil legal services or criminal legal aid;
- the Shadow Family Justice Board and the Shadow Civil Justice Council; and
- supporting problem solving justice pilots.

The LSA has regular engagement with the organisations outlined above on key operational issues and with the main representative bodies. Staff within the LSA maintain open contact with all of its provider base to ensure the smooth running of the Agency.

## Key risks and issues

The LSA relies on a well-embedded risk management process designed to identify and prioritise the risks to the achievement of the Agency's objectives, to evaluate the likelihood of those risks being realised and to limit any impacts should they materialise. In reviewing its risk profile for 2019-20 the Agency has aligned the risk register to reflect the wider approach adopted by the Department. Throughout 2019-20, the LSA has ensured that key and emerging risks have been clearly identified and actions taken to develop mitigations to address those risks.

This approach has ensured that through the Agency's ongoing monitoring and reviews of the risks and mitigations, it has been able to respond to, and manage, the dynamic environment that the Transformation Programme has brought to the LSA over the past year.

The LSA's key risk areas and the corresponding actions being taken are as follows.

**1. Transformation benefits realisation** - *there is a risk that the full extent of benefits resulting from the implementation of the Transformation Programme/Projects are not realised or delayed due to lack of resources, inactivity or inability to progress legislation in a timely manner. There is a risk that the enhancements to controls and governance are not identified or delayed minimising the potential benefits of the Transformation Programme and impacting on the overall cost of legal aid.*

The embedding of the Transformation Programme is pivotal to delivering cultural and structural change and additional dedicated resources are to be allocated to ensure ongoing delivery, including securing a new LAMS support contract. The delivery position is monitored by the LSA Board on at least a quarterly basis. In addition the Departmental Legislative Programme Board review the necessary legislative changes on an ongoing basis and the Legal Aid Strategy Group are provided with quarterly reports and updates. These arrangements ensure the Agency has the appropriate governance oversight, focus and resources to realise the anticipated benefits.

**2. Governance and accountability** - *there is a risk that weaknesses in the Agency's governance framework will undermine the effective management of the LSA. There is a risk that inadequate control, non-compliance of process against legislation or inconsistency of management decisions could result in the Agency operating outside delegated authority, legislation or best practice, increasing risk of reputational damage, audit censure and Judicial Review.*

A review has been conducted of some operations to streamline processes, make them more effective and to ensure consistent compliance with legislation, regulations and best practice. This review will conclude during 2020-21 but the process of maintaining up to date guidance will be continuous.

A review of Corporate Services policies has been initiated in conjunction with the Department to ensure all appropriate guidance and advice to staff is in place. Provisions and forecasting methodologies are being revised around new reporting and management information solutions as part of the implementation of LAMS and the associated Qlik Sense reporting tool.

**3. Fraud and error** - *there is a risk that inability to control the root causes of estimated fraud or error in the assessment of liabilities for work to be funded from legal aid will lead to the risk of regulatory breach and account misstatement. There is a risk of improper assessment of eligibility or payment liability which could lead to the irregular disbursement of public funds, delay in the removal of qualifications from the Annual Accounts and the risk of excessive error resulting in a qualification to the Departmental Accounts.*

In April 2017, a Memorandum of Understanding (MoU) was agreed with the Standards Assurance Unit (SAU) within DfC and work has been conducted to identify the baseline level of official error. The demands of the LAMS implementation, which resulted in revised training requirements for the SAU and diverted Agency resources from focusing on information requests, was further exacerbated by the implications of Covid-19 which forced the work of SAU to be paused while staff were redirected to frontline services. The Agency is now able to react fully to the detailed error information from the SAU feedback and there was a focus on delivering the corrective operational change required whether through the ongoing revision to desk instructions, clarification of the interpretation of legislation or the improved interface with other criminal justice organisations. The Agency is working with the Northern Ireland Courts and Tribunals Service to develop a protocol for the validation of ICOS information which is used as a key source of LAMS data.

The MoU was extended in respect of 2020-21 to address applicant fraud and further work is ongoing to develop a methodology for the roll-out of Future Overpayment Protection considering ongoing cases. The refinement of a methodology for testing Practitioner fraud and error will be commenced during 2020-21 with testing conducted by LSA on a 'test and learn' basis.

**4. Business continuity** - *where unavailability of staff, accommodation, systems or failures in systems or procedures due to a disruptive event could adversely impact on service delivery.*

In light of the emerging Covid-19 pandemic, risks around business continuity became the subject of Board planning. The implementation of LAMS enabled LSA to move to a remote working solution in a relatively quick period and the Agency has been able to continue to operate effectively throughout.

## PERFORMANCE SUMMARY AND FORWARD LOOK

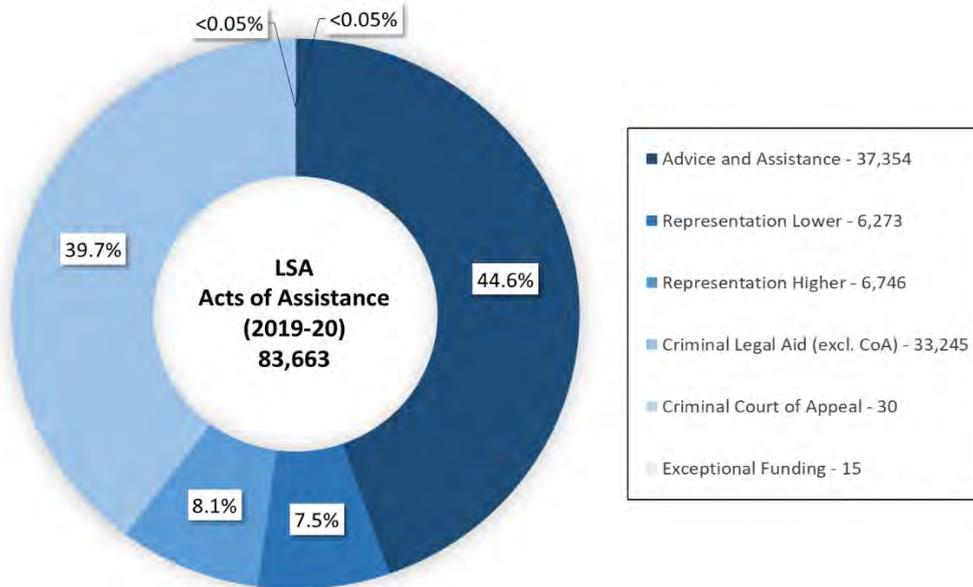
### Performance summary

This report covers the fifth year of operation of the Agency. The key performance issues can be summarised as follows, LSA:

- continued to operate within the range of legislation which governs all its activities;
- processed payments in line with its funding allocation and continues to identify and remedy issues which delay the processing of payments;
- incorporated performance management checks to address processing volumes in a timely manner feeding into the establishment of more refined Key Performance Indicators;
- implemented its digitisation project with the go-live of the Legal Aid Management System (LAMS) on 1 July 2019. A Stakeholder Engagement Forum was established to facilitate interaction with practitioners throughout the design and implementation of LAMS and this continued to operate for nine months post go-live until the end of March 2020. From go-live to the end of March 2020, 602 barristers, 446 solicitor practices and 1,077 individual solicitors have registered as users of the system. During these nine months, 64,396 applications have been received and 66,297 payment requests have been authorised to a value of £60.779m;
- undertook organisational restructuring in order to improve the focus and capacity of teams to deliver front line services;
- reviewed planning in anticipation of legislative authority to launch a statutory Registration Scheme for the provision of publicly funded legal services. It is targeted that the necessary legislation to introduce the Scheme will be passed by the Assembly by March 2022;
- extended an effective partnership working approach with the SAU to estimate the official fraud and error rate within the legal aid system and to identify appropriate remedial action to reduce the estimated rates; and
- supported the Department in the development and implementation of various reform initiatives. The LSA is also represented on the Shadow Family Justice Board and the Shadow Civil Justice Council.

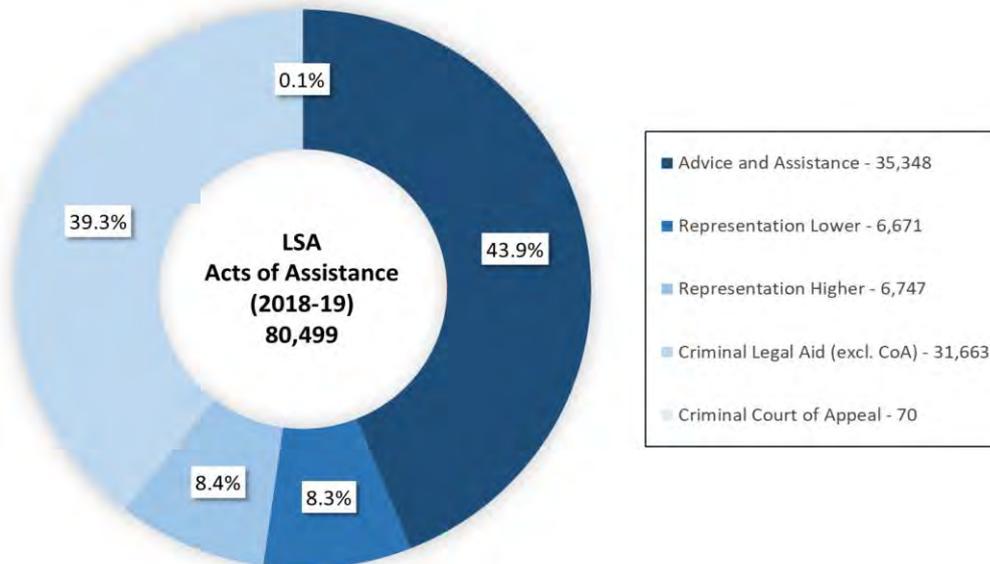
**Acts of assistance**

The LSA had a total of 83,663 acts of assistance in 2019-20. This represents an increase of 3.9% compared to the 80,499 acts of assistance recorded in 2018-19.



Notes:

1. Figures covering 2019-20 represent a transitional year and have been compiled by merging data from two separate case management systems. Accordingly, 2019-20 figures (Acts of Assistance) have been produced to replicate the approach taken in Phoenix, in order to facilitate comparison with previous years.
2. Acts of Assistance in 2019-20 incorporate Exceptional Funding since go-live of LAMS. While this information is held in LAMS, it was not previously available in Phoenix.
3. Percentages have been rounded for presentational purposes.



Notes:

1. 2018-19 Acts of Assistance in Representation Lower have been amended to correct a previous mistype and have subsequently reduced from 6,849 to 6,671.
2. Percentages have been rounded for presentational purposes.

Source: LSA, Phoenix and LAMS case management systems (Management Information).

## **Covid-19**

The first case of Covid-19 appeared in Northern Ireland on 27 February 2020 and a global pandemic was declared by the World Health Organisation on 11 March 2020. The Department of Justice responded quickly to these circumstances, putting into operation its business continuity management arrangements from 12 March and issuing guidance to all staff on social distancing and home working on 16 March.

LSA, as a front line service, focused on responding to emergency demands and continuing to deliver the most critical services. A series of measures, including social distancing arrangements within the office and changes to working practices, have been introduced to reduce risk and ensure that restricted numbers of staff could work safely from the office where required.

In order to support essential business it has been necessary for LSA to greatly increase remote working capacity, which was only possible as a result of the implementation of LAMS. At the start of the outbreak, there were only 19 laptops available across the organisation but by the start of May, all staff available for work (i.e. excluding those on long term sick or maternity leave) had the ability to work from home via a laptop or remote access enabled PC.

The most material financial impacts will arise during 2020-21 where, in light of the suspension of court sittings and the stalling impact of social distancing on all forms of progress, case volumes will be decreased against normal levels. The LSA introduced an Interim Payment Scheme on 7 May 2020 for three months in response to the concerns of the profession over the risk of business failure, potentially arising from an abrupt end to payments against completed cases. The Scheme enabled payment in ongoing cases where a legal aid certificate had been granted more than three months previously but was not extended due to lower than anticipated demand.

As LSA continued to pay against existing liabilities for concluded cases up to the end of March 2020 there is no budgetary impact in this year.

## **UK withdrawal from the EU**

The UK's withdrawal from the EU did not require preparations within LSA and is not anticipated to have material impacts on future operations.

## Forward look

During 2020-21 the LSA will continue to build upon its Transformation Programme to improve the responsiveness of services and embed a change culture into the way legal aid is delivered and its underpinning governance.

The main activities the LSA envisages delivering are:

- targeting services to support the operation of the Courts, as lockdown is eased in a measured way;
- ensuring the realisation of the benefits envisaged from the implementation of the new digital case management system;
- working with the Department to introduce a statutory Registration Scheme for all providers of publicly funded legal services when the legislation is in place;
- progress an agenda of strategic improvement across a number of discrete issues including the development and implementation of a management information strategy which seeks to make more information publicly available; and
- establish the preliminary assessment of official error rates within the legal aid system while putting in place remedial actions and strengthening its counter-fraud measures.

The LSA will continue to work in support of the Minister's reform priorities and will collaborate with policy teams on reform initiatives.

## **PERFORMANCE ANALYSIS**

During the year there have been a number of developments which have had a significant positive impact on the way the LSA works as an organisation and the resulting interaction with providers. These were achieved while continuing to work through a period of significant system change in all aspects of the Agency's work.

The LSA has continued to strive to deliver the commitments included in its 2019-20 Business Plan and the four Strategic Objectives (as below) established to drive the Agency forward.

The following sections summarise the Key Indicators and Performance Measurements for LSA in 2019-20.

<b><i>Strategic Objective 1: Delivering the Transformation Programme</i></b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
Deliver and embed new case management system.	Project management employed to introduce the system within timelines, costs and quality standards as per business case.	Achieved. All aspects of the new Legal Aid Management System (LAMS) were developed, tested and fully implemented on 1 July 2019.
Progress the implementation of the new organisational structure throughout the year.	New organisational structure designed and approved. Recruitment exercise conducted.	Achieved. Structure delivered within 2019-20.
Develop a revised suite of performance indicators.	Performance indicators to be considered in a post LAMS environment.	Partially achieved. Key Performance Indicators have been adapted for LAMS processes and monitoring has been conducted across both periods, pre and post LAMS. Work will continue into 2020-21 to develop a suite of more focused performance measures representing the broader aims of the LSA.
Develop a strategy to introduce the publication of Official Statistics Outputs.	The Agency will develop a strategy, building on the introduction of the new LAMS system, for publication of official statistics.	Partially achieved. The Agency has scoped the actions required to complement the production of Management Information with the publication of Official Statistics. This work will be progressed during 2020-21.

The production of performance statistics is made more difficult during 2019-20 given the move to the new LAMS system from 1 July 2019. Performance has been reported separately under the two mechanisms where appropriate.

A number of these measures saw a material fall in performance post go-live due to difficulties in the operation of the new system and delays in the recording of completed tasks. While this improved over the nine month period of operation it was not always sufficient to allow the objective to be achieved for the whole period.

<b>Strategic Objective 2: Delivery of Legal Aid Services</b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
Adjudicate on applications for civil legal services.	<p><b>Non-Emergency Applications</b></p> <p>Process 80% of all properly completed non-emergency applications for legal aid representation in higher Courts received from 1 April 2019 within 14 weeks of date of receipt.</p>	<p>100% for the period April - June (Phoenix) - Achieved.</p> <p>72% for the period July - March (LAMS) - Not achieved.</p>
	<p><b>Emergency Applications</b></p> <p>Process 95% of all properly completed applications received from 1 April 2019 for emergency legal aid for representation in lower and higher Courts within 48 hours from date of receipt.</p>	<p>95.7% for the period April - June (Phoenix) - Achieved.</p> <p>90.3% for the period July - March (LAMS) - Not achieved.</p> <p>Outturn against performance in LAMS will be influenced by activity during the cut-over period when emergency applications for legal aid were made via a separate email inbox and subsequently re-applied for via LAMS.</p>
All properly constituted appeals against refusals of legal aid are determined promptly and in keeping with statutory requirements.	Process 75% of all properly constituted appeals against the refusal of funding, continued funding or level of representation, for representation in higher Courts within 16 weeks from date of receipt.	<p>98.0% for the period April - June - Achieved.</p> <p>Due the change in technology the equivalent figure was not able to be tracked in the same way under LAMS. Development of performance monitoring in this respect will be developed during 2020-21.</p>

<b>Strategic Objective 2: Delivery of Legal Aid Services</b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
Properly presented bills for payment are processed accurately and promptly in keeping with statutory requirements (from date of receipt).	Process 95% of standard fees which do not generate queries within 8 weeks of date of receipt.	<p>93.6% for the period April - June (Phoenix) - Not achieved.</p> <p>94.3% for the period July - March (LAMS) - Not achieved.</p> <p>The Agency's performance targets for the processing of payments within LAMS are premised on properly completed claim forms being received which can be assessed and authorised without query. However, the Agency's Phoenix Management Information System did not permit the exclusion of incomplete claims from the calculation of these performance measures. This applied to cases migrated to the new system also. These statistics therefore reflect the overall time taken by both the Agency and Practitioners to complete the processing of payments, which cannot be disentangled.</p> <p>This will be considered from a LAMS perspective under performance management during 2020-21.</p>
	Process 75% of non-standard fees which do not generate queries within 16 weeks of date of receipt (non-Children Order claims).	<p>95.8% for the period April - June (Phoenix) - Achieved.</p> <p>97.4% for the period July - March (LAMS) - Achieved.</p>
	Process 75% of non-standard fees which do not generate queries within 24 weeks of date of receipt (Children Order claims).	<p>96.8% for the period April - June (Phoenix) - Achieved.</p> <p>92.8% for the period July - March (LAMS) - Achieved.</p>

<b>Strategic Objective 2: Delivery of Legal Aid Services</b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
	<p>Process 95% of Taxed cases (excluding those cases involving statutory charge) which do not generate queries within 6 weeks of date of receipt.</p>	<p>80.3% for the period April - June (Phoenix) - Not achieved.</p> <p>90.3% for the period July - March (LAMS) - Not achieved.</p> <p>The Agency's performance targets for the processing of payments within LAMS are premised on properly completed claim forms being received which can be assessed and authorised without query. However, the Agency's Phoenix Management Information System did not permit the exclusion of incomplete claims from the calculation of these performance measures. This applied to cases migrated to the new system also. These statistics therefore reflect the overall time taken by both the Agency and Practitioners to complete the processing of payments, which cannot be disentangled.</p> <p>This will be considered from a LAMS perspective under performance management during 2020-21.</p>

<b>Strategic Objective 3: Contributing to the Department of Justice Business Plan</b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
Support DoJ in developing policy proposals.	Participating in all DoJ legal aid reform projects.	Achieved. The Agency fully participated in all relevant legal aid reform projects up to 31 March 2020, providing statistical data and operational input where required.
Implement new policy provisions or legislative changes.	Introducing new fees to support the problem solving justice pilot projects.	Achieved. The Agency has worked with the Department in setting fees for two problem solving pilot projects, the Domestic Violence Project and Drugs/Substance Misuse Courts; and preparing for the introduction of Fines Enforcement fees.
	Implementing new family fees.	Partially achieved. The Agency has fully participated with the Department in developing proposals for new family fees. This project has now commenced with a Project Board being established and a representative from LSA appointed to the Project Board. The project is currently in a research phase though work has stalled during the Covid-19 pandemic. It is anticipated that a public consultation exercise on revised proposals will issue in the first half of 2021.
	Give effect to new arrangements in support of revised Recovery of Convicted Defendant Cost Order arrangements.	Partially achieved. The Agency has assisted the Department in developing proposals to facilitate a better approach the recovery of costs from those defendants who can afford to contribute towards their own defence.
Prepare to implement the statutory Registration Scheme.	Prepare scope and guidance in line with draft legislation.	Partially achieved. The Agency has prepared as fully as possible in line with the draft legislation and will take this forward during 2020-21 in line with Ministerial priorities.

<b>Strategic Objective 4: Governance and accountability</b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
Timely preparation and submission of Annual Report and Accounts.	LSA to contribute to and support accounts and annual report production to DoJ and NI Audit Office timelines.	Achieved. LSA has met all requirements during 2019-20.
Support the review of financial provisions conducted by the Financial Services Division within DoJ.	Develop and embed a new approach to provisions reporting.	Achieved. Financial Services Division, supported by the Agency, has reviewed the provisions methodology during 2019-20 on the basis of LAMS populations and analysis.
Implement systems to detect and measure the extent of fraud and error in the legal aid system.	LSA to work with the SAU within DfC to develop the measurement of fraud and error under an agreed MoU.	Partially achieved.  Significant progress has been made, working with SAU to implement new official fraud and error working measurement. A baseline official error rate has been determined against which future performance can be measured and errors detected are being analysed in a feedback loop to drive changes in process and staff training.  The applicant fraud and error testing methodology has been finalised but 2020 testing has had to be delayed due to the implications of Covid-19 and is now targeted to commence for 2021.  A fraud action plan and methodologies in respect of Future Overpayment Prevention (FOP) and practitioner fraud and error are under development. Sampling and testing for FOP was due to commence in January 2021 but has been delayed due to inability to recruit staff during the Covid-19 pandemic period; it is now targeted for January 2022. Practitioner fraud testing will remain within the Agency and will commence on a pilot basis during 2021.

<b>Strategic Objective 4: Governance and accountability</b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
	Deal promptly with audit recommendations.	Partially achieved. The Agency worked closely with finance colleagues to address priority recommendations and has made progress towards resolving. Quarterly progress reports were reported to the Departmental Audit and Risk Committee and the Legal Aid Strategy Group.
Further align our Debt Management Strategy with that of the NICS.	Develop a Debt Management Improvement Plan.	Achieved. The Agency has drafted a Debt Management Improvement Plan during 2019-20, the actions of which will continue to be delivered during 2020-21.
Create a culture where staff reach their potential.	To ensure compliance with the NICS performance management system. Look at an annual training programme for the Agency.	Achieved. Monitoring of the Personal Performance Agreement/Personal Development Plan regime has ensured the Agency meets Departmental reporting requirements. Mandatory training for all staff and for line managers has been identified and staff/line managers requested to ensure they have received.
Enhance the staff engagement profile of the Agency.	Development of a staff engagement strategy.	Partially achieved. There has been engagement with the DoJ Staff Engagement Forum and planning for extension of this work into LSA. LSA planned to set up a communication forum to develop a suite of staff attitude measures based on the results of the 2018 and 2019 staff attitude surveys. This work has stalled due to Covid-19. LSA did set up a Staff Social Committee during the period to organise charitable and social events in order to build staff engagement.

<b><i>Strategic Objective 4: Governance and accountability</i></b>		
<b>Outcome</b>	<b>Actions taken to achieve the overall Outcome</b>	<b>Progress at 31 March 2020</b>
Implement a new business intelligence reporting solution for LSA and progress a data literacy plan.	<p>Implement Qlik Sense reporting tool and develop reports derived from LAMS.</p> <p>Build capacity within the Information Analysis Unit.</p> <p>Train staff in respect of Qlik Sense both in running and developing reports.</p>	<p>Achieved.</p> <p>The Qlik Sense solution has been implemented and is being used for detailed LAMS reporting.</p> <p>Key users within business units to be identified and trained.</p>

## Financial review

The LSA financial statements for 2019-20 are compared to the two previous financial year in the table below:

### Statement of Comprehensive Net Expenditure

	2019-20	2018-19	2017-18
	£000	*Restated £000	*Restated £000
<b>Total operating income</b>	<b>(1,852)</b>	<b>(2,632)</b>	<b>(2,798)</b>
Staff costs	5,612	4,814	4,494
Purchase of goods and services	3,671	4,010	4,149
Depreciation and amortisation charges	914	15	59
Provision expense	99,462	84,330	68,757
Grants	21	21	21
<b>Total operating expenditure</b>	<b>109,680</b>	<b>93,190</b>	<b>77,480</b>
<b>Net expenditure for the year</b>	<b>107,828</b>	<b>90,558</b>	<b>74,682</b>

Staff costs can be analysed further as follows:

	2019-20	2018-19	2017-18
	£000	*Restated £000	*Restated £000
Wages and salaries	4,193	3,804	3,320
Social security costs	373	322	310
Other pension costs	1,046	688	651
Pension provision	-	-	213
<b>Staff costs</b>	<b>5,612</b>	<b>4,814</b>	<b>4,494</b>

\* Please refer to Note 1.26 for further details.

### ***Expenditure on publicly funded legal services***

The total amount of cash paid during 2019-20 for publicly funded legal services was £82.1m (as per Note 12 to the Accounts - Provisions for Liabilities: Provisions utilised in the year) compared to £84.2m paid during 2018-19. These figures for cash paid will be different to the amounts calculated on an accruals basis in the table above and included as a Provision expense in the Statement of Comprehensive Net Expenditure and Note 12 to the Accounts.

***Financial position***

The total net liabilities of the LSA at 31 March 2020 were £146.1m (2018-19: £128.5m).

***Cash flow***

As detailed in the Statement of Cash Flows, the Agency's Net Assembly draw down in 2019-20 was £89.4m (2018-19: £93.7m) and the net decrease in cash and cash equivalents in the year was £1.0m (2018-19: an increase of £1.6m).

***Financial risk***

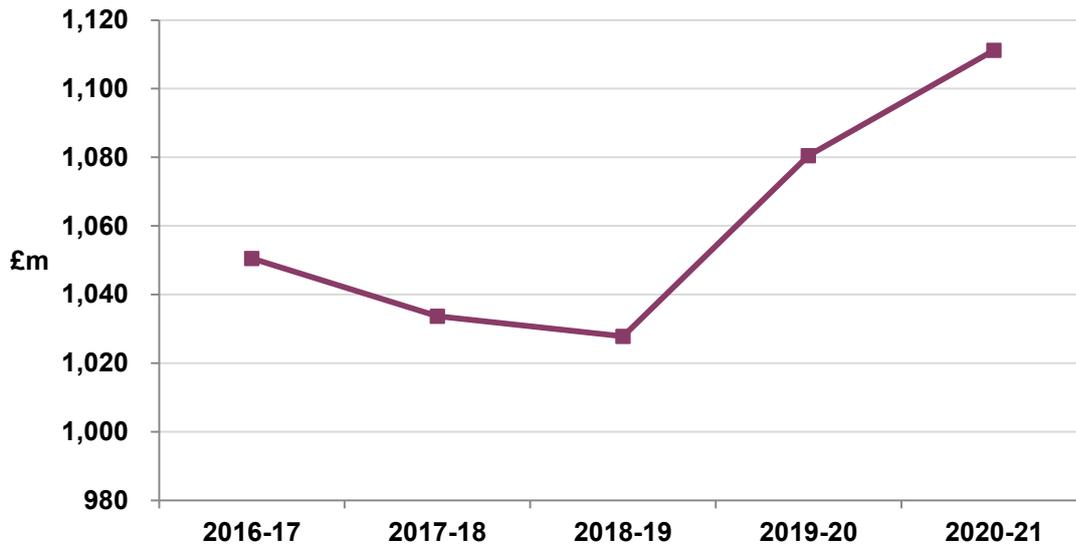
The Agency relies on the Department of Justice for funding and the risk to this funding is low. The Agency accounts for all transactions in sterling and has no borrowings. As such, the Agency is not exposed to any exchange rate or liquidity risk.

**Long-term expenditure trends**

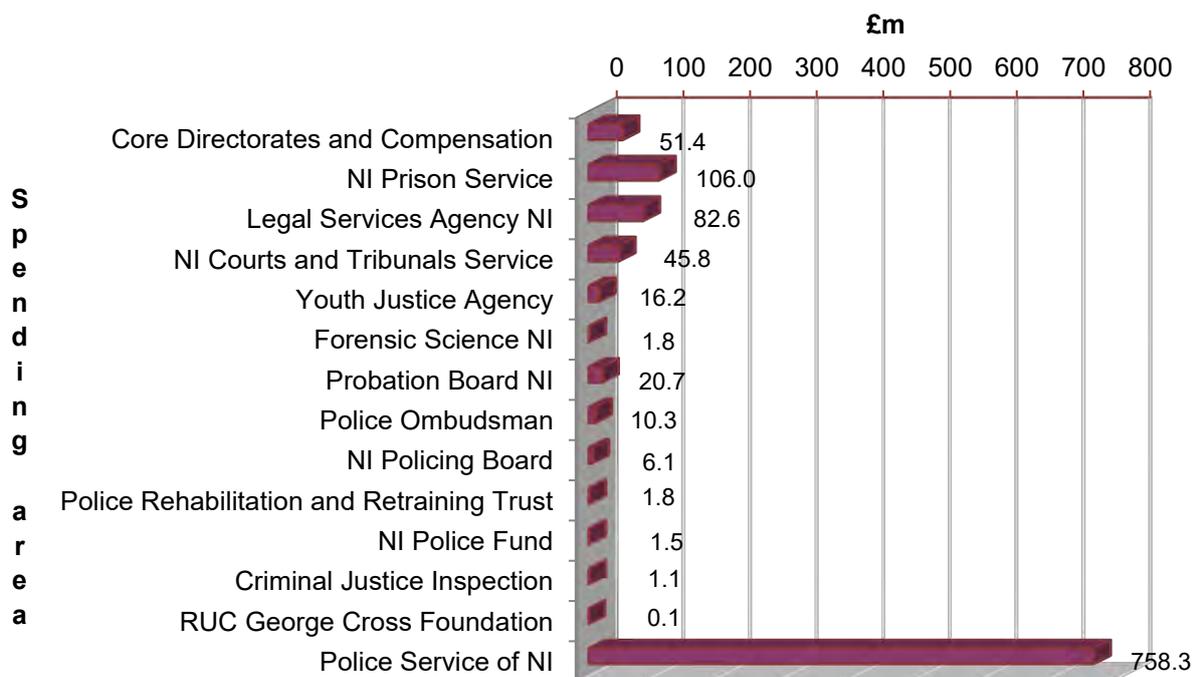
The charts below show:

- **Chart 1:** the movement in the Department of Justice non-ringfenced Resource DEL opening baseline over the period 2016-17 to 2020-21; and
- **Chart 2:** the 2020-21 non-ringfenced Resource DEL budget split by the Core Department, Executive Agencies and Non-Departmental Public Bodies.

**Chart 1: DoJ Non-Ringfenced Resource DEL opening baselines**



**Chart 2: DoJ 2020-21 Non-Ringfenced Resource DEL Opening Budgets**



**2019-20 financial year**

The Secretary of State announced a Northern Ireland 2019-20 budget on 28 February 2019.

The Department of Justice's non-ringfenced Resource DEL Budget was as follows:

- a flat cash allocation (2018-19 opening baseline);
- £31.1m of additional security funding for the PSNI was provided from the 'Fresh Start' Agreement;
- £11.3m was provided towards pressures identified by the Department;
- £32.0m contribution towards pension pressures; and
- £10.7m of funding for EU Exit costs.

In 2019-20 the Legal Services Agency's budget fell by 3.6%, taking into account 2018-19 outturn and 2019-20 planned expenditure.

**2020-21 financial year**

On 31 March 2020, the Finance Minister set out the 2020-21 budgets for Northern Ireland departments which have been agreed by the Executive.

The Department of Justice's non-ringfenced Resource DEL Budget was as follows:

- a flat cash allocation (2019-20 opening baseline);
- £29.7m of additional security funding for the PSNI was provided from the 'Fresh Start' Agreement;
- £22.5m was provided towards pressures identified by the Department;
- £5.0m contribution towards Legacy Inquest costs; and
- £10.7m of funding for EU Exit costs.

In 2020-21 the Legal Services Agency received a flat cash allocation.

## **Auditors**

The financial statements are audited by the Comptroller and Auditor General for Northern Ireland (“C&AG”), who heads the Northern Ireland Audit Office (NIAO) and is appointed by statute and reports to the Assembly. The C&AG and his staff are wholly independent of the Agency. The notional fee for the audit of the 2019-20 financial statements is £68,000 (2018-19: £65,000).

The C&AG may also undertake other statutory activities that are not related to the audit of the Agency’s financial statements, such as Value for Money (VFM) reports. No VFM reports on the Agency were undertaken during 2019-20.

## **Payment to suppliers**

The Agency’s policy is to pay bills from all suppliers within 10 working days following receipt of a properly rendered invoice or in accordance with contractual conditions, whichever is the earlier. Payments of programme costs for publicly funded legal services are exempt from the Better Payment Practice Code and therefore not included in the statistics noted below.

During the financial year, the Agency achieved an average of 83.6% (2018-19: 89.3%) of invoices paid to suppliers within 10 working days following receipt of a properly rendered invoice. The Agency achieved an average of 90.2% (2018-19: 95.7%) of invoices paid to suppliers within 30 calendar days following receipt of a properly rendered invoice.

## **Health and safety**

The LSA is committed to providing staff with an environment that is, as far as possible, safe and free from risk to health. In line with this commitment, the LSA complied with the relevant legislation during the period undertaking risk assessments as required, and particularly in respect of Covid-19.

In response to the pandemic, a series of measures were implemented in LSA premises to promote staff safety. These included conducting meetings digitally, diagonally spaced desk plans, revised cleaning schedules and increased sanitation points. The initial Covid-19 risk assessment was shared with the Health and Safety Executive who confirmed the appropriateness. It has been kept under continual review being updated for all changes in circumstances and has been shared with staff and Trade Union colleagues.

A Fire Risk Assessment was scheduled for March 2020 but did not take place due to Covid-19 restrictions. In the interim, a review of fire evacuation procedures has been undertaken in light of revised office working to ensure staff safety.

The LSA’s health and safety function is managed by the Business Support Unit and the arrangements in place enable the Agency to comply with its legal duties and responsibilities under the Health and Safety at Work Act 1974.

## Environmental and sustainability initiatives

The LSA remains committed to securing products and services that are environmentally friendly and to the procurement of goods or services which comply with Article 6 of the Energy Efficiency Directive and can be recycled where possible. The LSA promotes the use of electronic correspondence where practicable and the implementation of LAMS has resulted in considerable savings and reduction in environmental impact through paper free legal aid applications. The transfer of the Legal Aid Assessment Office functions to the LSA Financial Eligibility Unit has also removed the need for transportation of paper forms between Belfast and Londonderry.

All staff have access to multi-function devices (MFDs) which permit both electronic scanning of documents and double-sided printing for any physical copies that are currently required. The Board and Audit and Risk Committee use electronic papers only for all meetings, removing the requirement for printing of considerable volumes of paper documents and subsequent posting to attendees. The recycling of MFD toner cartridges provides an example of our ongoing commitment to sustainability initiatives, as does the fact that all redundant IT equipment is returned via IT Assist arrangements for appropriate decommissioning and recycling.

LSA continues to promote recycling within the workplace with separate containers provided to facilitate staff. The LSA uses the NICS recycled waste contractor for collection of all recyclable office waste including glass, paper, cardboard, plastics and metals. Posters throughout our premises encourage staff to switch off lights and equipment when not required.

The Agency's contracts over £30,000 continue to be managed centrally through Construction and Procurement Delivery within DoF. Sustainable development is factored into the establishment of all contracts.

## Social and community issues

The LSA continues to develop its communications strategy in support of the reform programme, which is focused on the needs of the public, suppliers of legal services and other key stakeholders.

Under this programme the LSA continues to work on the following areas:

- practitioner familiarisation with LAMS;
- preparation of documentation to assist the understanding of the assisted person as to their obligations when accepting legal aid; and
- improved debt collection arrangements.

In addition, the LSA supports a range of projects being taken forward by DoJ.

## Human rights

Civil servants have a statutory duty to respect, protect and fulfil people's human rights when developing and delivering government policy and services. The Northern Ireland Human Rights Commission (NIHRC) interactive guide to Human Rights is available to staff in the Agency to ensure they have knowledge of human rights law and standards and the core principles through which human rights are realised. The training is designed to increase human rights knowledge and strengthen the culture of human rights awareness and good practice within the Agency. LSA follows all guidelines set down and ensures staff undertake any necessary training.

## Whistleblowing

The Agency has a Whistleblowing policy in place, designed to reassure staff that it is safe and acceptable to speak up, when they have a concern about malpractice. The procedures provide arrangements so that such concerns can be addressed at an early stage and in a fair and proper way. The Head of Internal Audit is involved in conducting independent investigations into issues raised under the policy. There have been no instances of whistleblowing during the year.

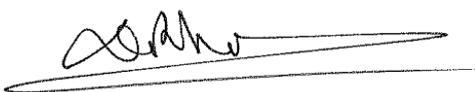
## Anti-corruption and anti-bribery

The Agency is committed to the values of probity and accountability which foster a positive organisational culture. It is also committed to the elimination of any fraud within the Agency, to the rigorous investigation of any prima facie case, and, where fraud or other criminal acts are proven, to ensure that wrongdoers are dealt with appropriately. The Agency will take proportionate steps to recover any assets lost as a result of fraud, corruption or theft. The Agency has a zero tolerance approach towards acts of bribery and corruption by staff, associated persons and organisations.

Managing the risk of fraud and bribery is seen by the Agency in the context of managing a wider range of risks. The Agency promotes an anti-fraud and anti-bribery culture by encouraging management to create conditions in which staff members have neither the motivation nor the opportunity to commit fraud or either offer or accept bribes. Professional staff are the first line of defence against these issues, supported by the establishment and maintenance of carefully designed and consistently operated procedures. The introduction of LAMS is considered as reinforcing the audit trail around transactions so reducing the risk of fraud and bribery.

LSA recognises there is a need to maintain the awareness of staff at all levels to safeguard public resources against the risk of fraud and bribery and this forms part of the Agency communications strategy.

## **PERFORMANCE REPORT**



**Paul Andrews**  
**Chief Executive and Accounting Officer**  
**10 November 2020**

## **ACCOUNTABILITY REPORT**

The Accountability section of the Annual Report outlines how the Agency meets its key accountability requirements to the Assembly and ensures best practice with corporate governance norms and codes. The three sub-sections within the Accountability Report are outlined below.

### **i - Corporate Governance Report**

The purpose of this section is to explain the composition and organisation of the Agency's governance structures and how they support the achievement of its objectives.

As a minimum, the corporate governance report must include:

- Directors' Report;
- Statement of Accounting Officer's responsibilities; and
- Governance Statement.

### **ii - Remuneration and Staff Report**

This section sets out the Agency's remuneration policy for directors, reports on how that policy has been implemented and sets out the amounts awarded to directors as salary and pension entitlements.

In addition the report provides information relating to remuneration and staff that the Assembly and other users see as key to accountability.

### **iii - Assembly Accountability and Audit Report**

This section brings together the key Assembly accountability documents within the Annual Report and Accounts. It comprises:

- regularity of expenditure;
- Assembly accountability disclosures; and
- Certificate and Report of the Comptroller and Auditor General to the Assembly.

**CORPORATE GOVERNANCE REPORT****DIRECTORS' REPORT****The Board**

The LSA Board (the Board) was formally constituted on 1 April 2015 and oversees the work of the Agency. Its role is to lead the LSA's strategic planning and assist the Chief Executive, who is also the Accounting Officer, in meeting corporate governance responsibilities for the Agency. The Board follows Corporate Governance best practice.

Membership of the Board at 31 March 2020 was as follows:

<b>Position</b>	<b>Member</b>
Chief Executive	Paul Andrews
Director, Operations	Mandy McKay (from 28 October 2019)
Director, Corporate Services	Nuala McAuley (from 4 November 2019)
Non-Executive Member	Allen McCartney
Non-Executive Member	Tom Burgess (from 20 August 2019)

In addition a senior representative from the DoJ attends Board meetings.

The Board operates as a collegiate forum, under the leadership of the Chief Executive, to manage the running of the LSA. Policy on civil legal services and criminal legal aid is not determined by the LSA, however the Board may discuss policy in the context of analysing options for operational management and delivery. In the policy area, the Board operates in an advisory and consultative capacity, offering guidance when required.

The Chief Executive of LSA is responsible for the day-to-day operation of the Agency and the leadership and management of its staff. The Chief Executive is also currently the holder of the statutory office of Director of Legal Aid Casework (Director). The Director operates under legislation and Ministerial guidance and directions when determining whether applications for civil legal services should be funded. The Director is independent from any Ministerial or Departmental interference in relation to individual applications for civil legal services.

The role of Non-Executive Members (NEMs) includes:

- providing strategic advice to the Board, contributing to decision-making and supporting the good corporate governance of LSA;
- using their experience to challenge and support the Board, acting corporately;
- ensuring that the Board obtains and considers all appropriate information; and
- notifying the Board of any matters that threaten the regularity, propriety or value-for-money with which LSA carries out its business.

All Board members are required to adhere to the Seven Principles of Public Life.

The Board is supported in its role by the Audit and Risk Committee, which is a committee of the Board with no executive powers. The role of this Committee is to support the Board in its responsibilities for issues of risk control and governance by reviewing the comprehensiveness of assurances in meeting the Board and Accounting Officer's assurance needs, and reviewing the reliability and integrity of these assurances.

As an Agency of the DoJ, the LSA operates under a Framework Document. The Framework Document sets out the arrangements for the effective governance, financing and operation of LSA. A copy of the LSA Framework Document can be found at [www.lsanigov.uk](http://www.lsanigov.uk).

### **Board Members' interests**

Details of company directorships and other significant interests held by LSA Board Members are set out within the related party disclosures at Note 17 in the Accounts. The LSA maintains a Register of Interests for senior management which is updated on a quarterly basis. In addition, any conflicts of interest are declared by the Board members at each meeting. Access to the Register of Interests may be gained by contacting [enquiries@lsanigov.uk](mailto:enquiries@lsanigov.uk).

### **Information assurance**

There were no incidents of loss of information assets or personal data during 2019-20 which required to be reported to the Information Commissioner's Office.

## Complaints

The Complaints Policy and Procedures regarding the administration of civil and criminal legal aid are designed by the Agency to address complaints regarding the quality of service provided by its officials. Its aim is to enhance and improve the level of service provided to customers.

There were 34 complaints recorded for the LSA during 2019-20 (in 2018-19 there were 19) and these were mainly concerned with process or delay and the introduction of LAMS. Of these, 33 were closed in 2019-20 and one has been carried forward into 2020-21.

Complaints can be made to:

Legal Services Agency Northern Ireland  
2nd Floor  
Waterfront Plaza  
8 Laganbank Road  
Mays Meadow  
Belfast  
BT1 3BN

Telephone: 028 9040 8888

E-mail: [enquiries@lsani.gov.uk](mailto:enquiries@lsani.gov.uk)

The LSA thoroughly investigates every complaint it receives, using a three tier complaints procedure. The initial complaint gives the LSA the chance to review the way the matter was handled at a local level and put the situation right if possible. If an individual or provider is not content with the initial response, they can escalate their complaint to the Chief Executive's Office and a Director will investigate the complaint. If the complainant is still dissatisfied, they can request that the Chief Executive investigates the complaint and how it was handled. Once the three stages of the LSA's complaints procedure have been exhausted, the final recourse for the complainant is to refer the matter to the Office of the Northern Ireland Public Services Ombudsman under the Ombudsman (NI) Act 2016.

The LSA cannot investigate complaints about the representation received by recipients of legal aid. Complaints about the service or performance of solicitors and barristers must be referred to the appropriate professional body for investigation.

## **NON-EXECUTIVES' REPORT**

### **Overview**

The 2019-20 year has seen significant changes within the Legal Services Agency. A major Transformation Programme has embraced both preparation for the introduction of the digital case management system, and also organisational, structural and cultural reforms. As Non-Executive Members of the Agency Board, we have had full oversight and input to the work of the LSA, and its business planning process and risk analysis.

Our role is to provide constructive but robust challenge to the Senior Management Team within the Agency and to support that team in driving forward the very necessary changes. Those dual functions have also extended to our interaction with the Agency's HR partners to address concerns about the staffing of the Transformation Programme, and deliver a substantial reduction in sickness absences. At our request, payment services and finance have undertaken a re-profiling of the payments made by the Agency thereby reducing the year end work in progress.

We also used our independent perspective to support those whom legal aid is designed to protect, and whose representation was funded by the public purse. In particular, we have encouraged a transparent approach through regular updates to the Bar and Law Society on the performance of the Agency. We also continued to challenge constructively all financial aspects of the Agency's work to ensure the demand led aspects of its work were sufficiently resourced.

We have also supported the Director of Legal Aid Casework by ensuring that legal aid decisions remain independent and free from any inappropriate influence.

### **Agency Board**

The Agency Board met 11 times during the year and discussion focused heavily on progress of the Transformation Programme and how to deliver the change whilst the Agency's core business continued to be delivered. It is significant to note that nearly 83,000 acts of assistance were delivered, and an outturn position of more than £82m in payments were achieved this year despite the substantial demands on staff from the cut over to the new system. This was against the backdrop of ongoing reform activity and digitisation of systems. We have continued to scrutinise and, where appropriate, challenge Agency delivery plans. Such challenge is embraced well by the executive members of the Board and there is effective communication on all key issues. As Non-Executive Members, we have appreciated the commitment from staff at all grades across the organisation to delivering high quality work in these challenging circumstances.

The re-establishment of the Assembly, and a suitable legislative function, now provides opportunities for the Agency and policy colleagues in the wider Department to bring forward the reforms necessary to deliver some important improvement outcomes. The one most relevant to the Agency is the Registration Scheme for the profession, and planning has recommenced in anticipation that it will come into statute during 2020-21.

The Agency Board itself saw significant change during the year due to staff movements and restructuring, losing Marcella McKnight, Sheila McPhillips, Jill Herron and Mark McGuicken as Directors and gaining Mandy McKay and Nuala McAuley. As Non-Executive Members, we would thank each of those former Board members for the special contributions they have made to the Board discussions over the years and we look forward to continued good working relationships with the new leadership team.

We also saw the loss of Stephen Wooler CB when his tenure as a Non-Executive Member came to an end on 18 June 2019 and we would like to thank him for his commitment to the Agency over the past five years. We welcomed Tom Burgess to the Board and ARC from 20 August 2019.

### **Audit and Risk Committee**

The Audit and Risk Committee (ARC) consists of the two Non-Executive Members and Peter Toogood, Director of Finance and Corporate Services in the Executive Office. It met on six occasions this year and received ongoing reports from internal and external audit colleagues, counter fraud activity updates, finance, and transformation reports. ARC also undertook regular scrutiny of the Agency's Risk Register which was reviewed and updated throughout the year, particularly in the context of the changing transformation environment. ARC has had a particular focus on the Transformation Programme generally and the implementation and operation of LAMS in particular.

There are two areas worthy of particular note. The first is the ground breaking progress made in respect of official fraud and error detection. This is undertaken by the SAU within DfC and rigorous analysis has been conducted to identify the baseline level of official error and causes. At first sight the error rates seem high but as the year ended the Agency is, for the first time, in a position to analyse fully the detailed information produced and introduce operational changes to improve the rates. This work is key to the potential removal of one of the qualifications on the Agency accounts.

The second is the work being undertaken to properly identify the baseline figure of cases within the system, in order to better and more accurately inform the extent of the financial provision against this exposure. It is hoped that this will allow for the removal of another qualification on the Agency accounts.

Further work is necessary to drive minimisation of error forward and we will continue to support the Senior Management Team in ongoing discussions with audit officials in this regard.

ARC kept in touch with best practice both nationally, and also by participating in discussions within DoJ.

## **Conclusion**

Overall this has been a very challenging but successful year for the Agency. It, together with the legal profession, took a quantum leap into the modern age with the introduction of online applications for and payment of legal aid. Change of such magnitude is always difficult to manage and accept but the Agency and profession deserve much credit for the way this has been handled.

We must congratulate all involved in this year's performance on a job well done, whilst acknowledging that there is always more to be done. We see a strong commitment to driving continuous improvement in future years. We will continue to work with the new Senior Management Team and staff to deliver the necessary enhancements for the benefit of users of publicly funded legal services.

## STATEMENT OF ACCOUNTING OFFICER'S RESPONSIBILITIES

Under section 11(2) of the Government Resources and Accounts Act (Northern Ireland) 2001, the Department of Finance (DoF) has directed the LSA to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the LSA and of its income and expenditure, Statement of Financial Position and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by DoF, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards, as set out in the Government Financial Reporting Manual, have been followed, and disclose and explain any material departures in the financial statements;
- prepare the financial statements on a going concern basis; and
- confirm that the Annual Report and Accounts as a whole is fair, balanced and understandable and take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable.

The Accounting Officer for the DoJ has designated the Chief Executive as Accounting Officer of LSA. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the LSA's assets, are set out in the Accounting Officer's Memorandum issued by DoF and published in Managing Public Money Northern Ireland.

As the Accounting Officer, I have taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to establish that the LSA's auditors are aware of that information. So far as I am aware, there is no relevant audit information of which the auditors are unaware.

## **GOVERNANCE STATEMENT**

### **1. Scope of responsibility**

The LSA operates under the auspices of the DoJ. The relationship between the LSA and the DoJ is governed by a Framework Document.

The LSA is responsible for applying statutory tests to determine whether an individual should receive civil legal services, assessing the appropriate remuneration and making the payment for the relevant legal services provided in a timely manner. While the judiciary is responsible for the grant of criminal legal aid, the LSA pays for the legal services provided. In addition to administering publicly funded legal services, the LSA supports the DoJ in its work to reform civil and criminal legal aid as part of the Enabling Access to Justice Reform Programme. The scope of the work undertaken by the LSA and the objectives set for each business area are contained in the annual Business Plan for LSA which is approved by the DoJ.

The Board of the LSA has a corporate responsibility for ensuring that the Agency fulfils the aims and objectives set by the DoJ and for ensuring the efficient and effective use of resources by the organisation.

### **2. Purpose of the governance framework**

The LSA relies on its governance framework to enable it to exercise operational and strategic control over the operations of the organisation and to ensure that resources are effectively directed to deliver business objectives. It also provides a range of assurances that appropriate internal controls are in place and working effectively.

The Board considers it has complied with all the key principles of the Corporate Governance Code in terms of its composition, leadership remit, accountability and risk management. The Board operates a Risk Management Policy and ensures that risks are clearly identified and managed in line with the DoJ's agreed risk appetite. A Register of Interests is maintained for Board members and the agenda for each Board and Audit and Risk Committee meeting commences with a formal declaration (and record) that attendees have no conflicts of interest. Good practice is complied with, as representatives from the Department are invited as observers to attend all Board and Audit and Risk Committee meetings. This arrangement ensures that both parties continue to be well informed as to the wide range of matters that may impact on achievement of business objectives.

### **3. Governance framework**

The key organisational structures which support the delivery of effective corporate governance in the Agency are the:

- LSA Board; and
- LSA Audit and Risk Committee.

## The Board

The Board provides a vital role in shaping and directing the organisation to ensure it is equipped to provide high quality cost-effective services. The Board is responsible for business and corporate planning and reporting and oversight of the functions of LSA promoting the efficient, economic and effective use of staff and other resources.

The Board operates within the parameters of the Agency Framework Document and the agreed Terms of Reference. The Board ensures the LSA fulfils its aims and objectives and supports those set by the DoJ.

The emphasis for the Board in this period has been:

- establishing the strategic direction of the LSA within the policy and resources framework determined by DoJ;
- constructively challenging the LSA's Senior Management Team in their business planning, target setting and delivery of performance against agreed targets;
- identifying the corporate risks that may impact on the delivery of the LSA's objectives;
- ensuring that the statutory requirements for the use of public funds are complied with; and
- ensuring that the Board received and reviewed regular financial and performance information concerning the management of the LSA.

Attendance by members is shown below for the 11 meetings of the Agency Board during 2019-20:

<b>Position</b>	<b>Member</b>	<b>Attendance</b>
Chief Executive	Paul Andrews	11/11
Transformation Director	Marcella McKnight (until 27 January 2020)	8/8
Director, Civil Legal Services	Sheila McPhillips (until 28 October 2019)	5/6
Director, Payment Services	Jill Herron (until 28 October 2019)	3/6
Director, Operations	Mandy McKay (from 28 October 2019)	4/5
Director, Corporate Services	Mark McGuicken (until 4 November 2019)	5/6
Director, Corporate Services	Nuala McAuley (from 4 November 2019)	5/5
Non-Executive Member	Allen McCartney	11/11
Non-Executive Member	Stephen Wooler, CB (until 18 June 2019)	3/3
Non-Executive Member	Tom Burgess (from 20 August 2019)	8/8

## The Audit and Risk Committee

The Audit and Risk Committee is responsible for supporting the Board and Accounting Officer by reviewing the comprehensiveness of assurances and assessing the reliability and integrity of these assurances.

It fulfils this responsibility by ensuring that appropriate arrangements are in place to provide the necessary assurances in terms of financial management, risk management, counter-fraud, and the work of the internal and external auditors.

Key work of the Audit and Risk Committee included:

- review of the annual financial statements and the Governance Statement, including the work and reporting of the external auditors;
- counter-fraud strategy and reporting;
- corporate risk management;
- internal audit planning and strategy, including review of audit reports and the annual assurance report;
- oversight of actions to address identified weaknesses and key risks; and
- review of public sector guidance issued by DoF, Public Accounts Committee reports and any relevant good practice initiatives.

Attendance by members is shown below for the six meetings of the Audit and Risk Committee held during 2019-20:

<b>Position</b>	<b>Member</b>	<b>Attendance</b>
Non-Executive Member (Chair)	Allen McCartney	6/6
Non-Executive Member	Stephen Wooler, CB (until 18 June 2019)	3/3
Non-Executive Member	Tom Burgess (from 20 August 2019)	3/3
Independent Audit and Risk Committee Member	Peter Toogood	6/6

The following were generally in attendance at all Audit and Risk Committee meetings: Chief Executive, Director Corporate Services, Business Support Unit Manager, Head of Internal Audit, senior representative from the DoJ and representatives from NIAO and DoJ FSD.

#### 4. Risk management and internal control

The LSA has a well embedded and robust risk management framework in place, with direct involvement of senior managers and staff. Oversight of this is the responsibility of the Audit and Risk Committee. The LSA's arrangements for effective risk management include:

- a risk management strategy which is directly aligned with that of the Department;
- an agreed risk appetite in line with the DoJ's policy;
- Branch, Directorate and Corporate Risk Registers to identify and escalate the risks threatening to impact upon the achievement of the LSA's objectives;
- Board review of corporate risks as a standing agenda item;
- Audit and Risk Committee agenda focusing specifically on risk management;
- structures in place to assess and report on information risk; and
- Stewardship Statements from managers, providing formal assurance on their management of risk for their respective business areas.

The LSA's system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the LSA's policies, aims and objectives, to evaluate the likelihood of those risks being realised and to limit any impacts should they materialise. It is designed to manage risk within the parameters of the LSA's risk appetite, rather than attempting to eliminate all the risk of failure to achieve policies, aims and objectives. The system of internal control includes:

- the establishment and operation of an effective management structure;
- the establishment and operation of a Board and Committee structure including an Audit and Risk Committee;
- a system of risk assessment and risk management;
- key management controls, including monitoring, supervision and segregation of duties;
- a scheme of delegation which delegates decision-making within set parameters;
- adherence to external legislation, government policies, directions or guidance;
- adherence to accountability reporting to the DoJ, including Stewardship reporting and information security returns;
- adherence to internal policies, standing orders, documented business procedures and processes;

- an IT system to support business processes and provide relevant management information;
- the provision of an internal audit service to support management and provide independent assurance;
- a dedicated counter-fraud team; and
- comprehensive and accessible Departmental whistleblowing arrangements.

## **5. Review of effectiveness of the governance framework**

The Board and Audit and Risk Committee continually review the range, format, frequency and detailed content of the reports and assurances provided to each meeting. This process ensures that requirements are met in terms of providing timely and effective information to the relevant meeting to allow members to fulfil their governance responsibilities. Both the Board and the Audit and Risk Committee undertook an effectiveness review during the period and were assured they have the necessary mix of skills and scope to deliver their functions appropriately. The Audit and Risk Committee provides the Board with a comprehensive annual report, setting out the work of the Committee and appropriate assurances for the relevant financial year.

The LSA was not subject to any Ministerial directions during the reporting period.

### **Internal Audit reporting**

Internal Audit services for LSA are provided by DoF's Group Internal Audit and Fraud Investigation Service. Internal Audit staff from DoF are assigned to deliver services to the DoJ Core Department and its agencies.

Internal audit services represent an independent and objective appraisal of the LSA's governance, risk management and internal control system. The internal audit opinion is based on internal audit activity carried out during 2019-20 and cumulative assurances derived from internal audit activity during the previous two years.

The overall internal audit opinion for 2019-20 concluded that the arrangements within LSA are satisfactory.

There were six internal audits conducted during the period, one follow up to check previous recommendations were addressed and one review to give advice and assistance.

There were no recommendations raised at Priority 1, i.e. of such seriousness that failure to implement the recommendation would be likely to result in a major failure of a key organisational objective, significant damage to the reputation of the organisation or the misuse of public funds.

Area	Opinion 2019-20
Criminal and Civil Legal Aid	Satisfactory
Creditors Payments	Satisfactory
Management Accounts	Satisfactory
Certificates of Exceptionality	Satisfactory
Forecasting Follow Up	Satisfactory
Provisions	Advice and Guidance
Financial Eligibility	Satisfactory
Help Desk/Customer Support	Satisfactory

## 6. Budget position

The Assembly passed the Budget Act (Northern Ireland) 2020 in March 2020 which authorised the cash and use of resources for all departments for the 2019-20 year, based on the Executive's final expenditure plans for the year. The Budget Act (Northern Ireland) 2020 also authorised a Vote on Account to authorise departments' access to cash and use of resources for the early months of the 2020-21 financial year.

While it would be normal for this to be followed by the 2020-21 Main Estimates and the associated Budget (No. 2) Bill before the summer recess, the Covid-19 emergency and the unprecedented level of allocations which the Executive has agreed in response, has necessitated that the Budget (No. 2) Bill is instead authorising a further Vote on Account to ensure departments have access to the cash and resources through to the end of October 2020, when the Main Estimates will be brought to the Assembly and the public expenditure position is more stable.

## 7. Significant internal control issues

### Northern Ireland Audit Office - account qualifications

The C&AG qualified the 2019-20 financial statements of LSA in respect of:

- the level of estimated official error in legal aid payments and a limitation in scope on the regularity of legal aid payments in the period - due to the LSA being unable to provide sufficient evidence to assure NIAO that a material amount of legal aid expenditure had not been claimed fraudulently or due to claimant error; and
- a limitation in scope regarding the true and fair view of the balance of provisions for legal aid liabilities stated in the Statement of Financial Position and the resulting adjustments required to the annual legal aid expenditure. LSA was unable to provide sufficient evidence to support its estimate of the provision for legal aid liabilities to the necessary level of accuracy.

LSA has continued with a work programme to address these qualifications and has been taking this forward in conjunction with both DoJ and DfC. A number of the changes required have been addressed through the introduction of LAMS during 2019 however other elements of the work programme will continue to span a number of financial years.

#### Regularity of expenditure

The LSA has continued with a range of initiatives to address this qualification.

A MoU was established, from April 2017, with the SAU within DfC, to measure official error rates. 2019 represents the first full year of testing under the agreed methodology and will act as a benchmark for future years. The outcome for 2019 is set out below:

	Estimated Monetary Value of Error (MVE)	Lower Confidence Interval (LCI)	Upper Confidence Interval (UCI)
<b>Total error</b>	£8,296,498	£6,575,225	£10,017,771
<b>Overpayments</b>	£6,196,971	£4,513,359	£7,880,583
<b>Underpayments</b>	£2,099,527	£1,576,881	£2,622,173
<b>Total excluding deemed errors</b>	£5,761,904	£4,256,774	£7,267,035

	MVE as a % of Expenditure	LCI as a % of Expenditure	UCI as a % of Expenditure
<b>Total error</b>	11.10%	8.80%	13.50%
<b>Overpayments</b>	8.30%	6.10%	10.60%
<b>Underpayments</b>	2.80%	2.10%	3.50%
<b>Total excluding deemed errors</b>	7.70%	5.70%	9.80%

A sample of 893 cases was independently assessed by the SAU and the amount of legal aid estimated to have been paid incorrectly due to official error was projected at £8,296,498 over the review period. Looking at the confidence intervals, the true amount paid incorrectly is likely to lie within the range £6,575,225 to £10,017,771. This represents 11.1% (8.8-13.5%) of the expenditure on cases that had a Report on Case authorised between January and December 2019.

The overall amount estimated to have been paid incorrectly due to official error is £8,296,498; this is the combination of the estimated value of overpayments, £6,196,971, and that of underpayments, £2,099,527. While the Agency accepts that all error is equally valid these extrapolated figures represent over and underpayments and hence are compensatory. The net overpayment estimated due to official error is therefore £4,097,444.

The results are split into actual and deemed errors. Deemed errors are defined as instances where monitoring officers required further information to complete their review and where that information was not provided by the year end reporting date. Excluding deemed errors, the amount of legal aid estimated to be paid incorrectly due to official error reduces to £5,761,904 (£4,256,774 to £7,267,035) over the review period. This represents 7.7% (5.7 to 9.8%) of the expenditure on cases that had a Report on Case authorised between January and December 2019.

In those cases in which the monitoring officers identified an actual underpayment or overpayment, the Agency has a process to adjust the fees and make recoupments to address the incorrect errors. Underpayments due to the practitioner will be notified and an additional payment made under the case. Recoupments from the practitioner are likewise tracked against the case and will be offset within LAMS from future payments due to the same supplier under other cases. No recoupment is made of deemed errors as the accuracy or otherwise of the payment cannot be proved due to the lack of information. All underpayments and recoupments are processed in keeping with the LSA's policy covering Error Corrections.

LSA has appointed a dedicated team to deal with the work arising from the error work programme. They respond to deemed errors by providing information requested, analysing the source of the errors, identifying underlying issues and recommending remedial action to address. This may take the form of operational change whether through the ongoing revision to desk instructions, clarification of the interpretation of legislation or improved interface with other criminal justice organisations.

The methodology for addressing applicant fraud and error, through home visits to Assisted Persons, has been developed during 2019-20. Sampling was incorporated within the MoU between LSA and SAU for 2020-21 and commenced during 2020. This work had to cease due to the Covid-19 restrictions and is due to recommence in January 2021, though consideration will be given to alternative means of delivery.

LSA review the ongoing financial eligibility of individuals who remain in receipt of civil legal aid. The initial review of error methodology by the SAU has also identified the potential for DfC to undertake face-to-face applicant review visits for relevant Assisted Persons as a further form of assurance in respect of ongoing financial eligibility. This work is termed Future Overpayment Prevention (FOP). The development of the methodology will be revisited during 2020-21, particularly in light of Covid-19 restrictions, with a view to introduction during 2022.

Work has also progressed on plans to develop the practitioner counter fraud capabilities within the Agency with a view to commencing this work stream in 2020-21.

### **Provisions**

The LSA continues to support work led by the Department to improve the techniques and methodology used when estimating outstanding liabilities for publicly funded legal services provided by legal practitioners. The introduction of LAMS has greatly enhanced the ability of the Agency to identify the relevant cases and provide underlying reporting from the system so eliminating much of the intensive manual work previously conducted.

The existing methodology has been replicated within LAMS for 2019-20 but refined to reflect the additional information available.

A more complete review of the provisions methodology is to be undertaken during 2020-21. The usage of auto-close functionality within LAMS allows for fully paid cases to be excluded from provisions and for current average costs to be assessed more readily. Auto-close functionality commenced operation from 8 August 2020 and will help clarify the population of 'live' cases against which a provision is required. It will also support ongoing work to analyse the average costs of claims allowing their estimation to be based on the record of closed cases within LAMS.

Given the complex nature of provisions for publicly funded legal services and the range of issues which remain outside the LSA's control, providing the necessary levels of assurance to the NIAO to have this qualification removed remains a significant challenge. The LSA will continue to work with the Department to enhance controls in this area with the aim of removing the qualification in future years.

### **Reports by the Northern Ireland Audit Office and Public Accounts Committee**

The C&AG issued his Value for Money (VFM) report on Managing Legal Aid on 21 June 2016 and the Public Accounts Committee (PAC) held an evidence session on 29 June 2016. Subsequently the PAC published its report on Managing Legal Aid on 11 January 2017. With the restoration of the Assembly an update on progress in implementing the Committee's recommendations has been approved by the Minister and provided to the PAC on 20 February 2020. The Department has committed to provide six monthly updates thereafter.

## 8. Accounting Officer statement of assurance

In providing my statement of assurance I am informed by a range of sources, including the work of the Standards Assurance Unit, the Northern Ireland Courts and Tribunals Service, the LSA's risk management framework, stewardship arrangements and reports from the internal and external auditors. Assurance is provided by DoF internal auditors in terms of the corporate shared services provided by each respective department to LSA. Further assurances include the Annual Internal Audit Assurance Report and Opinion for 2019-20, which provides a satisfactory assurance rating in relation to internal control, risk management and corporate governance for the period.

I acknowledge the ongoing weaknesses identified, particularly the account qualifications, but also note the significant steps taken during the period to address the issues highlighted. I consider that the overall system of internal control, governance and risk management, which are within the parameters of my control, are such as to provide satisfactory assurance to me in relation to the ability of the LSA to effectively discharge its governance responsibilities.

## **REMUNERATION AND STAFF REPORT**

### **REMUNERATION REPORT**

#### **Remuneration policy**

The pay policy for the Northern Ireland (NI) public sector, including senior civil servants (SCS), is normally approved by the Minister of Finance. In the absence of an Executive, the Department of Finance's Permanent Secretary set the 2019-20 NI public sector pay policy (October 2019) in line with the overarching HMT parameters and in a manner consistent with the approach taken by the previous Finance Minister in 2016-17. Annual NICS pay awards are made in the context of the wider public sector pay policy. The pay award for NICS staff, including SCS staff, for 2019-20 has been finalised and paid.

The pay of SCS is based on a system of pay scales for each SCS grade containing a number of pay points from minima to maxima, allowing progression towards the maxima based on performance.

Staff at Grade 6 and below fall within the pay settlement provided by the NICS Comprehensive Pay and Grading Review.

#### **Service contracts**

The Civil Service Commissioners (NI) Order 1999 requires Civil Service appointments to be made on merit on the basis of fair and open competition. The Recruitment Code published by the Civil Service Commissioners for Northern Ireland specifies the circumstances when appointments may be made otherwise.

Unless otherwise stated, the officials covered by this report hold appointments that are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commissioners for Northern Ireland can be found at [www.nicscommissioners.org](http://www.nicscommissioners.org).

Following an open competition Non-Executive Members (NEMs) were appointed by the DoJ on 19 June 2014, for an initial period of three years, with the option to extend the appointments by mutual consent. Of these appointments only Allen McCartney remains a NEM and has agreed to remain with the Agency until 30 September 2020 or until an alternative appointment can be made, if sooner. Another NEM, Stephen Wooler, CB, stood down on 18 June 2019 and former Judge, Tom Burgess was appointed from this date also until 30 September 2020, or sooner if an alternative appointment can be made. The Department of Finance is undertaking a recruitment exercise to identify a pool of potential NEMs in autumn 2020 and the LSA would hope to be able to make subsequent appointments from this pool.

## Remuneration and pension entitlements

The following section provides details of the remuneration and pension interests of the most senior management of the Agency.

*[Audited information]*

### Single total figure of remuneration

Officials and NEMs	Salary	Benefits in kind (to nearest £100) £000	*Pension Benefits (to nearest £1,000) £000	2019-20
				Total
	£000	£000	£000	£000
<b>Paul Andrews</b> Chief Executive	80-85	-	32	110-115
<b>Marcella McKnight</b> Transformation Director (until 27 January 2020)	60-65 (70-75 FYE)	-	22	80-85
<b>Mandy McKay</b> Director of Operations (from 28 October 2019)	25-30 (55-60 FYE)	-	27	50-55
<b>Nuala McAuley</b> Director of Corporate Services (from 4 November 2019)	25-30 (60-65 FYE)	-	8	30-35
<b>Sheila McPhillips</b> Director, Civil Legal Services (until 28 October 2019)	35-40 (65-70 FYE)	-	42	80-85
<b>Jill Herron</b> Director, Payment Services (until 28 October 2019)	35-40 (65-70 FYE)	-	7	45-50
<b>Mark McGuicken</b> Director, Corporate Services (until 4 November 2019)	30-35 (55-60 FYE)	-	37	70-75
<b>Allen McCartney</b> Non-Executive Member	5-10	0.3	-	10-15
<b>Tom Burgess</b> Non-Executive Member (from 20 August 2019)	0-5 (5-10 FYE)	-	-	0-5
<b>Stephen Wooler, CB</b> Non-Executive Member (until 18 June 2019)	0-5 (5-10 FYE)	1.2	-	0-5

FYE = full-year equivalent

[Audited information]

**Single total figure of remuneration**

Officials and NEMs	Salary £000	Benefits in kind (to nearest £100) £000	*Pension Benefits (to nearest £1,000) £000	2018-19
				Total £000
<b>Paul Andrews</b> Chief Executive	80-85	-	31	110-115
<b>Marcella McKnight</b> Transformation Director (from 30 April 2018)	60-65 (70-75 FYE)	-	9	70-75
<b>Sheila McPhillips</b> Director, Civil Legal Services	60-65	-	25	85-90
<b>Jill Herron</b> Director, Payment Services	60-65	-	3	65-70
<b>Mark McGuicken</b> Director, Corporate Services (from 28 January 2019)	5-10 (55-60 FYE)	-	9	15-20
<b>Glynis Brown</b> Director, Corporate Services	45-50 (60-65 FYE)	-	24	70-75
<b>Allen McCartney</b> Non-Executive Member	5-10	0.4	-	5-10
<b>Stephen Wooler, CB</b> Non-Executive Member	5-10	4.7	-	10-15
<b>Professor John Morison</b> Non-Executive Member	0-2.5 (5-10 FYE)	-	-	0-2.5

FYE = full-year equivalent

*\*The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (the contributions made by the individual). The real increases exclude increases due to inflation and any increase or decrease due to a transfer of pension rights.*

## Salary

'Salary' includes gross salary; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances and any other allowance to the extent that it is subject to UK taxation and any ex gratia payments.

## Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the LSA and treated by HM Revenue and Customs (HMRC) as a taxable emolument. The benefits in kind shown above are in respect of expenses incurred on LSA business including approved mileage claims, parking, taxis, flights, trains and accommodation. In line with revised guidance from HMRC for Non-Executive Members (NEMs) with effect from 1 April 2019, expenditure on benefits in kind has been grossed up for individual NEMs and PAYE/NIC rules applied in line with normal payroll procedures.

## Pay multiples

*[Audited information]*

	2019-20	2018-19
Band of highest paid Director's Total Remuneration*	£80-85,000	**£75-80,000
Median Total Remuneration*	£25,540	£24,827
Ratio	3.2	3.1

*\*Total remuneration includes salary, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions.*

*\*\* The banded salary of the highest paid director (the Chief Executive) differs from his banded salary disclosed under Remuneration and pension entitlements due to salary arrears paid during 2018-19.*

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid director in their organisation and the median remuneration of the organisation's workforce.

The banded salary of the highest paid director in LSA in the financial year 2019-20 was £80-85,000 (2018-19: £75-80,000). This was 3.2 times (2018-19: 3.1) the median remuneration of the workforce, which was £25,540 (2018-19: £24,827).

In 2019-20, no employees received remuneration in excess of the highest paid director.

Remuneration in 2019-20 ranged from £16,000 to £80-85,000 (2018-19: £14,000 to £75-80,000).

## Pension entitlements

*[Audited information]*

Officials	Accrued pension at pension age as at 31/3/20* and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31/3/20**	CETV at 31/3/19*	Real increase in CETV	Employer contribution to partnership pension account (Nearest £100)
	£000	£000	£000	£000	£000	
<b>Paul Andrews</b> Chief Executive	35-40 plus 70-75 lump sum	0-2.5 plus nil lump sum	627	596	20	-
<b>Marcella McKnight</b> Transformation Director (until 27 January 2020)	35-40 plus 115-120 lump sum	0-2.5 plus 0-2.5 lump sum	917	857	23	-
<b>Mandy McKay</b> Director of Operations (from 28 October 2019)	25-30 plus 60-65 lump sum	0-2.5 plus 0-2.5 lump sum	532	507	21	-
<b>Nuala McAuley</b> Director of Corporate Services (from 4 November 2019)	25-30	0-2.5	380	371	3	-
<b>Sheila McPhillips</b> Director, Civil Legal Services (until 28 October 2019)	35-40 plus 75-80 lump sum	0-2.5 plus nil lump sum	850	805	37	-
<b>Jill Herron</b> Director, Payment Services (until 28 October 2019)	30-35 plus 100- 105 lump sum	0-2.5 plus 0-2.5 lump sum	786	766	7	-
<b>Mark McGuicken</b> Director, Corporate Services (until 4 November 2019)	20-25 plus 50-55 lump sum	0-2.5 plus 2.5-5 lump sum	392	359	25	-

\*Or date of joining if later.

\*\*Or date of leaving if earlier.

No pension benefits are provided to the Non-Executive Members.

### ***Northern Ireland Civil Service (NICS) pension schemes***

Pension benefits are provided through the Northern Ireland Civil Service pension schemes which are administered by Civil Service Pensions (CSP).

The alpha pension scheme was introduced for new entrants from 1 April 2015. The alpha scheme and all previous scheme arrangements are unfunded with the cost of benefits met by monies voted each year. The majority of existing members of the classic, premium, classic plus and nuvos pension arrangements also moved to alpha from that date. Members who on 1 April 2012 were within 10 years of their normal pension age did not move to alpha and those who were within 13.5 years and 10 years of their normal pension age were given a choice between moving to alpha on 1 April 2015 or at a later date determined by their age. Alpha is a 'Career Average Revalued Earnings' (CARE) arrangement in which members accrue pension benefits at a percentage rate of annual pensionable earnings throughout the period of scheme membership. The current accrual rate is 2.32%.

New entrants joining can choose between membership of alpha or joining a 'money purchase' stakeholder arrangement with a significant employer contribution (partnership pension account).

New entrants joining on or after 30 July 2007 were eligible for membership of the nuvos arrangement or they could have opted for a partnership pension account. Nuvos is also a CARE arrangement in which members accrue pension benefits at a percentage rate of annual pensionable earnings throughout the period of scheme membership. The current accrual rate is 2.3%.

Staff in post prior to 30 July 2007 may be in one of three statutory based 'final salary' defined benefit arrangements (classic, premium and classic plus). From April 2011, pensions payable under classic, premium, and classic plus are reviewed annually in line with changes in the cost of living. New entrants joining on or after 1 October 2002 and before 30 July 2007 could choose between membership of premium or joining the partnership pension account.

All pension benefits are reviewed annually in line with changes in the cost of living. Any applicable increases are applied from April and are determined by the Consumer Prices Index (CPI) figure for the preceding September. The CPI in September 2019 was 1.7% and HM Treasury has announced that public service pensions will be increased accordingly from April 2020.

Employee contribution rates for all members for the period covering 1 April 2020 to 31 March 2021 are as follows:

<b>Annualised Rate of Pensionable Earnings (Salary Bands)</b>		<b>Contribution Rate - all members</b>
<b>From</b>	<b>To</b>	
£0	£23,999.99	4.60%
£24,000.00	£55,499.99	5.45%
£55,500.00	£152,499.99	7.35%
£152,500.00 and above		8.05%

Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum (but members may give up (commute) some of their pension to provide a lump sum). Classic plus is essentially a variation of premium, but with benefits in respect of service before 1 October 2002 calculated broadly as per classic.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member) into a stakeholder pension product chosen by the employee. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach their scheme pension age, or immediately on ceasing to be an active member of the scheme if they are at or over pension age. Scheme Pension age is 60 for members of **classic**, **premium**, and **classic plus** and 65 for members of **nuvos**. The normal scheme pension age in alpha is linked to the member's State Pension Age but cannot be before age 65. Further details about the NICS pension schemes can be found at the website [www.finance-ni.gov.uk/civilservicepensions-ni](http://www.finance-ni.gov.uk/civilservicepensions-ni).

### ***Cash Equivalent Transfer Values***

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures, and from 2003-04 the other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the NICS pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2015 and do not take account of any actual or potential benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

***Real increase in CETV***

This reflects the increase in CETV effectively funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period. However, the real increase calculation uses common actuarial factors at the start and end of the period so that it disregards the effect of any changes in factors and focuses only on the increase that is funded by the employer.

**Compensation for loss of office**

There were no compensation benefits paid by LSA to any senior staff members during the financial year.

## STAFF REPORT

### Staff costs

Staff costs comprise:

*[Audited information]*

	Permanently Employed Staff	Others	2019-20	2018-19
			£000	*Restated £000
			Total	Total
Wages and salaries	3,628	565	<b>4,193</b>	3,804
Social security costs	373	-	<b>373</b>	322
Other pension costs	1,046	-	<b>1,046</b>	688
<b>Total Gross Costs**</b>	<b>5,047</b>	<b>565</b>	<b>5,612</b>	<b>4,814</b>
Less recoveries in respect of outward secondments	-	-	-	-
<b>Total Net Costs</b>	<b>5,047</b>	<b>565</b>	<b>5,612</b>	<b>4,814</b>

\* Figures for 2018-19 have been restated to reclassify Apprenticeship levy expenditure of £19,000 as Social security costs rather than Wages and salaries.

\*\* In addition, staff costs of £292,430 (2018-19: £791,037) have been capitalised in respect of staff directly assigned to major capital projects.

The Northern Ireland Civil Service main pension schemes are unfunded multi-employer defined benefit schemes but the Agency is unable to identify its share of the underlying assets and liabilities. The Government Actuary's Department (GAD) is responsible for carrying out scheme valuations. The Actuary reviews employer contributions every four years following the scheme valuation. The 2016 scheme valuation was completed by GAD in March 2019. The outcome of this valuation was used to set the level of contributions for employers from 1 April 2019 to 31 March 2021.

For 2019-20, employers' contributions of £1,054,818 were payable to the NICS pension arrangements (2018-19: £761,164) at one of three rates in the range 28.7% to 34.2% of pensionable pay, based on salary bands.

This change is primarily due to the reduction in the SCAPE discount rate (as announced at Budget 2018) to 2.4% per annum above CPI. The contribution rates are set to meet the cost of the benefits accruing during 2019-20 to be paid when the member retires, and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £Nil (2018-19: Nil) were paid to one or more of the panel of two appointed stakeholder pension providers. Employer contributions are age-related and range from 8% to 14.75% (2018-19, 8% to 14.75%) of pensionable pay. The partnership pension account offers the member the opportunity of

having a 'free' pension. The employer will pay the age-related contribution and if the member does contribute, the employer will pay an additional amount to match member contributions up to 3% of pensionable earnings.

Employer contributions of £Nil, 0.5% (2018-19: £Nil, 0.5%) of pensionable pay, were payable to the NICS Pension schemes to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees. Contributions due to the partnership pension providers at the reporting period date were £Nil. Contributions prepaid at that date were £Nil.

One individual (2018-19: none) retired early on ill-health grounds; the total additional accrued pension liabilities in the year amounted to £Nil (2018-19: £Nil).

### Average number of persons employed

The average number of whole-time equivalent persons employed was as follows:

*[Audited information]*

	2019-20	2018-19
Operational staff	131	122
Staff engaged on capital projects	5	16
<b>Total</b>	<b>136</b>	<b>138</b>

### Staff composition

The number of persons employed at 31 March 2020 was as follows:

	Female staff	Male Staff	Total Staff
LSA Board	2	3	5
Senior Civil Service	-	1	1
LSA Employees	83	51	134

### Managing attendance

The average days lost per whole time equivalent member of staff for 2019-20 has been projected as 16.9 days (2018-19:11.0 days). Official finalised figures were published at Department level within the "Sickness Absence in the Northern Ireland Civil Service 2019-20" on 25 June 2020. The NICS wide absence figure for 2019-20 was 12.9 average days lost per staff member year representing 5.9% of all available working days (2018-19: 12.6 days or 5.8%). The equivalent figures for DoJ were 15.5 days or 7.1% of available working days (2018-19: 14.0 days or 6.4%).

## Staff policies

### Pay policy

The LSA does not have delegated pay authority as all staff are civil servants. Under the *Civil Service (NI) Order 1999*, DoF is responsible for the pay arrangements of NI civil servants (apart from those agencies, non-ministerial government departments and other bodies with an agreed pay delegation). The pay award system aims to:

- be a system which will help to recruit, retain and motivate staff to perform efficiently the duties required of them;
- encourage staff to improve their individual performance by providing a direct and regular link between satisfactory performance and pay;
- ensure equity of treatment in respect of pay in accordance with legal requirements and the equal opportunities policy of the NICS;
- secure the confidence of staff that their pay will be determined fairly;
- secure the confidence of the public and their representatives in the system for determining the pay of the staff; and
- enable the Government to reconcile its responsibilities for the control of public expenditure with its responsibilities as an employer.

### Equal opportunities and diversity

The LSA complies with NICS and DoJ policy to ensure that all eligible persons will have equal opportunity for employment and advancement on the basis of their ability, qualifications and aptitude for work. Under the policy, everyone has a right to equality of opportunity and to a good and harmonious working environment and atmosphere where they are treated with dignity and respect. 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.

The Agency is an Equal Opportunity employer and is fully committed to the elimination of all forms of harassment, bullying, discrimination and victimisation. The Agency recognises the legal obligations under which it operates and ensures working relationships are based on mutual trust, respect and understanding. This allows the maximum potential to be made of the wide variety of skills, abilities and attributes available within the Agency.

## **Employment of disabled persons**

As part of its welfare and support programme, LSA staff have access to a wide variety of areas of support including Inspire, DoJ Wellbeing, NI Civil Service Charity, as well as career development programmes targeted to support people with a disability.

The LSA is a part of the Northern Ireland Civil Service and as such all policies and procedures are in keeping with the wider Civil Service. LSA aims to ensure that people with a disability suffer no detriment in recruitment and advancement, and that its policies and practices comply with the requirements of the Disability Discrimination Act 1995 and amendments made under the Act. The consideration and implementation of reasonable adjustments help to ensure that staff with disabilities can fully utilise their skills and abilities.

## **Employee involvement**

During 2019-20 the LSA published regular staff bulletins and messages from the Senior Management Team (SMT). The SMT encouraged and promoted a culture of regular Team Briefings throughout LSA. An event was held in December 2019 in recognition of and to pay tribute to staff for the exceptional efforts that had delivered so much for the organisation over the 2019 calendar year. Briefing sessions were arranged and took place on a monthly basis in each business area and were used to cascade information flowing from the Board Brief, SCS Forum events, Core Brief and to update on local issues as well as offering the opportunity for staff to feedback opinion, advance suggestions and discuss topics of interest.

Throughout the 2019-20 financial year LSA has consolidated reforms and changes to staff behaviours and values in respect of how staff are treated, how we interact with each other, and how we engage with our customer base. The standards expected of staff are also reflected at the Agency Board, and Audit and Risk Committee (ARC). Value and Behaviours has now become a formal agenda item for LSA Board and ARC meetings.

Under the DoJ Staff Engagement Strategy a Departmental Staff Engagement Forum was established on which LSA is represented. The purpose of the Forum is to provide a voice for staff to discuss issues and concerns and, on many fronts influence the future direction of the Department. The LSA representatives attended several meetings and working groups throughout the year to feed back on the views of the LSA staff.

## **Staff wellbeing**

The introduction of LAMS during 2019-20 meant that less time was dedicated to staff focused events during the year. However a Social Committee was established in December 2019 and a series of charitable or staff engagement events held during the month. The Committee met again in January and engaged with staff to set up a schedule of events for the incoming year, though in light of Covid-19 much of this planning was not able to be delivered.

The Committee liaises with the Well Champions to ensure there are no conflicts in event planning. A series of wellbeing events took place across the NICS the week commencing 24 February 2020 and LSA staff were encouraged to attend.

LSA hosted two events during that week. One of which was Health Checks carried out by the Northern Ireland Chest, Heart and Stroke Association. The checks consisted of cholesterol and blood glucose test, blood pressure check and body composition analysis on 24 February - 13 places were available and all were utilised by LSA staff.

The second was facilitation of a stand and representative from Inspire, NICS Welfare support. The representative from Inspire visited the LSA office and was available to all staff on a drop in basis on the morning of Tuesday 25 February. They made information on their services and contact details available to all staff.

### **Learning and development**

All staff completed a Personal Development Plan which identified training needs for 2019-20. The LSA has focused on investing in the skills of its staff through programmes and promotion of the use of the Centre for Applied Learning (CAL). CAL provides courses and resources for developing common skills which are applicable to all areas of the NICS.

In response to the Transformation Programme the focus of the Senior Management Team is on building IT literacy, including the management of reporting tools, and on developing leadership skills and change management. This has been a focus through Personal Performance Agreements for 2019-20 and in light of staff turnover will continue to be a focus for the incoming year.

### **Career development**

As part of the NICS, the Agency recognises the importance of having skilled and engaged employees and continues to invest in learning and development. Staff needs are identified under an annual Personal Development Plan. NICS HR Learning and Development is responsible for development and delivery of all generic staff training. It offers a variety of learning delivery channels to enable flexible access to learning, blending different learning solutions into coherent learning pathways that are aligned to both corporate need and the NICS Competency Framework.

The NICS offers a wide range of career development opportunities through mentoring, secondment and interchange opportunities, elective transfers, temporary promotion, job rotation and job shadowing. Talent Management is a key theme of the NICS People Strategy and work is underway to develop a more corporate approach to managing talent across the NICS.

### **Expenditure on consultancy**

The LSA incurred no expenditure on consultancy during 2018-19 or 2019-20.

### **Off-payroll payments**

The LSA made no off-payroll payments in 2018-19 or 2019-20.

## Reporting of Civil Service and other compensation schemes - exit packages

*[Audited information]*

Exit package cost band	Number of compulsory redundancies	Number of other departures agreed	2019-20 Total number of exit packages by cost band	2018-19 Total number of exit packages by cost band
below £10,000	-	-	-	-
£10,000 - £25,000	-	-	-	-
£25,000 - £50,000	-	-	-	2
£50,000 - £100,000	-	-	-	-
£100,000 - £150,000	-	-	-	-
£150,000 - £200,000	-	-	-	-
over £200,000	-	-	-	-
<b>Total number of exit packages</b>	-	-	-	<b>2</b>
<b>Total resource cost £</b>	-	-	-	<b>£67,637</b>

Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme (Northern Ireland), a statutory scheme made under the Superannuation (Northern Ireland) Order 1972. Exit costs are accounted for in full in the year of departure. Where the Department has agreed early retirements, the additional costs are met by the Department and not by the Civil Service pension scheme. Ill-health retirement costs are met by the pension scheme and are not included in the table.

## **ASSEMBLY ACCOUNTABILITY AND AUDIT REPORT**

### **ASSEMBLY ACCOUNTABILITY DISCLOSURES**

*[Audited information]*

#### **Regularity of expenditure**

##### ***Losses and special payments***

The value of trade receivable balances written-off during 2019-20 was £289,816 (2018-19: £231,069).

##### ***Fraud and error***

The LSA administers legal aid payments on behalf of the Department of Justice. The complexity of the legislation, the degree of discretion and inherent risks associated with adjudication, assessment and payment of bills can result in inaccurate payments being made in a proportion of cases.

Legal aid expenditure therefore may not be applied for the purposes intended by the Assembly or conform to the authorities which govern them due to:

- Official error - where an error can be attributed to the actions or inactions of the Agency;
- Errors made by legal aid claimants and legal practitioners; and
- Fraud.

Estimates of official error within individual sampled legal aid payments are provided by the Standards Assurance Unit, within the Department for Communities, under a Memorandum of Understanding. 2019 was the first full year of measurement of official error for legal aid and has been used to establish a formal baseline rate against which future performance can be measured.

The estimated level of overpayments in legal aid expenditure resulting from official error in 2019-20 is £6.2 million, whilst the estimated level of underpayments is £2.1 million. All overpayments are considered irregular as the expenditure has not been applied in accordance with the purposes intended by the Assembly. Underpayments resulting from official error are not considered to have conformed to the authorities which govern them as the corresponding transactions have not been processed in accordance with the applicable legislation. Therefore this expenditure is considered to be incorrect.

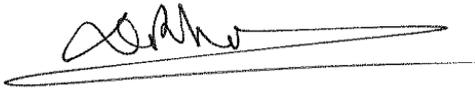
Currently, LSANI does not produce an estimate of the likely scale of overpayments or underpayments made to legal practitioners resulting from fraud and error by claimants or practitioners.

*[Audited information]*

**Remote contingent liabilities**

There were no contingent liabilities requiring disclosure under Assembly reporting requirements. The Agency had no significant remote contingent liabilities during 2019-20 that require disclosure. Note 16 provides further details regarding the contingent liabilities that are included within the financial statements.

**ACCOUNTABILITY REPORT**

A handwritten signature in black ink, appearing to read 'Paul Andrews', is written over a horizontal line. The signature is stylized and cursive.

**Paul Andrews**  
**Chief Executive and Accounting Officer**  
**10 November 2020**

## CERTIFICATE OF THE COMPTROLLER AND AUDITOR GENERAL TO THE NORTHERN IRELAND ASSEMBLY

### Qualified opinion on financial statements

I certify that I have audited the financial statements of the Legal Services Agency Northern Ireland for the year ended 31 March 2020 under the Government Resources and Accounts Act (Northern Ireland) 2001. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes including significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion, except for any possible effects of the matters described in the Basis for qualified opinion section of my certificate, the financial statements:

- give a true and fair view of the state of the Legal Services Agency Northern Ireland's affairs as at 31 March 2020 and of its net operating expenditure for the year then ended; and
- have been properly prepared in accordance with the Government Resources and Accounts Act (Northern Ireland) 2001 and Department of Finance directions issued thereunder.

### Qualified opinion on regularity

In my opinion, except for the matters described in the Basis for qualified opinions section of my certificate in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by the Assembly and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Basis for qualified opinions

Provision for legal aid liabilities totalling £152.4 million has been made in the financial statements for the estimated expenditure required to settle the costs incurred on legal aid cases. However in respect of £131.1 million of those liabilities the Legal Services Agency Northern Ireland was unable to provide sufficient evidence to support management information used to determine a number of key assumptions and judgements it used to estimate this element of the provision. Consequently, I was unable to determine the full extent of the adjustments necessary to the provision for legal aid liabilities and the resulting adjustment to the legal aid expenditure for the year.

My examination found material weaknesses in controls over fraud and error prevention and detection in respect of legal aid costs totalling £98.7 million:

- Statistics produced by the Agency estimated £6.2 million of overpayments and £2.1 million of underpayments of legal aid costs were made in the year due to official error. The Agency is required to pay legal aid costs in accordance with legislation. Where official error results in overpayments and underpayments the transactions have not been processed in accordance with the applicable legislation. The expenditure is therefore irregular.
- The Agency was unable to provide sufficient evidence to enable me to conclude that a material amount of legal aid expenditure had not been claimed fraudulently or in error by legal aid practitioners or legal aid applicants. There were no additional audit procedures that I could undertake to provide me with assurance as to the regularity

of this expenditure. The scope of my audit was therefore limited in this respect and I am unable to form an opinion on whether all of the remaining balance of expenditure on legal aid was in accordance with the purposes intended by the Assembly and that these financial transactions conformed to the authorities which governed them.

I conducted my audit in accordance with International Standards on Auditing (UK) (ISAs) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of this certificate. My staff and I are independent of the Legal Services Agency Northern Ireland in accordance with the ethical requirements of the Financial Reporting Council's Revised Ethical Standard 2016, and have fulfilled our other ethical responsibilities in accordance with these requirements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my qualified opinions.

### **Conclusions relating to going concern**

I have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the Legal Services Agency Northern Ireland's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Legal Services Agency Northern Ireland has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Legal Services Agency Northern Ireland's ability to continue to adopt the going concern basis.

### **Other Information**

The Accounting Officer is responsible for the other information included in the annual report. The other information comprises the information included in the annual report other than the financial statements, the parts of the Accountability Report described in the report as having been audited, and my audit certificate and report. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

### **Opinion on other matters**

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Department of Finance directions made under the Government Resources and Accounts Act (Northern Ireland) 2001; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

**Responsibilities of the Accounting Officer for the financial statements**

As explained more fully in the Statement of Accounting Officer Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

**Auditor's responsibilities for the audit of the financial statements**

My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act (Northern Ireland) 2001.

My objectives are to obtain evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of my responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my certificate.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by the Assembly and the financial transactions recorded in the financial statements conform to the authorities which govern them.

**Matters on which I report by exception**

I have not received all of the information and explanations that I considered necessary to confirm the regularity of payments for legal aid services referred to above; and, the appropriateness of certain assumptions used in the calculation of legal aid provisions.

Adequate accounting records have not been kept in relation to the calculation of legal aid provisions.

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- the financial statements and the parts of the Accountability Report to be audited are not in agreement with the accounting records; or
- the Governance Statement does not reflect compliance with the Department of Finance's guidance.

My report on those matters subject to qualification is included on pages 106 to 113 of the financial statements.



*KJ Donnelly*  
*Comptroller and Auditor General*  
*Northern Ireland Audit Office*  
*106 University Street*  
*Belfast*  
*BT7 1EU*

12 November 2020

**FINANCIAL STATEMENTS****Statement of Comprehensive Net Expenditure****For the year ended 31 March 2020**

This account summarises the expenditure and income generated and consumed on an accruals basis. It also includes other comprehensive income and expenditure, which include changes to the values of non-current assets and other financial instruments that cannot yet be recognised as income or expenditure.

	2019-20	2018-19
	£000	*Restated £000
	Note	
Revenue from contracts with customers	5	-
Other operating income	5	(2,632)
<b>Total operating income</b>	<b>(1,852)</b>	<b>(2,632)</b>
Staff costs	3	4,814
Purchase of goods and services	3	4,010
Depreciation and amortisation charges	3	15
Provisions expense	3	84,330
Grants	3	21
<b>Total operating expenditure</b>	<b>109,680</b>	<b>93,190</b>
<b>Net operating expenditure</b>	<b>107,828</b>	<b>90,558</b>
Finance expense	-	-
<b>Net expenditure for the year</b>	<b>107,828</b>	<b>90,558</b>
<b>Other comprehensive net expenditure</b>		
Items that will not be reclassified to Net operating expenditure:		
- net (gain)/loss on revaluation of property, plant and equipment	6	(1)
- net (gain)/loss on revaluation of intangibles	7	(164)
<b>Comprehensive net expenditure for the year</b>	<b>107,663</b>	<b>90,558</b>

\* Please refer to Note 1.26 for further details.

The notes on pages 73 to 105 form part of these Accounts.

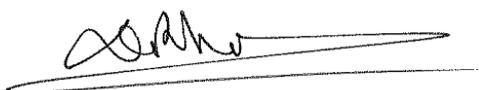
## Statement of Financial Position

## As at 31 March 2020

This statement presents the financial position of the LSA. It comprises three main components: assets owned or controlled; liabilities owed to other bodies; and equity, the remaining value of the entity.

	2020	2019
Note	£000	*Restated £000
<b>Non-current assets</b>		
Property, plant and equipment	6 43	54
Intangible assets	7 7,749	7,707
Trade and other receivables	10 -	1
<b>Total non-current assets</b>	<b>7,792</b>	<b>7,762</b>
<b>Current assets</b>		
Trade and other receivables	10 1,744	1,695
Cash and cash equivalents	9 -	58
<b>Total current assets</b>	<b>1,744</b>	<b>1,753</b>
<b>Total assets</b>	<b>9,536</b>	<b>9,515</b>
<b>Current liabilities</b>		
Trade and other payables	11 (2,606)	(2,212)
Provisions	12 (78,997)	(70,008)
<b>Total current liabilities</b>	<b>(81,603)</b>	<b>(72,220)</b>
<b>Total assets less current liabilities</b>	<b>(72,067)</b>	<b>(62,705)</b>
<b>Non-current liabilities</b>		
Provisions	12 (74,059)	(65,801)
<b>Total non-current liabilities</b>	<b>(74,059)</b>	<b>(65,801)</b>
<b>Total assets less total liabilities</b>	<b>(146,126)</b>	<b>(128,506)</b>
<b>Taxpayers' equity and other reserves</b>		
General Fund	(146,291)	(128,506)
Revaluation Reserve	165	-
<b>Total equity</b>	<b>(146,126)</b>	<b>(128,506)</b>

\* Please refer to Note 1.26 for further details.



**Paul Andrews**  
Chief Executive and Accounting Officer

**10 November 2020**

The notes on pages 73 to 105 form part of these Accounts.

## Statement of Cash Flows

### For the year ended 31 March 2020

The Statement shows the changes in cash and cash equivalents of the LSA during the reporting period. The statement shows how the LSA generates and uses cash and cash equivalents by classifying cash flows as operating, investing and financing activities. The amount of net cash flows arising from operating activities is a key indicator of service costs and the extent to which these operations are funded by way of income from the recipients of services provided by the LSA. Investing activities represent the extent to which cash inflows and outflows have been made for resources which are intended to contribute to the LSA's future public service delivery.

	Note	2019-20 £000	2018-19 £000
<b>Cash flows from operating activities</b>			
Net expenditure for the year		(107,828)	(90,558)
Adjustment for non-cash transactions	4	101,326	86,295
(Increase)/decrease in trade and other receivables	10	(375)	(1,262)
(Decrease)/increase in trade and other payables	11	(451)	(14)
Use of provisions	12	(82,215)	(84,253)
<b>Net cash outflow from operating activities</b>		<b>(89,543)</b>	<b>(89,792)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment		(7)	(53)
Purchase of intangible assets		(918)	(2,310)
<b>Net cash outflow from investing activities</b>		<b>(925)</b>	<b>(2,363)</b>
<b>Cash flows from financing activities</b>			
Net Assembly Funding		89,420	93,724
<b>Net financing</b>		<b>89,420</b>	<b>93,724</b>
<b>Net (decrease)/increase in cash and cash equivalents in the period before adjustment for receipts and payments to the Consolidated Fund</b>		<b>(1,048)</b>	<b>1,569</b>
Receipts due to the Consolidated Fund which are outside the scope of the Agency's activities		-	-
Payments of amounts due to the Consolidated Fund		-	-
<b>Net (decrease)/increase in cash and cash equivalents in the period after adjustment for receipts and payments to the Consolidated Fund</b>		<b>(1,048)</b>	<b>1,569</b>
<b>Cash and cash equivalents at the beginning of period</b>	9	<b>58</b>	<b>(1,511)</b>
<b>Cash and cash equivalents at the end of period</b>	9	<b>(990)</b>	<b>58</b>

The notes on pages 73 to 105 form part of these Accounts.

## Statement of Changes in Taxpayers' Equity

### For the year ended 31 March 2020

This statement shows the movement in the year on the different reserves held by LSA, analysed into 'general fund reserves' (i.e. those reserves that reflect a contribution from the Consolidated Fund). The Revaluation Reserve reflects the change in asset values that have not been recognised as income or expenditure. The General Fund represents the total assets less liabilities of the LSA, to the extent that the total is not represented by other reserves and financing items.

	Note	General Fund £000	Revaluation Reserve £000	Taxpayers' Equity *Restated £000
<b>Balance at 31 March 2018</b>		(132,511)	1	<b>(132,510)</b>
Net Assembly Funding		93,724	-	<b>93,724</b>
Comprehensive net expenditure for the year		(90,558)	-	<b>(90,558)</b>
Auditor's remuneration	3	65	-	<b>65</b>
Other notionals	3	773	-	<b>773</b>
Transfer between reserves		1	(1)	-
<b>Balance at 31 March 2019</b>		<b>(128,506)</b>	-	<b>(128,506)</b>
Net Assembly Funding		89,420	-	<b>89,420</b>
Comprehensive net expenditure for the year		(107,828)	165	<b>(107,663)</b>
Auditor's remuneration	3	68	-	<b>68</b>
Other notionals	3	555	-	<b>555</b>
Transfer between reserves		-	-	-
<b>Balance at 31 March 2020</b>		<b>(146,291)</b>	<b>165</b>	<b>(146,126)</b>

\* Please refer to Note 1.26 for further details.

The notes on pages 73 to 105 form part of these Accounts.

## Notes to the Accounts

### 1. Statement of accounting policies

These financial statements have been prepared in accordance with the 2019-20 *Government Financial Reporting Manual (FReM)* issued by the Department of Finance. The accounting policies contained in the *FReM* apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the *FReM* permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the LSA for the purpose of giving a true and fair view has been selected. The particular policies adopted by the LSA are described below. They have been applied consistently in dealing with items that are considered material to the Accounts.

#### 1.1 Accounting convention

These Accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment, intangible assets and certain financial assets and liabilities.

The Accounts are stated in sterling, which is the LSA's functional and presentational currency. Unless otherwise noted, the amounts shown in these financial statements are in thousands of pounds sterling (£000).

#### 1.2 Going concern

The LSA is an Executive Agency within the Department of Justice (DoJ) having been established on 1 April 2015 upon the dissolution of the Northern Ireland Legal Services Commission (NILSC) under the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014. The future financing of the LSA's activities is expected to be met by the DoJ from funds which are voted annually under the relevant Budget Act. The LSA takes the view that the going concern concept applies as long as the provisions of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 remain extant.

#### 1.3 Property, plant and equipment

Expenditure on property, plant and equipment of over £1,000 is capitalised. Where material the grouping of a range of property, plant and equipment has also been undertaken in respect of some personal computers, printers, office furniture and equipment.

On initial recognition property, plant and equipment are measured at cost including any expenditure, such as installation, directly attributable to bringing them into working condition. Items classified as "under construction" are recognised in the Statement of Financial Position to the extent that money has been paid or a liability has been incurred. In compliance with IAS 16 *Property, Plant and Equipment*, subsequent expenditure on an asset which does not meet the criteria of enhancement or improvement is treated as revenue.

All property, plant and equipment are carried at fair value.

## 1.4 Intangible assets

Expenditure on the Agency's digital Legal Aid (Case) Management System (LAMS) including supplier design and implementation costs and internal Agency project team staff salary costs, has been capitalised and classified as an intangible asset.

In addition, expenditure on computer software licenses lasting more than one year and costing more than £1,000 is capitalised and classified as intangible assets.

All intangible assets are carried at fair value and are revalued annually using appropriate indices provided by the Office for National Statistics.

## 1.5 Revaluation Reserve

Upward revaluations are credited to the Revaluation Reserve and permanent reductions in the value of property, plant and equipment are charged to the Statement of Comprehensive Net Expenditure. Any subsequent revaluation of assets is credited to the Statement of Comprehensive Net Expenditure to the extent that it reverses previous revaluation decreases recognised as an expense.

## 1.6 Depreciation and amortisation

All property, plant and equipment and intangible assets are depreciated/amortised at rates calculated to write them down to estimated residual value on a straight-line basis over their estimated useful lives. Assets in the course of construction are depreciated from the point when the asset is brought into use.

Estimated useful lives, which are reviewed regularly, are:

<b>Asset category</b>	<b>Useful Life</b>
Plant and machinery	3 - 25 years
Information technology	3 - 16 years
Intangible assets (software and licences)	1 - 10 years

Software licences are amortised over the shorter of the term of the licence and the useful economic life.

## 1.7 Realised element of depreciation from Revaluation Reserve

Depreciation is charged to expenditure on the revalued amount of property, plant and equipment. An element of depreciation therefore arises due to the increase in valuation and is in excess of the depreciation that would be charged on the historical cost of assets. The amount relating to this excess is a realised gain on disposal and is transferred from the Revaluation Reserve to the General Fund.

## 1.8 Value Added Tax

Where output VAT is charged or input VAT is recoverable, the amounts are stated net of VAT. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase cost of property, plant and equipment and intangible assets. VAT is recoverable on a Departmental basis.

## 1.9 Provisions

Provision is made for legal or constructive obligations, which are of uncertain timing or amount at the reporting date, on the basis of the best estimate of the expenditure required to settle the obligation.

Further details are contained in Notes 1.22 and 12 regarding the provisions for obligations to settle the costs incurred by the legal profession in providing legal advice and assistance to assisted persons that arise from the issue of certificates granting legal aid for specific cases.

## 1.10 Contingent liabilities

In accordance with IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*, the LSA discloses as contingent liabilities, potential future obligations arising from past obligating events where the existence of such obligations remain uncertain pending the outcome of future events outside the LSA's control, unless their likelihood is considered to be remote.

In addition, the LSA discloses for Assembly reporting and accountability purposes certain statutory and non-statutory contingent liabilities where the likelihood of a transfer of economic benefit is remote, but which have been reported to the Assembly in accordance with the requirements of Managing Public Money Northern Ireland.

Where the time value of money is material, contingent liabilities which are required to be disclosed under IAS 37 are stated at discounted amounts and the amount reported to the Assembly separately noted.

Contingent liabilities that are not required to be disclosed by IAS 37 are stated at the amounts reported to the Assembly.

## 1.11 Third-party assets

Third-party assets are assets for which the LSA acts as custodian or trustee, but in which neither the LSA nor Government more generally has a direct beneficial interest. Third-party assets are not public assets, and hence are not recorded in the primary financial statements.

Awards for damages to funded clients may be required by the LSA to offset any liability to the costs for legal aid. The LSA placed these funds on deposit until the liability, if any, was determined and any excess of damages paid to the funded client. These funds were accounted for as funds held on behalf of third-parties and therefore only appear in the notes of these Accounts (see Note 19).

## 1.12 Financing

The LSA is primarily resourced by funds approved by the Assembly through the annual Supply process. Resources are drawn down each month to meet expenditure requirements and are credited to the General Fund.

## 1.13 Classification of Income and Expenditure

The Statement of Comprehensive Net Expenditure for the LSA only includes programme income and expenditure.

Programme expenditure includes costs for publicly funded legal services, grants and other disbursements. The classification of income or expenditure as programme follows the definition set by the Department of Finance (DoF).

## 1.14 Income

### Revenue from contracts with customers

Revenue is recognised at an amount that reflects the consideration to which the Agency is expected to be entitled in exchange for transferring goods or services to a customer. For each contract with a customer, the Agency: identifies the contract with a customer; identifies the performance obligations in the contract; determines the transaction price; allocates the transaction price to the separate performance obligations on the basis of the relative stand-alone selling price of each distinct good or service to be delivered; and recognises revenue when or as each performance obligation is satisfied in a manner that depicts the transfer to the customer of the goods or services promised.

### *Sale of goods and services*

Revenue from the sale of goods is recognised either:

- at the point in time when the customer obtains control of the goods, which is generally at the time of delivery; or
- over time as the services are rendered based on either a fixed price or an agreed rate.

### Other operating income

Other operating income is income which relates directly to the operating activities of the Agency. It includes both income classified as Accruing Resources and income due to the Consolidated Fund, which in accordance with the *FReM*, is treated as operating income.

**Rental income** - rent revenue from properties is recognised on a straight-line basis over the lease term.

**Other income** - other revenue is recognised when it is received or when the right to receive payment is established.

### **1.15 Staff costs**

Under IAS19 (revised) *Employee Benefits*, all staff costs must be recorded as an expense as soon as the organisation is obligated to pay them. This includes the costs of any untaken leave as at the reporting date.

### **1.16 Pension costs**

From 1 April 2015, employees of the LSA are covered by the provisions of the NICS pension arrangements. These defined benefit schemes are unfunded. The LSA recognises the expected cost of these elements on a systematic and rational basis over the period during which it benefits from employees' services by payment to the NICS pension arrangements of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the NICS pension arrangements. In respect of defined contribution schemes, the LSA recognises the contributions payable for the year.

Further details regarding the above schemes are contained in the Remuneration and Staff Report.

### **1.17 Operating leases**

Leases where substantially all of the risks and rewards are held by the lessor are classified as operating leases. Rentals are charged to the Statement of Comprehensive Net Expenditure on a straight-line basis over the period of the lease.

### **1.18 Grants payable**

Grants payable are recorded as expenditure in the period that the underlying event or activity giving entitlement to the grant occurs. Grants related to activity occurring over a specific time period, usually a financial year are recorded as expenditure for that period.

### **1.19 Notional charges**

Notional charges, in respect of services received from DoJ, other Government departments and agencies, are included to reflect the full economic cost of services.

### **1.20 Segmental reporting**

Under the requirements of IFRS 8 *Operating Segments*, the LSA must disclose information to enable users of the financial statements to evaluate the nature and financial effects of the business in which it engages and the economic environment in which it operates. 'Total Assets' are only required to be disclosed in reporting segments where total assets for segments are regularly reported to the Chief Operating Decision Maker. As total assets for segments are not regularly reported to the Chief Operating Decision Maker the LSA has adopted this option. This does not have a material impact on the LSA's financial statements. Full details of the reporting segments are contained within Note 2.

## 1.21 Financial Instruments

### Recognition and de-recognition of financial assets and financial liabilities

A financial instrument is defined as any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. A financial instrument is recognised when the LSA becomes a party to the contractual provisions of the instrument. Financial assets are derecognised when the LSA no longer has rights to cash flows, the risks and rewards of ownership or control of the asset. Financial liabilities are derecognised when the obligation under the liability is discharged, cancelled or expires.

#### Financial assets

A financial asset is classified in this category if acquired principally for the purpose of selling in the short term (held for trading) or if so designated by management. Financial assets held in this category are initially recognised and subsequently measure at fair value, with changes in value recognised in the income statement in the line which most appropriately reflects the nature of the item or transaction.

#### *Trade and other receivables*

Financial assets within trade and other receivables are initially recognised at fair value, which is usually the original invoiced amount and subsequently carried at amortised cost using the effective method less provisions for doubtful receivables. Provisions are made specifically where there is objective evidence of a dispute or inability to pay.

#### *Cash and cash equivalents*

Cash and cash equivalents comprise cash in hand and current balances with banks which are readily convertible to known amounts of cash and which are subject to insignificant risk of changes in value and have an original maturity of three months or less.

For the purposes of the Statement of Cash Flows, cash and cash equivalents are as defined above net of outstanding bank overdrafts.

### ***Impairment of financial assets***

The LSA assesses at each reporting date whether a financial asset or group of financial assets are impaired. Where there is objective evidence that an impairment loss has arisen on assets carried at amortised cost, the carrying amount is reduced with the loss being recognised in the Statement of Comprehensive Net Expenditure. The impairment loss is measured as the difference between that asset's carrying amount and the present value of estimated future cash flows discounted at the financial asset's original effective interest rate. The impairment loss is only reversed if it can be related objectively to an event after the impairment was recognised and is reversed to the extent that carrying value of the asset does not exceed its amortised cost at the date of reversal.

Impairment losses are assessed individually for financial assets that are individually significant and individually or collectively for assets that are not individually significant. In making collective assessment of impairment, financial assets are grouped into portfolios on the basis of similar risk characteristics. Future cash flows from these portfolios are estimated on the basis of the contractual cash flows and historical loss experience for assets with similar risk characteristics.

Impairment losses are recognised in the Statement of Comprehensive Net Expenditure and the carrying amount of the financial asset or group of financial assets reduced by establishing an allowance for impairment losses. If in a subsequent period the amount of the impairment loss reduces and the reduction can be ascribed to an event after the impairment was recognised, the previously recognised loss is reversed by adjusting the allowance. If a financial asset is deemed unrecoverable, the amount of the asset is reduced directly and the impairment loss recognised in the Statement of Comprehensive Net Expenditure to the extent a provision was not previously recognised.

### **Financial liabilities**

#### ***Trade and other payables***

Financial liabilities within trade and other payables are initially recognised at fair value, which is usually the original invoiced amount, and subsequently carried at amortised cost using the effective interest method.

## 1.22 Critical accounting estimates and key judgements

The preparation of financial statements in conformity with IFRS requires the use of accounting estimates and assumptions. It also requires management to exercise its judgement in the process of applying the LSA's accounting policies. The LSA continually evaluates its estimates, assumptions and judgements based on available information and experience. As the use of estimates is inherent in financial reporting, actual results could differ from these estimates. The estimates and assumptions which have the most significant risk of causing a material adjustment to the carrying amounts are discussed below.

### ***Legal aid provisions***

The determination of provisions remains a key area where management's judgement is required. There are a number of key assumptions applied in the calculation of the provisions which are detailed below:

- **average costs** - based on an analysis of historical payment values and volumes, a series of average costs within defined bands are calculated by category within each business area. This series of averages is then applied to the certificate volume provided in line with the latest historical payment profile;
- **no bills adjustments** - this specifically relates to Civil legal aid certificates and cases that are concluded with a Direct Authority designation. These are cases where the legally aided party wins the case and their legal costs are met by the non-legally aided party and not by the legal aid fund. An analysis of historical data determines a percentage reduction covering the expected incidence of Direct Authority cases which is then incorporated in the provisions calculations; and
- **lifecycle of certificates** - an analysis of the reports authorised for payment, aged to the certificate granted date to determine a lifecycle per certificate within each business area of the LSA.

Further details regarding Provisions are provided in Note 12.1.

### ***Depreciation of property, plant and equipment and amortisation of intangible assets***

Depreciation and amortisation is provided in the Accounts so as to write-down the respective assets to their residual values over their expected useful lives and as such the selection of the estimated useful lives and the expected residual values of the assets requires the use of estimates and judgements. Details of the estimated useful lives are as shown in Note 1.6.

Other than as noted above, no material accounting estimates or judgements were made by LSA in preparing these accounts.

### 1.23 Accounting standards, interpretations and amendments to published standards and *FReM* - issued and effective in 2019-20 for the first time

The Agency has considered those new Standards, interpretations and amendments to existing Standards which have been published and are mandatory for the Agency's accounting periods beginning on or after 1 April 2019 or later periods, but which the Agency has not adopted early. The Agency considers that these are not relevant or material to its operations.

### 1.24 Accounting standards, interpretations and amendments to published standards not yet effective

The Agency has considered those new Standards, interpretations and amendments to existing Standards which have been published and are mandatory for the Agency's accounting periods beginning on or after 1 April 2020 or later periods, but which the Agency has not adopted early. Other than as outlined below, the Agency considers that these Standards are not relevant or material to its operations.

<b>Standard</b>	IFRS 16 <i>Leases</i> (replaces IAS 17 <i>Leases</i> and related interpretations)
<b>Effective date</b>	January 2019 (EU endorsed 31 October 2017)
<b><i>FReM</i> application</b>	2021-22
<b>Description of revision</b>	<p>The IASB issued IFRS 16 in January 2016 with an effective date for annual periods beginning on or after 1 January 2019. Early application is permitted for those entities applying IFRS 15.</p> <p>IFRS 16 represents a significant change in lessee accounting by largely removing the distinction between operating and finance leases and introducing a single lessee accounting model. A lessee is required to recognise assets and liabilities for all leases, unless they qualify for low value or short-term exemptions. In addition, there are updated disclosure requirements.</p> <p>The lessor accounting model is generally unchanged from IAS 17 but entities should be aware of the introduction and impacts of IFRS 9 <i>Financial Instruments</i>, enhanced disclosure requirements and that a sub-lessor now determines whether a lease is finance or operating based on the right of use asset it subleases.</p>
<b>Comments</b>	<p>IFRS 16 <i>Leases</i> replaces IAS 17 <i>Leases</i> and is effective with EU adoption from 1 January 2019. In line with the requirements of the <i>FReM</i>, IFRS 16 will be implemented, as interpreted and adapted for the public sector, with effect from 1 April 2021.</p> <p>The Agency considers that this Standard is not likely to have a material impact on its liabilities or Statement of Comprehensive Net Expenditure.</p>

### **1.25 Financial reporting - future developments**

The Agency has considered the accounting initiatives identified by HM Treasury covering amendments or interpretations from the 2018-20 Annual improvement cycle, and projects where standards, amendments or interpretations are in development. The Agency considers that these changes are not relevant or material to its operations.

### **1.26 Prior year restatements**

Some 2018-19 figures have been restated to reflect changes made to account code mapping by the Department of Justice as part of its preparatory work for the implementation of the Review of Financial Process. This includes items of expenditure being reclassified within categories of programme expenditure, as well as minor adjustments to rounded figures used. These restatements have had no impact on the reported Net expenditure for the prior period.

## 2. Statement of Operating Expenditure by Operating Segment

The following operating segments are reported to the LSA Board for financial management purposes:

- **Civil Legal Services** - provides legal representation in civil court proceedings, primarily in the County Court and High Court and allows someone to obtain legal representation by a solicitor and barrister, either to bring or to defend a court case; and
- **Criminal Legal Aid** - provides legal representation by a solicitor and barrister to defend someone charged with criminal offences in a magistrates' court or Crown Court.

	<b>Civil Legal Services</b>	<b>Criminal Legal Aid</b>	<b>2019-20 £000 Total</b>
Gross expenditure	59,050	50,630	<b>109,680</b>
Income	(1,839)	(13)	<b>(1,852)</b>
<b>Net expenditure</b>	<b>57,211</b>	<b>50,617</b>	<b>107,828</b>

	<b>Civil Legal Services</b>	<b>Criminal Legal Aid</b>	<b>2018-19 *Restated £000 Total</b>
Gross expenditure	46,723	46,467	<b>93,190</b>
Income	(2,623)	(9)	<b>(2,632)</b>
<b>Net expenditure</b>	<b>44,100</b>	<b>46,458</b>	<b>90,558</b>

\* Please refer to Note 1.26 for further details.

## 2.1 Reconciliation between Operating Segments and Statement of Comprehensive Net Expenditure

	2019-20 £000		
	Civil Legal Services	Criminal Legal Aid	Total
Total net expenditure reported for Operating Segments	57,211	50,617	107,828
Reconciling items	-	-	-
<b>Total net expenditure per Statement of Comprehensive Net Expenditure</b>	<b>57,211</b>	<b>50,617</b>	<b>107,828</b>

	2018-19 £000		
	Civil Legal Services	Criminal Legal Aid	Total
Total net expenditure reported for Operating Segments	44,100	46,458	90,558
Reconciling items	-	-	-
<b>Total net expenditure per Statement of Comprehensive Net Expenditure</b>	<b>44,100</b>	<b>46,458</b>	<b>90,558</b>

## 2.2 Reconciliation between Operating Segments and Statement of Financial Position

'Total Assets' are only required to be disclosed in reporting segments where total assets for segments are regularly reported to the Chief Operating Decision Maker. As total assets for segments are not regularly reported to the Chief Operating Decision Maker, the LSA has adopted this option. This does not have a material impact on the LSA's financial statements.

## 3. Programme expenditure

		2019-20	2018-19
	Note	£000	*Restated £000
<b>Staff costs*</b>			
Wages and salaries		4,193	3,804
Social security costs		373	322
Other pension costs		1,046	688
		<b>5,612</b>	<b>4,814</b>
<b>Purchase of goods and services</b>			
Accommodation costs, maintenance and utilities		336	321
IT, communications and office services		190	170
Contracted out and managed services		834	616
Professional costs		142	124
Client and programme operating costs		369	-
Rentals under operating leases		421	426
Staff related costs		30	44
Other costs		291	236
Appeals Panel and Non-Executive Member costs		108	123
		<b>2,721</b>	<b>2,060</b>
<b>Non-cash items:</b>			
Auditor's remuneration and expenses		68	65
Notional charges		555	773
(Decrease)/increase in impairment of trade receivables	10	327	1,112
		<b>950</b>	<b>1,950</b>
		<b>3,671</b>	<b>4,010</b>
<b>Depreciation and amortisation charges</b>			
Depreciation	6	19	8
Amortisation	7	895	7
		<b>914</b>	<b>15</b>
<b>Provisions expense</b>			
Provided in year	12	96,277	90,771
Re-measurement of opening balance	12	3,185	(6,441)
		<b>99,462</b>	<b>84,330</b>
<b>Grants</b>			
		<b>21</b>	<b>21</b>
<b>Total programme expenditure</b>			
		<b>109,680</b>	<b>93,190</b>

<sup>1</sup>Some 2018-19 figures have been restated to reflect changes made to account code mapping by the Department of Justice as part of its preparatory work for the implementation of the Review of Financial Process. This includes items of expenditure being reclassified within categories of programme expenditure, as well as minor adjustments to rounded figures used.

\*Further analysis of Staff costs is located in the Staff Report within the Accountability Report.

**4. Non-cash costs**

	<b>2019-20</b>	<b>2018-19</b>
	<b>Note</b>	<b>*Restated</b>
	<b>£000</b>	<b>£000</b>
Purchase of goods and services	3	1,950
Depreciation and impairment charges	6, 7	15
Other provisions expense	12	84,330
	<b>101,326</b>	<b>86,295</b>

\* Please refer to Note 1.26 for further details.

**5. Income**

	<b>2019-20</b>	<b>2018-19</b>
	<b>£000</b>	<b>£000</b>
<b>Revenue from contracts with customers</b>	<b>-</b>	<b>-</b>
<b>Other operating income</b>		
Contributions and statutory charges	<b>1,852</b>	<b>2,632</b>
<b>Total operating income</b>	<b>1,852</b>	<b>2,632</b>

## 6. Property, plant and equipment

	Plant and Machinery £000	Information Technology £000	2019-20 Total £000
<b>Cost or valuation</b>			
At 1 April 2019	1,177	60	1,237
Additions	-	7	7
Disposals	-	-	-
Transfers and reclassifications	12	(12)	-
Revaluation released to SoCNE	-	-	-
Revaluation	-	1	1
<b>At 31 March 2020</b>	<b>1,189</b>	<b>56</b>	<b>1,245</b>
<b>Depreciation</b>			
At 1 April 2019	1,174	9	1,183
Charged in year	5	14	19
Disposals	-	-	-
Revaluation released to SoCNE	-	-	-
Revaluation	-	-	-
<b>At 31 March 2020</b>	<b>1,179</b>	<b>23</b>	<b>1,202</b>
<b>Carrying amount at 31 March 2020</b>	<b>10</b>	<b>33</b>	<b>43</b>
<b>Carrying amount at 31 March 2019</b>	<b>3</b>	<b>51</b>	<b>54</b>
<b>Asset financing:</b>			
Owned	10	33	43
<b>Carrying amount at 31 March 2020</b>	<b>10</b>	<b>33</b>	<b>43</b>

## 6. Property, plant and equipment (continued)

	Plant and Machinery £000	Information Technology £000	2018-19 Total £000
<b>Cost or valuation</b>			
At 1 April 2018	1,177	7	1,184
Additions	-	53	53
Disposals	-	-	-
Revaluation released to SoCNE	-	-	-
Revaluation	-	-	-
<b>At 31 March 2019</b>	<b>1,177</b>	<b>60</b>	<b>1,237</b>
<b>Depreciation</b>			
At 1 April 2018	1,168	7	1,175
Charged in year	6	2	8
Disposals	-	-	-
Revaluation released to SoCNE	-	-	-
Revaluation	-	-	-
<b>At 31 March 2019</b>	<b>1,174</b>	<b>9</b>	<b>1,183</b>
<b>Carrying amount at 31 March 2019</b>	<b>3</b>	<b>51</b>	<b>54</b>
<b>Carrying amount at 31 March 2018</b>	<b>9</b>	<b>-</b>	<b>9</b>
<b>Asset financing:</b>			
Owned	3	51	54
<b>Carrying amount at 31 March 2019</b>	<b>3</b>	<b>51</b>	<b>54</b>

Property, plant and equipment were adjusted to their current value by reference to the appropriate indices compiled by the Office for National Statistics.

## 7. Intangible assets

				2019-20
	Software licences £000	Software £000	Assets Under Construct- ion £000	Total £000
<b>Cost or valuation</b>				
At 1 April 2019	642	386	7,707	8,735
Additions	-	-	773	773
Disposals	(642)	(386)	-	(1,028)
Transfers and reclassifications	-	8,480	(8,480)	-
Revaluation released to SoCNE	-	-	-	-
Revaluation	-	184	-	184
<b>At 31 March 2020</b>	<b>-</b>	<b>8,664</b>	<b>-</b>	<b>8,664</b>
<b>Amortisation</b>				
At 1 April 2019	642	386	-	1,028
Charged in year	-	895	-	895
Disposals	(642)	(386)	-	(1,028)
Transfers and reclassifications	-	-	-	-
Revaluation released to SoCNE	-	-	-	-
Revaluation	-	20	-	20
<b>At 31 March 2020</b>	<b>-</b>	<b>915</b>	<b>-</b>	<b>915</b>
<b>Carrying amount at 31 March 2020</b>	<b>-</b>	<b>7,749</b>	<b>-</b>	<b>7,749</b>
<b>Carrying amount at 31 March 2019</b>	<b>-</b>	<b>-</b>	<b>7,707</b>	<b>7,707</b>
<b>Asset financing:</b>				
Owned	-	7,749	-	7,749
<b>Carrying amount at 31 March 2020</b>	<b>-</b>	<b>7,749</b>	<b>-</b>	<b>7,749</b>

## 7. Intangible assets (continued)

	Software licences £000	Software £000	Assets Under Construct- ion £000	2018-19 *Restated Total £000
<b>Cost or valuation</b>				
At 1 April 2018	642	386	5,558	<b>6,586</b>
Additions	-	-	2,149	<b>2,149</b>
Disposals	-	-	-	-
Revaluation released to SoCNE	-	-	-	-
Revaluation	-	-	-	-
<b>At 31 March 2019</b>	<b>642</b>	<b>386</b>	<b>7,707</b>	<b>8,735</b>
<b>Amortisation</b>				
At 1 April 2018	642	379	-	<b>1,021</b>
Charged in year	-	7	-	<b>7</b>
Disposals	-	-	-	-
Revaluation released to SoCNE	-	-	-	-
Revaluation	-	-	-	-
<b>At 31 March 2019</b>	<b>642</b>	<b>386</b>	<b>-</b>	<b>1,028</b>
<b>Carrying amount at 31 March 2019</b>	<b>-</b>	<b>-</b>	<b>7,707</b>	<b>7,707</b>
<b>Carrying amount at 31 March 2018</b>	<b>-</b>	<b>7</b>	<b>5,558</b>	<b>5,565</b>
<b>Asset financing:</b>				
Owned	-	-	7,707	<b>7,707</b>
<b>Carrying amount at 31 March 2019</b>	<b>-</b>	<b>-</b>	<b>7,707</b>	<b>7,707</b>

\* Please refer to Note 1.26 for further details.

Intangible assets were adjusted to their current value by reference to the appropriate indices compiled by the Office for National Statistics.

## 8. Financial instruments

IFRS 7 *Financial Instruments: Disclosures* requires disclosure that enables evaluation of the significance of financial instruments for the LSA's financial position and performance, the nature and extent of risks arising from financial instruments to which the LSA is exposed during the period and at the reporting date, and how the LSA manages those risks. As a result of the non-trading nature of its activities and the way in which agencies are financed, the LSA is not exposed to the degree of financial risk faced by business entities.

The LSA has no powers to borrow or invest surplus funds. Financial assets and liabilities are generated by day-to-day operational activities and are not held to change risks facing the LSA in undertaking its activities.

### ***Classification of financial instruments***

All LSA financial instruments are measured at amortised cost. The LSA's financial assets comprise trade and other receivables (Note 10) and cash and cash equivalents (Note 9). The LSA's financial liabilities comprise trade and other payables and accruals and deferred income (Note 11). The carrying value of these financial assets and liabilities, as disclosed in the notes to the Accounts, approximates to fair value because of their short maturities. The LSA recognises the components of net gain/loss through the Statement of Comprehensive Net Expenditure. Interest on financial instruments is recognised in finance costs under Programme Costs in Note 3 where applicable.

### ***Credit risk***

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to pay for its obligation. The LSA is exposed to credit risk in relation to the carrying amounts of the trade receivables carried in the statement of financial position. The size of risk is reflected in the receivables impairment (Note 10).

### ***Liquidity risk***

Liquidity risk is the risk that an entity will have difficulties in paying its financial liabilities. The LSA's net revenue resource requirements are financed by resources voted annually by the Assembly, as is capital expenditure. The LSA is therefore not exposed to significant liquidity risks.

### ***Interest rate risk***

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. All of the LSA's financial assets and liabilities carry nil or fixed rates of interest. The LSA is therefore not exposed to any interest rate risk.

### ***Currency risk***

Currency risk is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates. The LSA does not have the authority to manage currency risk through hedging.

**9. Cash and cash equivalents**

	<b>2019-20</b> <b>£000</b>	<b>2018-19</b> <b>£000</b>
Balance at 1 April	58	(1,511)
Net change in cash and cash equivalent balances	(1,048)	1,569
<b>Balance at 31 March</b>	<b>(990)</b>	<b>58</b>

The following balances at 31 March are held at:

Commercial banks and cash in hand	(990)	58
<b>Balance at 31 March</b>	<b>(990)</b>	<b>58</b>

Balances for Cash and cash equivalents are disclosed in the Statement of Financial Position as follows:

	<b>Note</b>	<b>2019-20</b> <b>£000</b>	<b>2018-19</b> <b>£000</b>
Current assets		-	58
Current liabilities	11	(990)	-
<b>Total</b>		<b>(990)</b>	<b>58</b>

**10. Trade receivables, financial and other assets**

	<b>2019-20</b>	<b>2018-19</b>
	<b>£000</b>	<b>*Restated £000</b>
<b>Amounts falling due within one year:</b>		
VAT	24	92
Trade receivables	1,550	1,379
Other receivables	8	10
Prepayments and accrued income	162	214
	<b>1,744</b>	<b>1,695</b>
<b>Amounts falling due after more than one year:</b>		
Other receivables	-	1
<b>Total</b>	<b>1,744</b>	<b>1,696</b>

\* Please refer to Note 1.26 for further details.

Trade receivables are stated net of the following impairment:

	<b>2019-20</b>	<b>2018-19</b>
	<b>£000</b>	<b>£000</b>
At 1 April	8,065	6,953
Increase in impairment during the year	1,269	1,850
Decrease in impairment during the year	(942)	(738)
<b>Balance at 31 March</b>	<b>8,392</b>	<b>8,065</b>

**11. Trade payables, financial and other liabilities**

	<b>2019-20</b>	<b>2018-19</b>
<b>Note</b>	<b>£000</b>	<b>£000</b>
<b>Amounts falling due within one year:</b>		
Bank overdraft	990	-
Trade payables	102	1,006
Other payables	429	416
Accruals and deferred income	1,085	790
	<b>2,606</b>	<b>2,212</b>

**12. Provisions for liabilities and charges**

	Civil Legal Services £000	Criminal Legal Aid £000	Legal claims £000	Holiday pay £000	2019-20 Total £000
At 1 April 2019	91,180	44,552	77	-	135,809
Provided in the year	53,855	41,666	621	135	96,277
Re-measurement of opening balance	(199)	3,384	-	-	3,185
Provisions utilised in the year	(42,358)	(39,727)	(130)	-	(82,215)
<b>Balance at 31 March 2020</b>	<b>102,478</b>	<b>49,875</b>	<b>568</b>	<b>135</b>	<b>153,056</b>

	Civil Legal Services £000	Criminal Legal Aid £000	Legal claims £000	Holiday pay £000	2018-19 *Restated Total £000
At 1 April 2018	96,188	39,477	67	-	135,732
Provided in the year	43,183	47,551	37	-	90,771
Re-measurement of opening balance	(888)	(5,550)	(3)	-	(6,441)
Provisions utilised in the year	(47,303)	(36,926)	(24)	-	(84,253)
<b>Balance at 31 March 2019</b>	<b>91,180</b>	<b>44,552</b>	<b>77</b>	<b>-</b>	<b>135,809</b>

\* Please refer to Note 1.26 for further details.

**Analysis of expected timing of cash flows**

	Civil Legal Services £000	Criminal Legal Aid £000	Legal claims £000	Holiday pay £000	2019-20 Total £000
Not later than one year	36,428	42,001	568	-	78,997
Later than one year and not later than five years	56,831	7,874	-	135	64,840
Later than five years	9,219	-	-	-	9,219
<b>Balance at 31 March 2020</b>	<b>102,478</b>	<b>49,875</b>	<b>568</b>	<b>135</b>	<b>153,056</b>

	Civil Legal Services £000	Criminal Legal Aid £000	Legal claims £000	Holiday pay £000	2018-19 Total £000
Not later than one year	32,412	37,519	77	-	70,008
Later than one year and not later than five years	50,565	7,033	-	-	57,598
Later than five years	8,203	-	-	-	8,203
<b>Balance at 31 March 2019</b>	<b>91,180</b>	<b>44,552</b>	<b>77</b>	<b>-</b>	<b>135,809</b>

## 12.1 Civil Legal Services and Criminal Legal Aid: £152.353m (2018-19: £135.732m)

The payment of civil legal services and criminal legal aid is determined by when solicitors or counsel submit their final bill after a case has concluded. The timing of each submission is outside the direct control of LSA, but every effort is made to encourage legal representatives to submit their bills as expeditiously as possible.

### 12.1.1 How the figures are derived

The Agency estimates the value of unbilled 'live' cases each year to arrive at the amounts disclosed as a provision within the financial statements. 'Live' cases are deemed to be those that are ongoing, based on the information available to the Agency, and within the statutory time limits. A provisions model is used to estimate the volume of cases and costs required to settle any obligations at the end of the reporting period.

#### **Volumes**

The Agency's new Legal Aid Management System (LAMS) came into operation on 1 July 2019. A feature of this new case management system includes the potential for auto-closure functionality, which closes cases when a set of predefined conditions have been satisfied. This functionality was not implemented at the time of go-live and remained outstanding at the end of the 2019-20 reporting period. As a result, a significant number of cases remained open on LAMS at 31 March 2020, which should have been closed. A number of assumptions therefore had to be applied to the volume of cases held on LAMS to more accurately reflect the number of 'live' cases to be provided for. The provisions liability for 2019-20 reflects the adjusted volume of 'live' cases within the system at the reporting date.

Usage of the auto-close functionality has commenced from 8 August 2020 and will help clarify the population of 'live' cases against which a provision is required in future years

#### **Costs**

There are two categories of costs applied to the volume of 'live' cases in LAMS at the end of the reporting period in order to calculate an estimate cost of the provision:

##### **i. cases costed at an average cost**

The provisions model extracts a volume of 'live' cases from LAMS per primary nature/matter and applies an average cost to each case to determine a provision value. The average costs applied to the volume were derived by reviewing the payments of all full and additional reports by business area and forecast category over a period of 39 months (1 April 2016 to 30 June 2019).

## 12.1 Civil Legal Services and Criminal Legal Aid: £152.353m (2018-19: £135.732m) (continued)

### ii. cases costed where an average cost is not applicable

The majority of legal aid provisions are estimated using LAMS volumes and average costs, however other case types have been separately reviewed. There are three categories of cases which require segregation for review as the average cost methodology above is not applicable:

- **Exceptional Funding (previously known as Statutory Exceptional Grant Payment Scheme)** - the Agency's Authorisations and Decisions Team record and continuously monitor a list of Exceptional Funding cases. Each case is separately reviewed and costed by the Agency.
- **Exceptionality** - the Agency's Authorisations and Decisions Team record and continuously monitor a list of Exceptionality criminal cases. Each case is separately reviewed and costed by the Agency.
- **Court of Appeal** - the Taxing Master provides a list of the cases currently held along with the associated claimed and assessed value. This is reviewed by the Agency and the liability is calculated using the information provided.

#### 12.1.2 Judgements made by management

The determination of provisions remains a key area where management's judgement is required. There are a number of key assumptions applied in the calculation of the provisions which are detailed below:

- **average costs** - based on an analysis of historical payment values and volumes, a series of average costs within defined bands are calculated by category within each business area. This series of averages is then applied to the certificate volume provided in line with the latest historical payment profile;
- **no bills adjustments** - this specifically relates to Civil legal aid certificates and cases that are concluded with a Direct Authority designation. These are cases where the legally aided party wins the case and their legal costs are met by the non-legally aided party and not by the legal aid fund. An analysis of historical data determines a percentage reduction covering the expected incidence of Direct Authority cases which is then incorporated in the provisions calculations; and
- **lifecycle of certificates** - an analysis of the reports authorised for payment, aged to the certificate granted date to determine a lifecycle per certificate within each business area of the LSA.

## 12.1 Civil Legal Services and Criminal Legal Aid: £152.353m (2018-19: £135.732m) (continued)

### 12.1.3 Uncertainties

The Agency introduced the new LAMS case management system on 1 July 2019. A phased approach was taken when introducing the system, which resulted in key functionality such as auto-closure and inactivity prompts not being activated within the financial reporting period. This resulted in cases not being closed on the system, which had an impact on the volume of 'live' cases the system was reporting. A number of assumptions therefore had to be applied to refine the volume figure. Whilst business intelligence and latest data available were the key drivers behind the assumptions applied, a best estimate of 'live' cases has been made.

It is not possible in this financial year to include LAMS payment data in the computation of the average cost until the auto-closure functionality is operational. Only when a case has been closed on the system can the full cost of the case be assessed for the purposes of generating an average cost. The latest payment data available, spanning a three and a half year period, has been used to generate the average costs.

The introduction of LAMS and new reporting software has refined the provision calculation methodology. Usage of the auto-close functionality commenced from 8 August 2020 and will enhance the process of identifying active cases against which a provision is required. It also represents a more accurate reflection of business activity compared to the approach used in previous years. It is anticipated that with the activation of auto-closure and further development of system reporting, the accuracy of the provision estimation technique will continue to further improve.

Only a small proportion of provisions will be paid more than five years after the reporting date and given the underlying uncertainties and assumptions already applied to volumes and costs, the Agency has not discounted future cash flows disclosed in the financial statements.

Legacy inquest liabilities have been revised following the commencement of the Legacy Inquest Project, and each case is individually monitored to determine the future costs. The costs and timings of the cash flows are projected in consideration of anticipated court case progression and historical payments, and as such there is a level of uncertainty which is continually monitored. The 2019-20 provision includes £8.4m for 45 legacy inquest cases (2018-19: £1.4m for 42 cases).

**12.2 Legal Claims: £0.568m (2018-19: £0.077m)**

Provision has been made for legal costs associated with a number of Judicial Reviews and litigation cases brought against the Agency. The provision covers all known cases where it is considered that it is probable that the claim will be successful and the amount can be reliably estimated. The timing of the settlement of claims depends on the circumstances of each case.

**12.3 Holiday pay: £0.135m (2018-19: £Nil)**

The Court of Appeal (CoA) judgment from 17 June 2019 (PSNI v Agnew) determined that claims for Holiday Pay shortfall can be taken back to 1998. However, the PSNI has appealed the CoA judgment to the Supreme Court. Due to delays in relation to the Covid-19 situation, it is expected that this will not be heard until 2021 but could result in a decision which either reduces the period of liability or confirms the full period back to 1998. The 2019-20 Holiday Pay provision is based on an estimate provided by NICS HR and covers the period from 1998 to 31 March 2020. An adjustment has also been included by the Agency in respect of the period prior to on-boarding to HR Connect in April 2015 which is not covered in the NICS HR estimate. There are still some very significant elements of uncertainty around this estimate for a number of reasons:

- the appeal to the Supreme Court (as detailed above);
- lack of accessible data for years previous to 2011 and for some groups of staff beyond 2011;
- ongoing negotiations with Trade Unions;
- a reliable estimate for the pension element is not yet available so this has not been factored into the provision; and
- the provision is gross (inclusive of Employee National Insurance and PAYE) and also includes an uplift of 13.8% for Employer National Insurance Contributions. Taxation issues are still under discussion with HMRC so the position is subject to change.

**13. Leases****Operating leases**

£0.421m (2018-19: £0.426m) was included as an expense on operating leases in the Statement of Comprehensive Net Expenditure.

Total future minimum lease payments under operating leases are given in the table below for each of the following periods.

	<b>2019-20</b> <b>£000</b>	<b>2018-19</b> <b>£000</b>
<b>Obligations under operating leases comprise:</b>		
<i>Land and buildings</i>		
Not later than one year	421	421
Later than one year and not later than five years	561	982
Later than five years	-	-
<b>Total</b>	<b>982</b>	<b>1,403</b>

**14. Capital commitments**

	<b>2019-20</b> <b>£000</b>	<b>2018-19</b> <b>£000</b>
Contracted capital commitments at 31 March not otherwise included in these financial statements:		
Property, plant and equipment	-	-
Intangible assets	75	56
<b>Total</b>	<b>75</b>	<b>56</b>

**15. Other financial commitments**

The payments to which the LSA is committed are as follows:

	<b>2019-20</b> <b>£000</b>	<b>2018-19</b> <b>£000</b>
Not later than one year	-	-
Later than one year and not later than five years	-	-
Later than five years	-	-
<b>Total</b>	<b>-</b>	<b>-</b>

## 16. Contingent liabilities

The Agency has contingent liabilities as defined within IAS 37 Provisions, Contingent Liabilities and Contingent Assets. Unless otherwise stated, the amount of each contingent liability cannot be determined with sufficient reliability.

### *Statutory deductions*

Leave to bring a Judicial Review has been granted in respect of the provisions of paragraphs 1(1) and 2(1) of Schedule 2 to the Legal Aid, Advice and Assistance (NI) Order 1981 which state that “The sums allowed to counsel/solicitor in connection with proceedings in the House of Lords, the Court of Appeal or the High Court, shall be ninety-five per cent, or such larger percentage as may be prescribed, of the amount allowed on taxation of the costs”. This effectively means that all civil cases funded by legal aid which are taxed attract this statutory deduction on the sum assessed by the Taxing Master.

The challenge is against the legislation so the Department/Agency will be defending the proceedings. This case is unlikely to have an outcome during 2020-21 but it is not clear at this time if that case was to go against the Department/Agency that this would involve any retrospective financial consequences.

## 17. Related party transactions

The LSA is an Executive Agency of the Department of Justice. During the year, the LSA had various material transactions with the Core Department and Northern Ireland Courts and Tribunals Service (also an Executive Agency of the Department).

In addition, the LSA had various material transactions with other government departments and other central government bodies. Most of these transactions have been with the Department for Communities and Department of Finance.

No senior manager, Non-Executive Member or other related party has undertaken any material transactions with the LSA during the year.

## 18. Fraud and error

The LSA administers legal aid payments on behalf of the Department of Justice. The complexity of the legislation, the degree of discretion and inherent risks associated with adjudication, assessment and payment of bills can result in inaccurate payments being made in a proportion of cases.

Official error occurs where the financial eligibility of an applicant is wrongly assessed or legal aid payments are miscalculated usually as a result of an official not applying the specific rules correctly or not taking into account all the circumstances applicable to an individual. Official error is identified within individual sampled legal aid payments by the SAU within DfC, under a Memorandum of Understanding. 2019 was the first full year of measurement of official error for legal aid and has been used to establish a formal baseline rate against which future accuracy can be measured.

SAU reviews a representative sample of payments, as it would be impractical to assess every case, and therefore a level of statistical uncertainty, termed confidence limits, underpin the extrapolated estimates. The level of confidence within which the central estimates and range are produced is set at 95%. This means the Agency can be 95% certain that the true value lies within the associated confidence intervals for each of the estimates produced.

During 2017-18, the “shadow year”, criteria against which to analyse official error were developed. These were across four main sources:

- internal staff error;
- error against the Civil Legal Services Remuneration (NI) Order 2015;
- Taxed Payments; and
- Legal Aid Assessment Office errors.

As part of the Agency Transformation Programme the assessment of the financial eligibility of applicants has been brought in-house within LSA for the first time. This work was previously conducted by the Legal Aid Assessment Office (LAAO) within the Department for Communities but transferred to LSA from 4 March 2019. A proportion of identified error has been attributed as LAAO error over which LSA has no control. With this function now in-house it is expected that future errors can be managed and reduced, although there will be an ongoing exposure to LAAO errors for a period of years, as the sample is taken from paid cases and therefore looks back to the original grant.

The “shadow year” of official error testing was conducted on a ‘test and learn’ basis. The objective was to undertake and refine the sampling, testing and extrapolation methodologies against which future testing would be conducted. Hence the methodology applied during the “shadow year” would be expected to differ from the fully tested methodology applied during 2019 as agreed with SAU and based on the approach DfC adopt.

**18. Fraud and error (continued)**

The official error estimate from the 2017-18 “shadow year” quoted in the 2018-19 Annual Report and Accounts was in respect of Quarter 3 i.e. the nine month period to the end of December 2017. This reflected an official error rate of 10.4% and the associated monetary value of £5.9 million, based on nine months spend. However these do not represent a fit-for purpose comparison against 2019, nor should they be interpreted as such. These figures were designated experimental statistics and should not be misinterpreted as finalised official statistics. They reflected an in-year snapshot showing the cumulative estimate of official error within legal aid cases that had a full bill authorised for payment in 2017-18. Further refinement of the extrapolation methodology was undertaken in 2019-20 to address bespoke complexities around deemed errors and means that both sets of estimates (the 2017-18 “shadow year” and 2019 baseline) are not directly comparable.

Testing has been conducted on monthly samples of cases from the 2019 calendar year. Findings are extrapolated by NISRA statisticians on a quarterly basis and presented in cumulative quarterly reports covering all sampled cases for the year. The year end results for 2019 are set out below:

Category of error	Including deemed errors			Excluding deemed errors		
	Estimated MVE	% of total estimated MVE	% of total expenditure	Estimated MVE	% of total estimated MVE	% of total expenditure
<b>LSANI assessor error</b>	£5,591,607	67.4%	7.5%	£5,321,125	92.4%	7.1%
<b>Further information required from legal representatives</b>	£1,639,011	19.8%	2.2%	£0.00	0.0%	0.0%
<b>LAO error</b>	£619,359	7.5%	0.8%	£28,810	0.5%	0.04%
<b>Amendment required to Remuneration Order 2015</b>	£435,396	5.2%	0.6%	£405,980	7.0%	0.5%
<b>Civil taxed cases</b>	£11,125	0.1%	0.01%	£5,989	0.1%	0.01%
<b>Criminal court of appeal taxed cases</b>	£0.24	<0.05%	<0.05%	£0.24	<0.05%	<0.05%
<b>Total</b>	<b>£8,296,498</b>	<b>100%</b>	<b>11.1%</b>	<b>£5,761,904</b>	<b>100%</b>	<b>7.7%</b>

For year end purposes, deemed errors are defined as instances where monitoring officers required further information to complete their review and where that information was not provided by the year end reporting date. These results incorporate 103 cases where the Agency did not have the opportunity to respond in full to testing results as a cut-off date had to be applied to allow the Agency to meet its Annual Report and Accounts deadline for audit and publication.

## 18. Fraud and error (continued)

In addition to the error sources identified, there were some cases where monitoring officers required further information from practitioners to complete their review. While LSANI contacted practitioners and encouraged them to provide the information required, responses were not always received and were outstanding in a number of cases at assessment cut-off. Without the required information, SAU monitoring officers were not able to determine the accuracy of the payment and this resulted in deemed errors being applied in these cases. It is important to note that information was not sought from practitioners in all cases.

The LSA has established a dedicated Error Unit to liaise with SAU in respect of the irregularities SAU detect and provide additional information requested. The Unit provides a monthly business report for senior management providing a breakdown of error by business activity/legal aid scheme deriving lessons learned to inform the interventions, process redesign and procedures to be adopted to address identified errors. There has also been significant engagement with colleagues from Northern Ireland Courts and Tribunals Service to secure appropriate information to allow for payment requests to be more accurately assessed.

The Agency expects this error rate to reduce year on year as issues are identified and addressed. For instance during 2019-20, discussion with the Taxing Master's Office resulted in changes to the detail supplied to SAU regarding the judicial decision taken by the Master which eliminated 'error' identified in respect of this issue.

During 2019-20 the Agency has undertaken a review of operational desk instructions to streamline processes and address the errors being identified through the SAU sampling exercise. This is an iterative process and will continue into 2020 focusing on legislative compliance and efficiency and is to be further informed by a Business Consultancy Services review of business processes that is due to report in November 2020.

Other interventions to tackle known causes of official error include issuing management directions and circulars to practitioners to address time limits and late submissions of bills, and the legislative amendments to the Remuneration Order introduced in July 2019.

Corrective actions taken as a result of 2019 findings will have a primarily future impact on error but cannot correct that which had already taken place and is reflected in the 2019 figures. In addition, there may be a lag to the full impact of interventions as, while a case may be selected for testing after such intervention, it may include earlier payments made before this change took effect and in such cases the error will remain valid. It will likely be future years testing before the benefits of such actions are fully recognised.

In those cases in which the monitoring officers identified an actual underpayment or overpayment the Agency has a process to adjust the fees and make recoupments to address actual errors. No recoupment is made of deemed errors as the accuracy or otherwise of the payment cannot be proved due to the lack of information.

**18. Fraud and error (continued)**

The methodology for addressing applicant fraud and error has been developed and agreed during 2019-20. Sampling is now incorporated within the 2020-21 MoU between LSA and SAU and it is planned will become operational in the coming months. Some of this was planned through home visits to assisted persons but will have to be conducted remotely.

LSA review the ongoing financial eligibility of individuals who remain in receipt of civil legal aid. The initial review of error methodology by the SAU has also identified the potential for DfC to undertake face-to-face applicant review visits for relevant Assisted Persons as a further form of assurance in respect of ongoing financial eligibility. This work is termed Future Overpayment Prevention (FOP) and finalisation of the methodology will be undertaken during 2020-21 with a view to introduction during 2021-22. The original model envisaged may have to be modified in light of Covid-19 restrictions.

Work has also progressed on plans to develop the practitioner counter fraud capabilities within the Agency. An initial draft practitioner methodology will be refined during 2021 with a view to being piloted during 2021-22.

## 19. Third-party assets

Recovery from damages awarded to funded clients may be required by the LSA to offset any liability to the Legal Aid Fund. The LSA places these funds on deposit until the liability to the Fund, if any, is determined. Any remaining balance of the damages awarded is refunded once the liability to the Fund has been settled. The amounts retained to cover any shortfall to the Fund are recorded in income as 'Damages retained'. The movement on these third-party funds was as follows:

	2019-20 £000	2018-19 £000
At 1 April	291	312
Damages received	948	609
Interest received	-	-
	1,239	921
Less:		
Sums repaid to assisted persons	(1,045)	(574)
Damages retained	(69)	(56)
<b>Balance at 31 March</b>	<b>125</b>	<b>291</b>

These are not included within the LSA's assets as they do not belong to the LSA. The assets held at the reporting period date to which it was practical to ascribe monetary values comprised monetary assets, such as bank balances, monies on deposit and listed securities.

## 20. Events after the reporting date

Other than as noted below there were no events after the reporting date that required disclosure.

### ***Working Time (Coronavirus) (Amendment) Regulations (Northern Ireland) 2020***

The Regulations came into operation on 24 April 2020 and allows those workers for whom it was not reasonably practicable to take annual leave as a result of the pandemic to carry over up to four weeks of annual leave into the next two leave years. Any exemption will apply only to circumstances where it was not reasonably practicable for workers to take their leave as a result of the outbreak, and carry over of annual leave will be limited to the next two leave years. The Agency does not anticipate that the change in regulations will lead to a material increase in the value of accrued annual leave carried over in the next two years by the Agency.

### **Date for authorisation of issue**

The Accounting Officer authorised these financial statements for issue on 12 November 2020.

## REPORT OF THE COMPTROLLER AND AUDITOR GENERAL TO THE NORTHERN IRELAND ASSEMBLY

### Background

1. The Legal Services Agency Northern Ireland (LSANI), an executive agency of the Department of Justice (the Department), was established on 1 April 2015 following the dissolution of the Northern Ireland Legal Services Commission (NILSC) under the Legal Aid and Coroner's Act (Northern Ireland) 2014. LSANI has retained the functions of NILSC for administering legal aid in Northern Ireland.
2. I published a report on 21 June 2016, highlighting a range of concerns in relation to the management of legal aid.
  - The LSANI's response to suspected frauds was not effective. The LSANI's counter fraud strategy was not comprehensive or embedded in day-to-day management. Internal controls had been established but were inadequate to prevent and detect fraud and it was dependent upon third parties to identify suspected fraud.
  - The LSANI did not have an effective method to predict future legal aid expenditure. In partnership, it and Department sought to develop a new model for forecasting. Despite commendable effort, there remained a number of significant weaknesses, which compromised the model's ability to predict future expenditure reliably.
3. The Public Accounts Committee of the Northern Ireland Assembly has published two reports on the subject of legal aid; one in 2011 and another in January 2017. Both reports were critical of how NILSC and LSANI managed the legal aid budget over a number of years. The January 2017 PAC report contained five recommendations for improving the management of legal aid, one of which related to improving counter fraud measures.
4. The audit opinions on the annual accounts of NILSC and LSANI have been qualified since 2003 due to the lack of effective counter fraud arrangements and weaknesses in the financial estimates of provisions for legal aid liabilities in the annual accounts. Whilst progress has been made by the Agency on these issues, particularly in terms of provisions for legal aid liabilities, further work will be needed to resolve them. Consequently, I am qualifying my audit opinion on the 2019-20 financial statements of LSANI.

### Purpose of the Report

5. I am required to examine, certify and report upon the financial statements prepared by LSANI under the Government Resources and Accounts Act (Northern Ireland) 2001.
6. This report explains the background to my qualifications on the LSANI Account for the year ended 31 March 2020.

7. I have qualified my opinion on the financial statements due to:
- i. statistics produced by the Agency estimating that £6.2 million of overpayments and £2.1 million of underpayments of legal aid costs were made during the year due to official error; and
  - ii. limitations in the scope of my work due to insufficient evidence available to:
    - o satisfy myself that material fraud and error by legal aid claimants and legal practitioners did not exist within eligibility assessments of legal aid applicants and in expenditure from legal aid funds; and
    - o support the assumptions and judgements used in the determination of £131.1 million out of a total year end provision for legal aid liabilities of £152.4 million at 31 March 2020; and the resulting adjustments required to the annual legal aid expenditure.

### **Qualified audit opinion on irregular legal aid expenditure**

8. Legal aid expenditure during 2019-20 totalled £98.7 million. There are a number of reasons why this expenditure may not be applied for the purposes intended by the Assembly or conform to the authorities which govern them:
- Official error – where an error can be attributed to the actions or inactions of the Agency;
  - Errors made by legal aid claimants and legal practitioners; and
  - Fraud.
9. The Agency has been working with the Department for Communities (DfC) to develop an estimate of the levels of fraud and error within legal aid expenditure. This work has a number of different strands and will take time to develop. However work undertaken to date enabled the Agency to provide me with an estimate of the level of official error in this expenditure.
10. DfC's Standards Assurance Unit (SAU) selected a sample of 893 payments made between January 2019 and December 2019 and tested whether they had been processed in accordance with legislation. The Agency has used this information to estimate the level of official error in 2019-20 legal aid payments. I am satisfied that the approach is reasonable.
11. The estimated level of overpayments in this expenditure resulting from official error is £6.2 million, whilst the estimated level of underpayments is £2.1 million. All overpayments are considered irregular as the expenditure has not been applied in accordance with the purposes intended by the Assembly. Underpayments resulting from official error are not considered to have conformed to the authorities which govern them as the corresponding transactions have not been processed in accordance with the applicable legislation. Therefore the expenditure is considered to be incorrect in 2019-20. Figure 1 provides a breakdown of these errors.
12. These estimates include deemed errors of £2.5 million, where further information was required to reach a conclusion on the appropriateness of the payment.

13. The types of error identified in this testing included:
- i. LSANI assessor error - errors identified in the work of LSANI staff during the assessment and payment of legal aid bills submitted;
  - ii. Further information required from legal representatives - errors recorded against cases where more information from practitioners would have been needed to determine whether the payment was correct, resulting in a deemed error;
  - iii. Legal Aid Assessment Office (LAAO<sup>1</sup>) error - errors that occurred in the assessment of financial eligibility for legal aid by the Legal Aid, prior to the transfer of this function to LSANI in March 2019;
  - iv. Amendment required to Remuneration Order – updates were required to the legislation which outlines how members of the legal profession should be paid for legal aid work, including travel costs, which was actioned in July 2019;
  - v. Civil and Criminal Court of Appeal Taxed cases - where the monitoring team were unable to view relevant payment information which was held by the courts rather than within LSANI, and this information was not obtained by the assessor at the time of payment. Official errors in this category are also recorded if mistakes are identified in the calculation of a taxed bill.

**Figure 1: Percentage of the monetary value of official error per category of error (including and excluding deemed errors)**

Type of error	Proportion of the monetary value of official error – including deemed errors %	Proportion of the monetary value of official error – excluding deemed errors %
LSANI assessor error	67.4	92.4
Further information required from legal representatives	19.8	0
LAAO error	7.5	0.5
Amendment required to Remuneration Order	5.2	7.0
Civil and Criminal Court of Appeal Taxed cases	0.1	0.1

Source: LSANI – Official error in legal aid payments 2019 end of year report – 3 November 2020

14. I asked the LSANI what actions it was taking to address these issues. It told me *“The LSANI Accounting Officer and Senior Management Team remain committed to a zero tolerance culture in respect of fraud and error as set out in the Agency’s Business Plan and to identifying and employing best practice and the necessary resources to detect, correct and prevent fraud and error within Legal Aid.*
15. *In 2019, an Error Unit was established to co-ordinate action across the Agency to reduce official fraud and error loss in legal aid. The Agency has worked with the SAU*

<sup>1</sup> The Legal Aid Assessment Office was part of the Working Age Group in the Department for Communities but transferred to the LSANI on 4 March 2019.

*to identify all the issues driving official error and to develop and agree processes to address them, particularly focusing on common errors with the highest value. This includes aligning business processes with the statutory framework, publishing our approach to assessing claims and detailing the supporting documentation required to accompany payments requests. LSANI internal instructions have been revised to support these initiatives and staff training and awareness provided to embed an accuracy culture. LSANI is recruiting a dedicated training officer to advance this work. LSANI is also recruiting a Head of Counter Fraud and consolidating fraud and error functions within the Agency. A partnership approach has been taken with the Profession to issue guidance, share LSANI findings and clarify information needs to tackle fraud and error collaboratively.”*

### **Limitation in scope arising from insufficient evidence that material fraud and claimant and legal practitioner error did not exist within legal aid expenditure**

16. Until the Agency progresses other aspects of its work on fraud and error it cannot provide me with an estimate of the level of fraud and overpayments arising from errors made by claimants and practitioners in legal aid expenditure.
17. There are two aspects to the limitation in scope in respect of fraud and errors made by claimants and legal practitioners. Firstly, there was insufficient evidence to support the eligibility of certain legal aid applications: secondly, there was insufficient evidence to support the completeness and accuracy of payments to legal practitioners.

#### **Eligibility**

18. Whilst some assurance was gained by LSANI from the SAU's testing on official errors made in eligibility assessments, consideration of other aspects still need to be addressed. Means tested legal aid carries a risk that legal aid is granted to individuals who are not eligible if income details are misstated on initial application, or if changes in financial circumstances that arise during the case are not reported by the claimant. LSANI depends significantly upon third parties to verify the eligibility of legal aid applications. In criminal cases, a judge decides upon an applicant's eligibility following the LSA checking whether an applicant is in receipt of the benefit the applicant has stated and the court's determination of the applicant's financial eligibility if not on a benefit. However, where there is doubt over the applicant's means or the merits of the case, the court has a legal obligation to resolve those doubts in favour of the applicant. Consequently, it is difficult to estimate how much of criminal legal aid is dependent upon an assessment of income or what benefits are being claimed.
19. In civil cases, solicitors and the LSA assess eligibility. The complexity of civil legal aid schemes gives scope for fraud or error in assessing eligibility. My main concerns relate to eligibility:
  - there is an inherent level of fraud within the benefits system that could impact on legal aid payments. This applies to both civil and criminal legal aid; and
  - for applicants who are not in receipt of benefits, for example those employed or self-employed, assessments rely upon the declarations made in application forms with supporting documents such as payslips and accounts, in order to assess eligibility.

20. The LSANI has invested considerable resources to develop a robust strategy to counter fraud and error, working with the DfC to develop an estimate of the levels of fraud and error in the system. The interview and review of claimant applications is the next significant part of this work. A methodology has been developed and visits to applicants were due to commence in March 2020 but in light of the Covid 19 pandemic these were cancelled. This work is now due to commence from the start of 2021 but may have to be delivered under alternate means due to social distancing restrictions.

### **Payments to legal practitioners**

21. The nature of the legal aid scheme, in making payments to legal practitioners for services, which are provided directly to claimants, creates difficulties for LSANI in determining whether the services were appropriately provided or if overpayments have been made. Currently, LSANI does not produce an estimate of the likely scale of overpayments made to legal practitioners resulting from fraud and error by claimants or practitioners.
22. Under the current legislation the Agency does not have any powers to carry out inspections in the offices of legal practitioners involved in legal aid cases. This is a critical gap in the counter fraud arrangements. While the Statutory Registration Scheme is not a counter-fraud initiative, the powers the Agency will acquire in its quality assurance role under the Scheme will enable it to inspect documentation in the offices of legal aid practitioners. This is an essential element of ensuring that publicly funded legal services deliver value for money and its absence undermines the LSANI's ability to implement a robust quality assurance process. The Access to Justice Order 2003 provided for the introduction of such a scheme. It is concerning that over 17 years later the scheme is still not in place.
23. I asked LSANI what progress it had made to develop and implement the registration scheme. It told me *"Now that an Assembly is in place, the Department has re-initiated a project to bring forward a Statutory Registration Scheme. The project is being taken forward on a slightly different basis to that on which consultation took place in 2017. The focus is on introducing a 'minimum viable model' which can be built on over time. The challenging target is to develop revised proposals, complete further consultation and lay the four pieces of legislation required by March 2022."* An online registration facility has been developed as part of the implementation of the Legal Aid Management System (LAMS) on 1 July 2019. This will support the roll-out of the registration scheme once the legislation is passed.
24. I have limited the scope of my audit opinion on the regularity of expenditure in 2019-20 because I have been unable to obtain sufficient audit evidence to conclude that a material amount of legal aid expenditure has not been claimed fraudulently or in error by claimants and legal practitioners.

### **Limitation in scope arising from insufficient evidence to support the estimate of provisions**

25. The LSANI is not able to determine the specific number of live/active legal aid certificates currently issued. Costs for Civil Legal Aid cases are not standardised, so different firms may bill varying amounts for similar work. The LSANI uses an estimates process to calculate a statistical approximation of the likely number of legal aid certificates. It uses another estimates process to calculate the range of likely average costs of different types of cases. These estimates introduce an

unacceptable level of uncertainty and error in the valuation of £131.1 million out of total legal aid liabilities of £152.4 million at 31 March.

26. These liabilities are referred to as legal aid provisions and the figures are outlined in the table below.

#### Provision for legal aid liabilities at 31 March

	2020 £ million	2019 £ million	2018 £ million	2017 £million
<b>Criminal</b>	<b>49.9</b>	44.6	39.5	47.2
<b>Civil</b>	<b>102.5</b>	91.2	96.2	98.8
<b>Total</b>	<b>152.4</b>	135.8	135.7	146.0

Source: Legal Services Agency

27. Previously the Agency used a lifecycle assumption to estimate the number of live certificates to be valued in the provision. When LAMS came into operation in July 2019 the Agency changed its provisions methodology and instead used the number of cases on LAMS as a starting point, with further refinements for certain items. Whilst this was more robust than the previous approach, further housekeeping work on the number of cases held on LAMS is needed and the Agency plans to take this work forward in the coming months. The average costs used in the estimation of the provision was derived from a range of reports extracted from the old case management system, a process which was complex and manually intensive. The Agency intends to revise the methodology for calculating average case costs in the coming year, by extracting information at a more granular level from LAMS instead. Some audit evidence that I required was not available to me, meaning that I could not gain sufficient assurance on the migration of data from the old case management system to LAMS, the extraction of data from LAMS and cost information from the old system and the calculation of average costs.
28. Most legal aid provisions are calculated using this model (£122.1 million) however more complex cases are valued outside of the model (£30.3 million). Whilst I have sufficient assurance on the assumptions used to calculate £21.3 million of provisions valued outside of the model, I do not have sufficient audit assurance over average case costs applied in arriving at £8.4 million of this element of the liability and of whether the recognition of a liability for a further £0.6 million was appropriate.
29. The annual legal aid expenditure is the total predicted cost for all new certificates issued during the year adjusted for differences between the original estimate and the amounts actually paid for certificates issued in earlier years. The annual expenditure has been adjusted this year by +£3.2 million (- £6.4 million 2018-19) for these differences. The adjustment is one indication of the level of error in the previous year's provisions estimate.

## Legal Aid Annual Expenditure at 31 March

	2020 £ million	2019 £ million	2018 £ million	2017 £million
Provided in the year - includes predicted cost of new certificates issued in year <sup>2</sup>	95.5	90.7	88.3	127.9
Re-measurement of opening balance - includes errors in previous years provision	3.2	(6.4)	(19.5)	(26.3)
<b>Total Annual expenditure</b>	<b>98.7</b>	<b>84.3</b>	<b>68.8</b>	<b>101.6</b>

Source: Legal Services Agency

30. The level of error in estimated provisions has reduced considerably over the last four years, but it remains materially inaccurate. It is not possible to assess the level of error in provisions until the Agency makes the legal aid payments in the following year.
31. Significant work has been undertaken by LSANI to improve the provisions model and it is continuing to work towards providing a reasonable estimation of future legal aid liabilities. Its future plans for further work on LAMS and the provisions model will help refine the estimation of legal aid liabilities further, particularly once the LAMS' functionality is fully utilised. Considerable progress has been made in recent years in resolving the issues relating to this estimation but further work is needed. For the estimation in 2019-20 we continue to have specific concerns about:
- the accuracy and completeness of the numbers of legal aid certificates; and
  - the quality of management information used in the provisions valuations.
32. I have qualified my audit opinion on the truth and fairness of the amount provided for legal aid liabilities at 31 March 2020 due to insufficient evidence to support the current provisions methodologies and the judgements made when calculating provisions.

<sup>2</sup> These figures are disclosed by LSANI in Note 12 of the annual accounts as provisions "Provided in the year" and provisions "not required written back". These amounts include a complex range of financial transactions.

## Conclusions

33. The Agency continues to work with the DfC to estimate the levels of fraud and error related to legal aid and to develop an effective counter fraud strategy. Work to enable the level of applicant fraud and error to be estimated was due to commence in 2020 with visits to a sample of applicants, but the impact of the Covid 19 pandemic has now pushed this back to 2021. It is disappointing that progress has been slower on developing a methodology to determine the level of fraud and error in payments to legal professionals, and considerable work is still needed in this area. The Agency has a draft methodology for estimating the level of legal practitioner fraud and error and initial testing to assist in the development of this methodology will be taken forward on a 'test and learn' basis during 2021. The Agency told me "*Lack of resource has been a hampering factor and covid-19 related recruitment restrictions have meant the Agency is only now able to move to fill the Head of Branch post which will lead this work but has been vacant since January*". There remains insufficient evidence to determine the level of claimant or practitioner fraud or error regarding the eligibility of legal aid payments or payments to legal practitioners in 2019-20. The Agency has estimated £8.3 million of over and underpayments for legal aid which was irregular during 2019-20 due to official error. I expect this to decrease in future years as the Agency works to address the issues identified. Only when the Agency is able to determine an estimate for applicant and practitioner fraud and error, and the underlying causes, can it act to improve its preventative and detective controls to protect public money. There is still much work to be undertaken by the Agency in the coming years and tangible progress is essential.
34. The Department and the Agency have revised the methodology for determining legal aid provisions. This provides a more robust estimation of legal aid liabilities but the accuracy is limited by the quality of management information provided and there was insufficient audit evidence to support the completeness and accuracy of the provision. This situation should improve in future years with the housekeeping work planned on the LAMS system, and improving the calculation of average costs.
35. The Public Accounts Committee took evidence on my report on the Management of Legal Aid on 29 June 2016 and reported its findings on 11 January 2017. Since then I have tracked progress made on addressing the committee's recommendations. Whilst I accept that there were significant constraints on progress in some areas before a Minister and a legislative Assembly were back in place, some progress has now begun to be made and I would encourage the Department and the Agency to accelerate their work in this area.
36. I will continue to keep the implementation of the Committee's recommendations under review.



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12 November 2020