



# Legal Aid: Family Mediation

WE NEED YOUR HELP

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THE FAMILY MEDIATION TRUST - PARTNER  
ORGANIZATIONS NAMES TO BE ADDED  
CURRENTLY 52 HAVE AGREED

# A very real challenge:

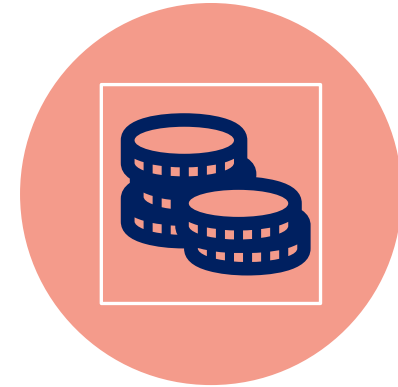
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DEMAND FOR LEGAL AID  
MEDIATION IS INCREASING.



THE COST OF DELIVERY  
MEDIATION IS INCREASING



INCOME FROM LEGAL AID  
DECREASING

BASED ON DATE BETWEEN 2018 AND 2022

# Demand for legal aid mediation is increasing

Over the last 5 years demand for legally aided mediation has increased by 17.6%<sup>1</sup>.

Financial Year	Assessments	Mediation Starts	Positive Outcomes
2017-18	10,490	6,302	4,018
2018-19	10,506	6,535	3,940
2019-20	12,182	7,568	4,556
2020-21	12,690	7,701	4,723
2021-22	12,336	7,367	4,932
Increase	17.6%	16.9%	22.7%

At the same time demands in family courts have increased: for example, there has been a 42.7% increase in Domestic Violence Remedy Orders over the same period.



# Mediation Delivery Costs are Increasing

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Since Legal Aid Pay rates were set in 2004 delivery costs have increased:

- £100 in 2004 is equivalent in purchasing power to about £170.65<sup>2</sup> today. Inflation is **NOT** slowing down. This affects:
  - Staff costs
  - IT costs
  - Office costs
  - Marketing Costs
  - Compliance Costs
- Since 2004 the FMC has been formed, bringing with it a set of important compliance standards. The cost of compliance to these standards for a firm and trainee mediators is a necessary but substantial cost.
- Compliance with the legal aid regulations has increased over the 18 years, for example, services now have to manage data protection legislation and have complex legal aid compliant CRM systems.



# Income from legal aid decreasing

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The MIAM payment rate of £87 was set in 2004  
Based on inflation alone this payment should be  
£139.30.

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The Willingness Test has been removed.

The File Review payment has been removed.

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Child Inclusive Mediation has no payment; these  
programmes cannot be delivered in less than 3  
mediation sessions.

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Cases are increasingly becoming more complicated,  
commonly requiring 3 to 5 mediation sessions. This is  
demonstrated by the decline in marriages against the  
number of children not living with both parents.



# Local Legal Aid is Critical

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The courts are full!

Low income families can not afford legal support! <sup>4</sup>

Low income families are more likely to use family courts! <sup>5</sup>

Low income families are more likely to return to court! <sup>6</sup>

The Mediation Vouchers only cover 1.2 mediation sessions and do not support MIAMs <sup>7</sup>

The Mediation Voucher are less supportive to those on the lowest income or facing the biggest challenges. Issues such as interpreters, shuttle mediation and co-mediation (all tool used more often for low income families) dilute the impact of the voucher.

Legal Aid providers at a local level understand the local support networks and judicial system. - ensuring the right support is provided.



# Why Raise This Now

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## Since 2018:

- From a 178 Legal Aid contracts issued in 2018, 40% did not deliver any legal aid work in 2021/2: a staggering 68 providers...<sup>8</sup>
- There are 23% less mediators working for legal aid providers<sup>9</sup>
- These are some of the fastest declines in all legal aid sectors, including criminal courts.
- This means there is no capacity to train new mediators:
- 4 out of the last 5 years has seen more people leave the FMC register than join it.<sup>10</sup>
- In the last 5 years there has been a 10% drop in mediators working towards accreditation<sup>11</sup>
- In the first quarter of 2022 only 87 contracts submitted work to the Legal Aid Agency, That's less than 50% of the contracts issued in 2018.<sup>12</sup>

# We ask for help to make our services sustainable:

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For mediators to have the confidence and support to deliver mediation with legal aid we ask for:

- A minimum of 15% increase in fees: this will cost less than £1 million per year
- That we learn from Covid delivery and adopt best practice in remote delivery and supervision
- That UC remains a passporting benefit
- That contracts are managed in a more consistent and considered way to support suppliers.



# References

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1. Legal Aid statistics tables - January to March 2022, Table 7.1: Mediation assessments
2. Bank of England inflation calculator
3. Bank of England inflation calculator
4. Litigants in person: a literature review, Kim Williams Ministry of Justice 2011
5. Uncovering private family law: Who's coming to court in England? Nuffield Family law Observatory
6. Uncovering private family law: Who's coming to court in England? Nuffield Family law Observatory
7. The voucher is valued at £500. This is divided by both parties, therefore £250 for each party. The Family Mediation has the following on its website: "FMC Registered Mediators charge an average of £140 per person per hour for mediation sessions and drafting documentation". The average mediation session is 1.5 hours long and as such would cost £210 for both clients per mediation session. Meaning that the voucher would only cover 1.2 mediation sessions.
8. 2 Directory of Legal Aid Providers, downloaded on the 20th October 2020 - 3 Directory of Legal Aid Providers, downloaded on the 11th October 2022 - 4 Legal Aid statistics tables - January to March 2022, Table 9.5: Number of provider solicitor offices starting work in each period by legal aid scheme
9. The Family Mediation Council released date May 2022.
10. The Family Mediation Council released date May 2022.
11. The Family Mediation Council released date May 2022.
12. Legal Aid Statistics tables - April to June 2022