

Director of Legal Aid Casework annual report 2025 to 2026

The Director of Legal Aid casework, the LAA's CEO has published her [report for 2025-6](#). This includes some notable cases concerning legal aid during the year:

- Judgment in the case of R (on the application of HJK and others) v The Director of Legal Aid Casework (Criminal Injuries Compensation Authority intervening), [2025] EWHC 774 (Admin) was handed down on 1 April 2025. The four Claimants were victims of human trafficking who sought legal aid to make out-of-time applications under the Criminal Injuries Compensation Scheme (CICS). English was not the first language of the applicants, and each had suffered mental illness as a result of their experiences. It was accepted that any dispute as to their entitlement to payment would engage Article 6 ECHR (right to a fair trial).

Their legal aid applications were initially refused on the basis that there was no dispute about their entitlement to payment at the point that they initially applied for compensation. Following the issuing of the judicial reviews, these decisions were withdrawn.

New decisions accepted that Article 6 ECHR was engaged at the stage of making the applications for compensation but held that Article 6 did not require legal assistance to be provided at that stage. The court, however, found that, in these circumstances, the applicants could not effectively present their cases for compensation without legal assistance. The court rejected the suggestion that applicants' rights under the ECHR could be met by their submitting an initial application without legal assistance and then relying on the Criminal Injuries Compensation Authority to investigate the claim.

- In R (on the application of Joyce Oji) v Director of Legal Aid Casework [2026] EWCA Civ 11, [2026] the Court of Appeal dismissed the Claimant's appeal against the previous dismissal of her claim for judicial review against the Director. The challenge concerned the Director's refusal of legal aid to assist in an application to the Windrush Compensation Scheme. The High Court had held that Article 6 ECHR was not engaged at the point of the initial application because there was not yet a dispute about entitlement to compensation. The High court had also expressed the view that Article 6 would not be engaged in relation to any dispute that might arise, as the Scheme was created voluntarily by the government, rather than because a law required it to do so.

While agreeing with the ground on which the challenge had been dismissed, the Court of Appeal disagreed with the reasoning on the latter point. Although there had been no requirement for the Secretary of State to create the Scheme, once the Scheme was established, eligible applicants had a right to receive payments in line with its rules that could be enforced by judicial review. This meant that disputes about payment could potentially engage the right to a fair hearing under Article 6 of the ECHR. It was a different point from whether payments under the scheme fell within the ambit of Article 1 of the first Protocol to the ECHR for the purposes of Article 14 ECHR.

- In Smith v The Lord Chancellor and another company [2025] EWFC 241 the court considered whether the Lord Chancellor should pay the legal costs of a party in child arrangements proceedings under the Children Act 1989 where the other party had received legal aid. The applicant argued that legal aid should not have been granted and that the Lord Chancellor should therefore be responsible for his costs. The President of the Family Division upheld the Lord Chancellor's position that, first, the circumstances in which costs can be awarded against the Lord Chancellor are limited by the Civil Legal Aid (Costs) Regulations 2013; and, second, that those regulations did not permit a costs order to be made against the Lord Chancellor in these circumstances. The court therefore did not need to address the Lord Chancellor's other argument that this application represented an attempt to challenge the Director's decision to grant legal aid, and that such a challenge should instead have been brought by judicial review during the original proceedings.