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**Report on the establishment of a quality assurance mechanism for state ensured preliminary legal aid**

“Strengthening access to justice in Latvia through fostering mediation and legal aid services”

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# Introduction

## Project Background

This report is developed in the framework of a cooperation project funded by the Directorate General REFORM of the European Commission and the Council of Europe and implemented by the Council of Europe and more specifically the European Commission for the Efficiency of Justice (CEPEJ).

The project, which started in December 2021, is titled “Strengthening access to justice in Latvia through fostering mediation and legal aid services (Phase II)”. This present project builds upon the 2019-2021 cooperation project “Strengthening access to justice in Latvia through fostering mediation and legal aid services”, financed by the European Union and implemented by the CEPEJ at the Council of Europe in 2019-21.

In the context of this Project, two important areas are viewed as bearing a serious potential to ensure a more effective access to justice: (1) widen the scope of state ensured legal aid (including primary legal aid and mediation services; and (2) improved availability of state ensured legal aid. The second component i.e. improved availability of state ensured legal aid focuses specifically on improving the Legal Aid scheme in Latvia. Among other activities, it also includes the producing a Report on primary legal aid mechanism which will encompass proposals for setting up a new scheme for primary legal aid in Latvia.

Under the auspices of the current Project a mission of several legal aid workshops[[1]](#footnote-1) in October 2022 in Latvia were conducted with relevant stakeholders[[2]](#footnote-2) in order to exchange experiences of the stakeholders involved in the legal aid system and to identify the needs and willingness for implementation of a new system for primary legal aid i.e. legal aid mechanism, which encompasses quality mechanism, introducing new cadre of professionals i.e. paralegals, referrals and training.

## Legal aid and quality assessment: background

United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems(‘UN Principles and Guidelines’), adopted by the General Assembly in December 2012 in Resolution 67/187,[[3]](#footnote-3) make it an obligation for Member States to put in place an accessible, effective, sustainable and credible legal aid systems, and to ensure the quality of legal aid services, in particular those provided at no cost. Sustainable Development Goal 16.3 is to “provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. Thereafter, the UNODC and UNDP conducted the Global Study on Legal Aid (‘Global Study’)[[4]](#footnote-4) with a view to ascertaining how the obligation to provide legal aid to citizens by Member States, as well as individual experts, was *improving the quality of legal aid services.* The Study recommended that the State authority responsible for delivery of legal aid should consider “enhancing the quality of legal aid services, including by developing performance and qualification standards for all legal aid providers”, and encouraged global sharing of experiences, lessons learned and good practices.

The European Union in turn, sought to create clear minimum standards for Member States of the European Union in the area of legal aid. In 2013, the European Commission adopted the ‘Recommendation on the right to legal aid for suspects or accused persons in criminal proceedings’.[[5]](#footnote-5) Section 3 on effectiveness and quality of legal aid establishes that “Legal assistance provided under legal aid schemes should be of **high quality** in order to ensure the fairness of proceedings. To this end, systems to ensure the quality of legal aid lawyers should be in place in all Member States.”

In the same year the UNODC Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems were produced. In relation to assuring quality in legal aid partner / providers the Principles and Guidelines usefully suggest[[6]](#footnote-6)

*Guideline 14. Paralegals*

67. States should, in accordance with their national law and where appropriate, recognize the role played by paralegals or similar service providers in providing legal aid services where access to lawyers is limited.

68. For this purpose, States should, in consultation with civil society and justice agencies and professional associations, introduce measures:

*(a)* To develop, where appropriate, a nationwide scheme of paralegal services with standardized training curricula and accreditation schemes, including appropriate screening and vetting;

***(b)* To ensure that quality standards for paralegal services are set and that paralegals receive adequate training and operate under the supervision of qualified lawyers;**

***(c)* To ensure the availability of monitoring and evaluation mechanisms to guarantee the quality of the services provided by paralegals;**

[...]

*Guideline 16. Partnerships with non‐State legal aid service providers and universities*

70. States should, where appropriate, engage in partnerships with non‐State legal aid service providers, including non‐governmental organizations and other service providers.

71. To this end, States should take measures, in consultation with civil society and justice agencies and professional associations:

[...]

***(b)* To set quality standards for legal aid services and support the development of standardized training programmes for non‐State legal aid service providers;**

***(c)* To establish monitoring and evaluation mechanisms to ensure the quality of legal aid services, in particular those provided at no cost;**

***(d)* To work with all legal aid service providers to increase outreach, quality and impact and facilitate access to legal aid in all parts of the country and in all communities, especially in rural and economically and socially disadvantaged areas and among minority groups;**

[...]

[our **bold** emphasis added]

Again Directive 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings[[7]](#footnote-7), establishes in Article 7 ‘Quality of legal aid services and training’:

Member States shall take necessary measures, including with regard to funding, to ensure that: (a) there is an effective legal aid system that is of an adequate quality; and (b) legal aid services are of a quality adequate to safeguard the fairness of the proceedings, with due respect for the independence of the legal profession.

Finally, in 2021 the Committee of Ministers of the Council of Europe issued a set of Guidelines[[8]](#footnote-8) on legal aid in civil and administrative law cases:

Guideline 9

Consideration should be given to … mechanisms and measures such as:

* thorough and regular assessment of legal aid providers against clear criteria, including the quality of their management systems, customer-care standards, complaints procedures, in-service training programmes, adequacy of premises, and accessibility;
* continuous professional development on a regular basis for legal aid providers;
* the use of quality assurance clauses in public contracts between governmental bodies responsible for legal aid providers;
* requirements that legal aid providers adhere to ethical codes and other forms of ethical provisions;
* the use of quality assessment tools such as client satisfaction surveys and peer reviews by other legal aid providers, based on objective sets of criteria and/or rating systems, and carried out by either an independent body or by individuals (for example, fellow lawyers);

A second strand in the quality assurance debate comes from the expectation of politicians that state funding for public services should be justified by evidence that citizens are receiving (1) services of an adequate standard and (2) value for money for these funds, and this includes legal aid.

Quality evaluation work in the medical and legal worlds of professional practice has tended to focus on four main measures or proxies for quality: *Inputs, Structures, Process and Outcomes.*[[9]](#footnote-9)

**Input** measures refers to those things that the professional brings to practice before the work begins, such as educational attainment and training received. These measures are relatively easy to collect, but because they are indirect measures of quality at best, they generally have the least to offer.

**Structure** refers to the management of inputs in order to create an appropriate operating system and environment for the lawyers and other workers which leads to a good and effective work product for clients. However, such measures only facilitate quality of performance in other aspects of professional practice – they do not ensure it.

**Process** measures focus on the manner in which the actual work is done by the service providers and encompass the appropriateness of the legal work done, its effectiveness, its closeness to the stated wishes of the client (so far as these may be respected in all the circumstances) and therefore the lawyer’s competence.

**Outcome** measures, as the name suggests, focus on the outcome or result achieved by the service provider. This is perhaps the hardest of the four to assess since measures of success tend to be partly subjective.[[10]](#footnote-10)

## Methods of measuring quality

Assessing Input or Structural measures is normally relatively straightforward although issues of judgement can present themselves e.g. how to measure “experience” or what constitutes “adequate supervision”. Process measures are less easy. One relatively common third party measure of process and outcome variables is the use of client satisfaction questionnaires or surveys.[[11]](#footnote-11) These rely on clients’ perceptions of the quality of service that they have received. However, the necessary gulf in expertise between the lawyer and the client (particularly the first-time client) creates an information asymmetry between them. Laypersons can tell if their lawyers have been attentive, sympathetic, empathetic and accessible - all important matters to the client – but they often cannot judge the quality of the legal advice that they received, how good the outcome which the lawyer achieved for them was, or whether it took too long to achieve it or cost too much. To assess these requires the very knowledge that the client goes to the lawyer for in the first place. Civil legal aid clients will rarely know the relevant law or its application in practice or have any familiarity with courts or tribunals.

Clients therefore can safely be relied on to assess aspects of the client care which they have received, however, when it comes to assessing the quality of the results achieved in their case, the ability of professionals to influence client expectations through ‘image management’ renders them less useful as an objective measure of quality. In any event, such surveys tend to lead to relatively little variation in client responses – satisfaction rates tend generally to be quite positive, as far as their own lawyer is concerned.

The UN global study of legal aid found that the most frequently used measure of quality is the level of complaints raised against legal aid lawyers.[[12]](#footnote-12) Yet where the complaint is made by a client it suffers from the same weakness as client satisfaction surveys – the problem of information asymmetry. Secondly, complaints against lawyers generally seriously under-report the degree of dissatisfaction of consumers with their lawyer.[[13]](#footnote-13) Third, complaints focus on the work of individual lawyers in particular cases. Quality assurance measures can look at a random cross sample of a lawyer’s work to see whether any mistakes or weaknesses are systemic. This is a proactive approach to quality. Complaints are always reactive or retrospective.

## Peer review

The complexities and the challenges in measuring the quality of legal services set out above have led many scholars to the conclusion that to assess effectively the quality of the service provided by a lawyer requires a professional peer who is independent of, i.e.not a competitor of or an associate of, the lawyer being assessed *(peer review)*.[[14]](#footnote-14) Thus, research[[15]](#footnote-15) has established the reliability and validity of peer review demonstrating that it is likely to be the best available means for assessing the quality of legal work. It also has the merit of not merely providing a snapshot of the quality of the work of legal aid lawyers at any given time, but enabling quality standards to be continuously enhanced. *Peer review* has been defined in the literature[[16]](#footnote-16) as “the evaluation of the legal *service* provided against *specified criteria* and *levels of performance* by an independent lawyer with significant current *practical* experience in the areas being reviewed”. This definition highlights a number of key points: the assessment is against set criteria. These in turn are derived from professional standards which are to be found in good practice manuals, from expert lawyers, stakeholders and the professional associations (with a final input by peer reviewers). Second there has to be a common and consistent marking scheme with a limited range (to encourage marker consistency). Third, the reviewer must be independent of the lawyers being assessed. This prevents workmates, supervisors, and competitors in the same geographic area or any practitioner with whom there is a relationship, from conducting a peer review of a practitioner. Finally, the assessor must be a genuine peer, that is, they must have ongoing current practical experience in the same field of law as the lawyer being assessed. This excludes judges, prosecutors and former practitioners whose knowledge is no longer current from conducting peer reviews.

However, although peer review is the most effective way of measuring *process* and *outcome* variables it can be argued that a well-rounded quality evaluation is one that draws on a range of measures and procedures. The peer review studies conducted by Professors Sherr and Paterson and their team took this approach with peer review containing the basic assessment of *process* and *outcome* measures reinforced with *model clients* (actors who attended legal aid offices presenting an identical case in each office) and *client satisfaction* surveys. However, their results showed that neither *model clients* (which required peer review in any event) nor *client satisfaction* surveys added greatly to the wealth of information provided by *peer review*. Accordingly, when *peer review* was implemented in England and Wales and in Scotland twenty years ago, it was implemented as the principal quality assurance vehicle (although compliance audits are also conducted by non-lawyers of law firms’ structural measures and file keeping and there are also occasional general surveys of public satisfaction). However, South Africa and Chile rely on file review by peers augmented by client satisfaction surveys, complaints data, independent audits, observation of courtroom performances and self-assessment reports. Their approach therefore relies on a basket of quality assurance measures to produce a report on quality of the work done by the legal aid lawyer. Peer review was first applied to legal aid lawyers, nearly twenty years ago, in the UK. Chile, South Africa and the Netherlands followed thereafter with pilots in Ontario, Finland and Moldova, and Ukraine.[[17]](#footnote-17) recently, peer review has been used in programmes in Belgium, China, Georgia, Moldova, New Zealand and Quebec, and there have been preliminary discussions in Canada, Australia and Ukraine. Only in a handful of jurisdictions has peer review been applied to lawyers or paralegals working in NGOs or CSOs. These include, England and Wales, South Africa, and Scotland.

Paterson and Sherr asserted in 2017 that “Peer review has established itself as a success story in a range of jurisdictions across the globe. It is expensive because it relies on highly experienced practitioners, but it has demonstrated its value as the gold standard in relation to quality assessment and assurance.”[[18]](#footnote-18) Similarly Boersig and Davenport concluded in 2019 that “International trends…indicate that peer review is the ‘gold standard’ of quality control.”[[19]](#footnote-19) In addition to the full blown examples of peer review mentioned above, there are a number of jurisdictions (indeed rather more than is generally understood) around the world including, Canada, Australia and Ireland, where staff attorneys are having their files monitored by their managers or supervisors. Depending on the rigour with which this is done, this can mirror a number of the features of a peer review programme. Although EU funded research[[20]](#footnote-20) has revealed that there are a range of vehicles that are used to assess the quality of a lawyer’s work, most either assess input or structural variables or are flawed methods for assessing outcomes e.g. client satisfaction surveys or a complaints system. Peer review alone offers a way of harnessing subjective professional judgement with an objective set of criteria and scoring system to produce a proactive, systemic, risk-based form of assessment of the quality of lawyers’ performance and of the outcomes they achieve. Additionally, peer review when harnessed to individual criteria in a spreadsheet can produce a unique set of data showing the areas of practice in which the profession (or that part that does legal aid) excels and where it does not. The latter can then be targeted by training and continuous professional development. Finally, peer review has the further advantage over a complaints system that it can be more easily used to drive up standards over time, and even, as in China and Georgia, be used to nudge practitioners towards a change in culture namely, client centred lawyering.[[21]](#footnote-21)

# Retrospectively assessing quality of advice in the pilot scheme

## What has happened so far

### Format of the pilot project

The current pilot project uses the employees of social services of municipalities, NGOs and university legal clinics as the first line of approach as primary free legal aid information and advice points for individuals.

These advisers conduct a diagnostic evaluation of the issue or issues presented by the client and identify whether it is a problem that might be amenable to resolution through the provision of legal information or advice, or through alternative options.

If a “non-legal” option (eg mediation, a specialised organisation or political help) is most appropriate, the adviser discusses this with the client, provides information and makes any necessary referral that this entails.

If a “legal” option is most appropriate, then the adviser will elaborate on whether the problem

(1) can be progressed or solved by a third party drafting a letter or document, or providing assistance with completing a form and make suggestions as to where this form of assistance might be obtained[[22]](#footnote-22) – or

(2) can be progressed or solved by the client acting on advice or information, or

(3) should be further referred on for secondary legal aid. In this case, the adviser will conduct a preliminary investigation to assess the eligibility of the client for secondary legal aid eg whether the client has the status of the needy of indigent person or is eligible through a lack of income and property, and explain the procedures for obtaining such legal status, and assist the client with this.

### Review of case records: potential quality indicators available for analysis

The present proposal for quality assessment is based on forming an objective view of the quality of a consultation by looking at what the adviser has put on record about what was said and done in the interview. This is akin to file-based peer review. Whilst undoubtedly a video or audio-based assessment of the adviser’s quality of performance would contain more than a spreadsheet, this was rightly not proposed; it would be problematic in terms of cost, ethics and data protection. As we noted above, records-based file review has been proved to be a more than adequate means of quality assessment over the last 20 years. However, it depends on there being adequate and consistent record-keeping.

The team tasked with implementing the Pilot Project scheme overall was headed by national coordinator Inga Bite with national experts Jānis Jurkāns and Inita Apšeniece, all sworn attorneys at Latvian law firm CersJurkāns. Their report[[23]](#footnote-23) is now available to us and in this present report we take account of their report’s approach to quality monitoring, case management and record-keeping.

The Pilot Project has addressed monitoring and record-keeping in the following ways.

The team took on the twin duties of (i) gathering and analysing the case registers submitted by the consultants; and (ii) preparing weekly reports to the Advisory Committee of the project. It had originally been responsible too for setting up the system we describe below, of recording certain bits of information about each enquirer. [[24]](#footnote-24)

Two further elaborations on this are set out in the Pilot Project Analytical Report[[25]](#footnote-25)

“Record keeping was ensured during the Pilot Project in two ways – by online appointments registers for the people willing to make an appointment before the consultation and by collecting and analysing case record sheets filled in by the national advisors after the consultations.

“[Client satisfaction survey](file:///C:\Users\johneames\Dropbox\CoE\Latvia\2023-24%20Latvia\Latvia%202024\Final%20outputs\Output%201%20quality\Client%20satisfaction) was carried out after the end of the Pilot Project.”

There were issues – frankly related by the Pilot Project Analytical Report’s writers – resulting in a less-than-ideal level of reliability:

“Several consultants stressed during their interviews that too much information was required and they felt uneasy asking questions regarding family status, income level and similar. Also, clients did not want to sign the consents to processing of their personal data”

Post-project, the pilot project’s Latvian team analysed the results from an overall performance and scope point of view:

* “The numerical statistics of the project has been analysed according to the [case register sheets](file:///C:\Users\johneames\Dropbox\CoE\Latvia\2023-24%20Latvia\Latvia%202024\Final%20outputs\Output%201%20quality\Case%20Registers).
* Client satisfaction questionnaire was developed and a special request to fill it in online was sent to each of the clients who had given their consent to do so and pointed out either their email address or telephone number.
* Individual conversations were carried out after the pilot project with each of the national advisers.
* A special [questionnaire for the consultants](file:///C:\Users\johneames\Dropbox\CoE\Latvia\2023-24%20Latvia\Latvia%202024\Final%20outputs\Output%201%20quality\Consultants%20Questionnaire\01_Questionnaire%20for%20the%20Consultants.docx) was developed and filled in after the end of the Pilot project.”

Whilst the spreadsheets containing the above-mentioned case records are available to us, we have not had the benefit of English translations which has hampered our quality-focused analysis, especially in the (admittedly limited) instances of there being a narrative record of what happened in a case consultation.

There is post-project analysis of statistics on things like types of case, which is done impeccably, along with really useful anecdotal narrative in the Pilot Project Analytical Report. We also have the benefit of careful statistical analysis of the answers given by 22 clients in feedback questionnaires. However, not only do we have reservations about the usefulness of client feedback questionnaires, but in any case, 22 responses out of 208 consultations is likely too little, especially given that clients willing to complete them are often predisposed to a positive response. So there is little data to guide us as to the quality indicators we expect to see. Unfortunately, the speed with which the pilot project was brought in seemed to have worked against the embedding of quality assessment from the outset as had been discussed in the workshops prior to the inception of the pilot, or for it to play a significant role in the induction briefings for providers.

Case record spreadsheet

So far as the pilot is concerned, records kept about each case have followed a template issued centrally. For each enquiry, there is a record of a range of data fields, only some of which are directly relevant to a quality assessment.:

A Number of the client

B Date

C Place

D Name of the consultant

E Name of the client

F Is the consultant in a conflict of interest regarding this client?

G Place of residence of the client

H Contact (telephone, email) of the client

I Citizenship of the client

J Family status of the client

K Age of the client

L Gender of the client

M Does the client own or rent their home or is homeless?

N Monthly income of the client’s family per month per person

O Is the client disabled?

P Employment status of the client

Q Field of law where the consultation is needed

R Had this client signed up for the consultation?

S Has the client applied for secondary legal aid?

T What are the main facts presented by the client?

U What was the substance of the consultation given?

V What is the possible future action to be taken by the client?

W Was the client referred to a particular specialist or institution?

X Would mediation be applicable to the situation?

### Other data

Additionally there have been weekly reports jointly from the national co-ordinator and her team. These provide a very useful mix of statistics on numbers and types of enquiry overall in a given week, across the 11 provider network of outlets, together with anecdotal and briefly narrative highlights of the reporting-back from the providers. The latter are not case-specific naturally but give some insight into approaches, adviser attitudes and actions taken for clients. In particular the anecdotal extracts give a flavour of the nature of any referrals that were made.

### Questions reviewers can ask based on this record

Circumstances prevented detailed provisions for quality assurance being included in the pilot project as it was implemented. Therefore the records kept by advisers about the cases they dealt with in the pilot are not yet as focused and comprehensive as would be expected in a more mature primary legal aid system. The recommendations for the implementation of the full primary legal aid programme will reiterate that adequate and proportionate records be kept with a view to enabling quality assessment to be an integral part of the final programme.

Typically records or file-based quality assessment is implemented by providing a stratified, random sample of records / files to independent reviewers to enable them to check for compliance with case-recording and case-management standards, as well as examining the provider agency’s overall compliance with organisational norms that can also help indicate quality. This is described below when we look at future recommendations.

The Quality Assessment measures for the pilot project are necessarily restricted by the extent and nature of the records kept by the advisers. On the one hand since there are no individual file or case records but only a single common spreadsheet it is easier than usual for a reviewer to get a sense of the *overall* performance of advisers, but on the other hand it is harder to assess the performance of individual advisers. Accordingly, it is proposed that, depending on the number of records available for each organisation, the QA focus should be at the organisational level, which failing the assessment exercise should look at the overall performance for all advisers as a collective. Again, depending on the numbers of completed records and the time available either a random sample of case records or a stratified random sample taking account of the different caseloads of each organisation could be adopted. That decision depends on whether it is feasible or worthwhile given the content of the typical case record for comparisons to be drawn between the different organisations or groupings of these organisations. To attempt the latter would require a degree of oversampling for the organisations with the fewest case records even if a 10% sample of case records was adopted.

Ideally, given the number of case records available a peer review using the restricted criteria set out below,[[26]](#footnote-26) would have been conducted by two reviewers ( experienced paralegal advisers ) operating independently of each other, provided they were in some sense “peers” and had received appropriate training in the criteria and marking schedule. However, the logistics and timelines associated with the completion of this project have precluded this, so the national co-ordinator was requested to undertake a review of a random sample of the case records using the amended list of peer review criteria set out below[[27]](#footnote-27).

Originally, it had been hoped that the reviewers would have an opportunity to informally talk to some of the advisers and those supervising them in all or a range of the advising agencies. In this way, data would be gathered informally about the overall commitment to processes described in the case record spreadsheet, and broadly whether some of the principles enshrined in the following questions had been adhered to. This would also have enabled the input and structural measures for each agency (see section 5 *Annex 2 Proposed form for organisational assessment of the pilot* below) to be assessed. Unfortunately, the logistics and timelines associated with the completion of the project have meant that this form of organisational assessment could not be completed on the pilot project, although the national co-ordinator was able to include certain aspects of this assessment in the report on the pilot project.[[28]](#footnote-28)

## Peer review of the case record spreadsheet

Taking account of the limitations in the case record spreadsheet we would propose that the reviewer(s) should score the case record sheets against the following criteria[[29]](#footnote-29):

1. Were all the fields filled in by the advisor for a given client? Or if any are blank, is it clear why?
2. Was the client given accurate and appropriate information and help about progressing or solving their case?
3. Were any capacity, disability or linguistic issues in relation to the client recorded?
4. Does the account of facts presented by the client column T correctly correspond with the adviser’s choice of field(s) of law in column Q?
5. How sufficient and coherent is the account of the consultation given in column U? ( i.e – can the reviewer tell broadly what was asked about, what advice or help was given, and what referral is made if any?)
6. Are any upcoming deadlines recorded (eg deadline for appeal against a government department decision), with a note as to how (and by whom) these will be met?
7. Did the adviser give appropriate information and/or advice in relation to possible referrals?
8. Is the future action to be taken by the client, if any, appropriate to the facts presented and the substance of the consultation?
9. Has any action been promised on the part of the adviser, and if so, is it clear what this will be and when?
10. If secondary legal aid was indicated (a) was the client advised to apply for it, and (b) were they assisted with the process?
11. Are there any inconsistencies between the answers in the various columns, or unexplained gaps?

### Pilot Peer Review Results

An examination of a sample of the 208 case records received in the project by the national co-ordinator suggested that an assessment of each case-record could be made in relation to all of these criteria, except 6 (upcoming deadlines) and 9 (agreed future action by the advisor). Accordingly, the national co-ordinator then conducted a peer review against the nine remaining criteria of 48 case records consisting of all the records from the smaller centres and a random sample of five case records taken from each of the larger centres. The overall results from these 48 case records are set out here:[[30]](#footnote-30)



* Apart from criteria 6 and 9 where a “not applicable” result was anticipated, criterion 3 also attracted a “not applicable” score on every occasion. This was because in the pilot the client was only asked if they had a registered disability – and none in the sample surveyed were so registered. In the future case records for primary legal aid, broader questions of capacity and linguistic comprehension should be noted in the case records.
* As was anticipated from the feedback received during the pilot, some advisers had more time and commitment to completing the full case records than others. This can be seen from the results for criterion 1.
* At least 75% of clients received accurate and appropriate information and help about progressing their case (see criterion 2).
* The records suggest that the weakest results related to criterion 4 – the legal categorisation of the problem. However, this was likely to be a training issue since the advisors were not given a list of precise legal categories in their training. If this criterion is to be retained then this can be addressed in future training.
* Given that this was a pilot it is encouraging that 75% of the case records provided a sufficient and coherent account of the issues covered in the consultation.
* Interestingly, almost every client was found to require a referral although almost 25% of them did not receive as much advice on a referral as might reasonably have been expected. (criterion 7)
* In almost every case the client required to take further action but it was not always clear from the records what that might be or whether it was an appropriate action (criterion 8);
* The highest level of “C” scores in the Table arose in relation to criterion 10. This was because the advisers were not asked to elicit sufficient information on client income and assets to assess the eligibility of the clients for secondary legal aid. This is a matter that could be dealt with in future training or record requirements.
* Criterion 11 indicates that the advisers were admirably consistent and coherent in their completion of the case records.

### What does this assessment of the case records tell us?

This process has clearly demonstrated that even in a pilot project where peer review had not been inbuilt from the outset, it has been possible to conduct a meaningful peer review of the quality of the advice and assistance provided in the pilot, through a scrutiny of the available case records. The review has flagged up some shortcomings and some very noticeable strengths, whilst providing pointers as to desirable changes in the criteria, training and record keeping for the new primary legal aid programme. Given the logistical and timeline challenges which have prevented a fuller assessment of the quality of the advice work and the organisations involved in the pilot, it has not been possible to produce a particularly textured objective assessment nor even a nuanced narrative of the grey areas. But its purpose is also to start to encourage critical thinking around what modalities in primary legal aid performance need to be continuously studied from now on. Such shortcomings, risks, accomplishments and successes as it does disclose will suggest further lines of observation that are needed in future schemes birthed from this.

### How the results are to be processed

We anticipate that the results be read together with the expert teams’ conclusions in the Report on Output 3 *A tailored legal aid mechanism for Latvia*, and it will make sense for the next step in policymaking in the area of primary legal aid to take them into account.

## About the provider: organisational indicators

### Why assess the provider organisation?

The pilot project was an attempt to examine whether a viable, adequate and affordable primary legal aid programme could be delivered in Latvia by non-lawyer advisers. To assess the adequacy of the programme it is necessary to examine a representative sample of records from the consultations to take place in the project. In addition to assessing the individual records produced by individual advisers, it is also beneficial to examine input and structural measures relating to the provider organisation (whether legal clinic, NGO or municipal social welfare centre).

At the wider level, it will include things like access to the service, seamlessness of the service, management of the provider, people management within the provider body, the running of the service, the meeting of clients’ needs and the organisation’s commitment to quality

Questions need to be to ask about aspects of the service, like case management, how will the services managed, whether management structures are effective, what the supervision of advisors is like, whether there is an overview of the current state of life cases, what steps are taken to ensure effective and risk free case management, what procedures are in place for the referral of clients onwards, whether there are important and effective organisational policies and protocols, for example, in connection with inclusiveness, accessibility, and the extent of commitment to in-service training for advisors.

As indicated earlier input and structural measures are easier to assess than process and outcome measures, however, they are also less close proxies for quality of performance. Nevertheless, even if these factors alone do not guarantee high quality of legal advice and help, they are nonetheless also highly desirable aspirations in their own right for all provider organisations and individuals in the primary legal aid environment.

### Format of the organisational audit

The context for assessing the current primary legal aid scheme on the verge of completing its pilot period is that 11 provider organisations have opened their doors to individuals making enquiries about their potentially justiciable problems, over a 10-week period in October to December 2023. Hence, there is discontinuity in the sense that these are not provider services which are permanently and continuously fulfilling a primary legal aid function right now. (They could become so in future of course).

So the short-term immediate assessment of organisational quality for the pilot poses very different questions than a longer-term, more continuous operation of primary legal aid will. The latter we deal with below.

Instead, the short-term assessment needs to bear in mind the limitations that provider organisations face in their fleeting involvement:

* they will not have had time to mature into their primary legal aid role;
* there will not have been the depth of thinking and strategising one might find in a permanent primary legal aid service; and
* there will not have been a culture of continuous improvement as to primary legal aid skills and knowledge for any length of time so far.

This has at least two consequences for assessment: (1) that any organisational audit will need, on the whole, to make generous adjustment for the novelty of the situation; and (2) a snapshot audit of organisational quality measures just at the end of the 10-week pilot period may not give the kind of accurate picture that could be achieved by a series of audits over a couple of years.

In a more mature legal aid environment, the structure for assessment of organisational quality measures would provide for a range of formats in which to assess the relevant measures: a starting point would likely be an informal desktop self-assessment by the provider themself. This might be followed by a supportive visit by the authority or reviewing agency, to promote constructive but critical discussion of the standards that the organisation seeks to meet. Those relatively benign measures would be the prelude to a more rigorous and meticulous organisational audit. The present pilot scheme does not have the luxury of that gradual approach. Nonetheless, some aspects of that may usefully be borrowed in the present exercise.

We suggest that a two-track approach will deliver useful results:

* first, reflective desktop self-assessment by key workers in each relevant provider, office, self-assessing against the measures we set out in the questions below at section 5 *Annex 2 Proposed form for organisational assessment of the pilot*;
* secondly, a discussion-based supportive but critical face-to-face assessment by an independent peer reviewer against the same questions at Annex 2, to collectively appraise the actual extent to which the provider organisation meets each and every standard.

The newness of the pilot project may well mean that some (if not many) questions will only return a “not applicable – n/a” response. Even so, we are convinced that there is merit in posing the questions, if only to regularise the provider organisations’ compliance in a future iteration of the primary legal aid scheme.

It is suggested that the peer reviewer undertaking the organisational audit may be the same person or persons as those recruited to undertake casefile reviews. Responsibility for managing the review process will need to be assumed by the Legal Aid Authority – in conjunction with Council of Europe if such a project were to materialise.

### Questions for the reviewer and the provider to ask

The following questions are intended to be used for both phases of the two-track approach – the reflective desktop self-assessment by the provider, and then the supportive/critical face-to-face visit[[31]](#footnote-31). In both, the questions we propose should be asked are these:

|  |
| --- |
| 1. Were / are the advisers appropriately supervised and supported? 2. Have the advisers had a briefing on how to complete the primary legal aid case-record in the spreadsheet template? 3. Have advisers had training in client care, working in non-discriminatory ways with disadvantaged people, and dealing with difficult clients that is specific to their primary legal aid role? 4. Does the provider have an inclusion policy or anti-discrimination policy? 5. Were all primary legal aid clients given a client satisfaction response sheet, either on paper or electronically? 6. Are clients aware of their right to make a complaint about the primary legal aid service and how to do so? 7. Are clients systematically told about protection of their data, confidentiality, and the fact that the primary legal aid service is free? 8. About the appropriateness of the venue for face-to-face advice appointments:    1. Is there adequate waiting space, with seating?    2. Is there privacy for a private conversation between the advisor and the client?    3. Does the consultation space have chairs for adviser and client and anyone accompanying the client, and a desk?    4. Are the premises physically accessible to those with mobility or other difficulties? If not, are alternative measures adopted to ensure their access?    5. Is the venue easy to find and signposted from the street with clear signage?    6. Is it clear from the signage that the primary legal aid service is distinct from the organisation’s normal core function?    7. Is there a welcoming ambience both in lobby, waiting area and consultation space?    8. Are / were the advertised opening times for the primary legal aid pilot adhered to at the venue? |

Both the self-assessment and the peer review visit should go carefully through the full version of these questions, and mark off, with comments, the level of compliance.

The post project position at the time of writing is that, as far as reflective self-assessment is concerned, we now have answers in respect of questions, 1, 2 and 5 above. These are generic, not venue-specific, answers legitimately based on the pilot project team’s post-project exit interviews with providers, and the co-ordinator’s own reflections. They can be found in section 5 *Annex 2 Proposed form for organisational assessment of the pilot* below.

Moreover, we can see from the Pilot Project Analytical Report that some answers could be provided regarding many sections in question 8 on the appropriateness of the venue for face-to-face advice appointments. The analytical report[[32]](#footnote-32) notes for example,

“In all places of consultations, a separate and isolated room was available for ensuring the confidentiality of the consultations. In all premises also a computer with internet and was available.”

…and with the further observation that

“For a permanent service it would be advisable to devote to consultations special premises not associated with social services but still widely available to public. Most likely - municipal customer service centres.”

To date there has not been resource to expand this exercise to include the other questions and to produce venue-specific results, which we would have liked, much less any independent peer-review of organisational proxy indicators. These lacunae mean that it is not sensible at this stage to undertake our own expert assessment based on the answers we have so far.

# Future recommendations for the Quality Assessment of the new Primary Legal Aid programme

Looking to the future of quality assessment in the next steps of primary legal aid arrangements in Latvia, this section covers two aspects:

* peer review of casefiles
* audit of organisational standards

Thirdly we very briefly comment on client feedback questionnaires.

## Casefile review

### Introduction

We saw in paras 1.4-5 and 2.5 (above) a range of possible measures for assessing the quality of performance of advisers in legal aid programmes, but that “peer review” has emerged as the gold standard for such assessments. Although the nature of the case records in the pilot project have prevented us from implementing a full peer review of the pilot project, provided the appropriate record keeping protocols are embedded in any future primary legal aid programme, there is no reason why peer review quality assurance could not play a significant role in any such programme.

As we saw earlier peer review has been defined as “the evaluation of a service provided against specified criteria and levels of performance by an independent person with significant current or recent practical experience in the areas being reviewed”. Several issues emerge from this definition: who should be the reviewers, what criteria should they use in the assessment, which case records should be assessed, which marking schemes work best and what training and monitoring is required for the reviewers.

### Who are “peers”?

The concept of peer review is predicated on the presumption that those best equipped to assess the professional work of providers are other professionals. The professionals should clearly be professionals in the same fields of law practising in the same jurisdiction as those being reviewed. Experience from other jurisdictions has established that for peer review to work effectively the reviewers must be respected by those being assessed as having current experience and expertise in the relevant areas of law. This means that practising lawyers may not be seen as appropriate peer reviewers for non-lawyers such as paralegals. Next, the reviewers must be independent of the advisor being reviewed (which excludes their supervisors) to ensure the integrity of the process. Finally, it is not enough to provide reviewers with the criteria and the marking system. That would be to invite inconsistencies in the interpretation of the criteria and in the use of the marking scheme. Peer reviewers have to be trained in the use of the criteria and their interpretation as well as in the application of the marking scale and thereafter must be monitored and debriefed (collectively) on a regular basis. Only in this way can consistency in marking be attained and divergences reduced.

Responsibility for recruiting and training peer reviewers and managing the peer review process will need to be assumed by the Legal Aid Authority.

### Criteria

The criteria used by peer reviewers for assessing records are developed from practice manuals, professional standards, legal skills treatises and discussions between practitioners. The criteria may be specialist – tailored for particular fields of law e.g. Child law, Family law, Crime etc or generic. It is important that the professionals whose work is being assessed and peer reviewers are consulted about the criteria or proposed changes to them, so that they can feel ownership in them. The more generic the criteria, the greater the range of cases that they can encompass. The criteria used in peer review may be chronological – starting at the first client interview and ending with the termination of the case – or thematic e.g. fact and information gathering; advice giving and preparation; interaction with third parties, ethical considerations etc. It is also relevant that research and experience strongly suggest that reviewers struggle to mark consistently where there are more than 20-30 criteria to be assessed in relation to a case/ file. Taking account of the pilot project experience and the current proposals for a primary legal aid programme in Latvia we would propose the use of the following range of criteria: [[33]](#footnote-33)

### I: Preliminary issues relating to Monitoring / Evaluation

1. Was an adequate record kept of the service provided?

The adviser will be expected to keep adequate and appropriate records of the steps taken by the adviser – whether in files, attendance notes, file cards, or telephone call recordings. Content should include: - presenting issues; actions taken by the adviser (information or advice provided; options discussed; documents checked or drafted; referral made; immediate outcome

1. Was the client’s consent to their personal data being processed, obtained?

Evidence of a signature will be necessary

1. Were any capacity, disability, linguistic issues in relation to the client appropriately catered for?

An adviser would be expected to make a note of any such issues in the records e.g. that the client did not speak Latvian or was a non-native speaker, or that the client had comprehension difficulties.

1. Were the advisers appropriately supervised and supported?

Advisers will need access to support and supervision where cases arise outside their competence or knowledge base

### II: Quality criteria with respect to information / advice giving or assistance provision

1. How effective were the adviser’s initial fact and information gathering skills, including the identification of any additional information required and the taking of steps necessary to obtain it?
2. Were the client’s legal/ justiciable issues correctly identified and, where relevant, any pertinent documents were reviewed?
3. Was the client given accurate and appropriate information and/ or advice in relation to these issues?

In considering whether advice is accurate, the reviewer considers whether it is factually and legally acceptable. In considering whether advice or action is appropriate, the reviewer has regard to the circumstances of the case and the level of information available to the adviser and takes into account ethical, practical, tactical and legal considerations. Appropriateness also extends to the effectiveness of the communication between the adviser and the client.

1. Did the adviser give appropriate advice to the client, where relevant, on alternative options both “legal” and “non-legal” e.g. litigation, mediation, self-help, third party assistance or secondary legal aid?
2. Is there evidence on the file or in the records, or in a communication to the client, where relevant, of:
3. An agreement with the client as to what will happen next?

Ideally there should be some evidence that the client understands what will happen next. This may come from the client satisfaction questionnaire

1. Any upcoming deadlines prominently flagged that need to be observed, with a note on how and by whom these will be met?
2. The drafting of an appropriate document or letter for the client?
3. The filling in of an appropriate form for the client?
4. A prima facie assessment of the eligibility of the client for secondary legal aid, and advice to the client as to how to seek to obtain secondary legal aid?
5. A referral being made to an appropriate alternative form of assistance?

This might include a provider of secondary legal aid, a mediator, a local politician, or a specialist organisation.

1. Did the adviser, where relevant, provide adequate and appropriate follow up to the initial advice and/ or assistance?

This includes whether any course of action agreed with the client was implemented appropriately.

1. Was a client satisfaction questionnaire handed out on paper or electronically to each client to rate the service received (objective success of outcome, attitude of the adviser, friendliness of reception, felt looked after or not, would recommend to a friend or not, etc.) with a request that it be e-mailed/messaged back or sent to Courts Administration legal aid team by pre-paid envelope?

### Which case records?

Typically, peer review assessments are made of a stratified random sample of the adviser’s or advising organisation’s case records or files. The size of the sample is influenced by a range of factors including (a) size and complexity of the case records; (b) number of advisers in the organisation; and (c) risk factors such as client vulnerability.

### Marking

The marking of criteria and records/files by a peer reviewer is always an act of professional judgement. As such it is necessarily partly subjective. In order to keep as much objectivity and replicability as possible it is advisable to keep the range of marks used by reviewers relatively short. Thus in a range of jurisdictions records / files and advisers (or even firms/ organisations) are marked out of 1 to 5 with 3 as the pass mark. This leaves two marks for failing files or advisers and two for those performing above the pass mark. Whilst it would be possible to use a much broader range of marks, experience has shown that a group of peer reviewers marking independently will struggle to mark consistently both as between themselves and in terms of their own marking over time if a much broader range is used. Even with a fivefold range, in practice, the pass mark grade tends to be a broad mark – which attracts the bulk of the marks. Indeed marks of “1” and “5” are relatively unusual. Again to maximise consistency between markers, experience has suggested that there is merit in marking the individual criteria out of 3 marks only,[[34]](#footnote-34) with two further marks for “not applicable” and “unable to assess from the file”. As a further protection against variability between reviewers it is advisable to arrange for a proportion of files to be “blind double marked”, i.e marked by another reviewer who is unaware of the marks given by the first reviewer. Finally, in addition to marking the criteria and record/ file / organisation as a whole the peer reviewers are expected to provide brief comments on the record/file/organisation. These should focus on any criteria on which a failing score has been recorded. If applicable, the reviewer should explain why a "fail" score has been given and suggest areas for improvement and ways in which these might be achieved. These comments will provide an initial indication as to any particular issues that require to be addressed. Where any high scores are given, these should also be drawn to the adviser’s attention.

### Training and Monitoring

Given the inherent subjectivity in peer reviewers exercising their professional judgment in the application of criteria and the marking scheme it is not enough to rely on a limited number of criteria and a restricted range of marks for assessing criteria, files and practitioners. Probably the key to an effective peer review programme is to introduce and maintain a rigorous training programme. In the UK and countries that follow their model of peer review, normally a minimum of 3 days training split over 6 months is required, followed by regular training debriefs. The purpose of the initial, induction training is to introduce reviewers to the concept of peer review, the range of criteria to be applied in the relevant fields, and the marking and assessment protocols. The bulk of the training, however, is centred round the collective marking of the same records/ files to ensure as far as possible that the reviewers being trained understand the criteria and interpret and apply the assessment protocols as nearly as possible in the same way. Quality Assurance Committee

## Future organisational assessment

As well as auditing casefiles as set out above, the expert team also strongly urge Latvia’s primary legal aid programme to instigate wholesale measurement of provider organisations as to how far they are meeting agreed standards for stakeholders with a primary legal aid remit. The standards contained within the organisational audit that we propose are those considered to be a minimum level of activity and procedure that is needed in order to be seen to be delivering good quality advice to the public. They do not give so accurate a measure of the actual quality of advice as the casefile review procedure does. Primary legal aid provider organisations which meet the standards can then show that they are predisposed to be offering a high-quality service. Meeting the standards is necessary in order to do this; however, it is not sufficient.

The advice and help given by Latvia's primary legal aid service needs absolutely to be relevant, timely, accurate, correct and delivered with due attention to customer care. The standards, which follow, if met, are conducive to a level of legal advice disclosing all those features. Meeting these standards creates conditions in which high quality advice to the public is most likely to flourish. But the fact that an organisation scores well on the standards does not in any way guarantee that the advice it delivers to the public is of high quality; it only means that quality advice is a likely consequence of organising your service along according to these standards.

One of the spin-off benefits of detailed organisational auditing, however, is that it fosters a culture of seeking to actively comply with the highly desirable standards that it imposes. Organisations and their staff who are involved in public-facing activity that has at its heart a core of restoring social justice, are typically predisposed to aspire to the standards set out for audit here. Thus the very process of asking the questions, auditing, assessing performance, encouraging self-reflection – in the context of these largely client-centred standards – can engender a self-renewing cycle of improvement. Put another way, the standards proposed in organisational audit here are, whether or not they measure quality at all, a *desirable* benchmark to aspire to and they encourage such aspiration. Whatever the quality of advice, any public authority which governs organisations compliant with these norms will have reason to be proud of them, and they of themselves.

Still, the organisational standards we propose are nonetheless an attempt to measure the likely quality a primary legal aid provider – whatever sector it is in – is delivering on its legal advice by looking at characteristics of the framework in which advice is given, other than the actual quality of advice given (that is more closely measured by the case file review we describe above). Hence, the organisational standards set out here are often described as proxy measures: they tell the reviewer how far the organisation is *predisposed* to deliver high-quality advice. They adopt organisational standards which are likely to be typical of providers that give high quality advice.

At the wider level, it will include things like access to the service, seamlessness of the service, management of the provider, people management within the provider body, the running of the service, the meeting of clients’ needs and the organisation’s commitment to quality.

### An organisational assessment tool

The assessment tool we propose asks questions about:

* case-management: how are casefiles organised and are they well-kept? is all advice recorded in writing?
* how is the service managed?
* are management structures well designed and effective
* is there appropriate supervision of advice-staff and paralegals?
* is there an overview of the current state of live cases?
* is case-management software used to manage deadlines etc?
* are referrals procedures in place?
* are there complaints mechanisms and are they effective?
* is the provider a member of any national or regional umbrella group of similar organisations
* is the provider making decisions and undertaking work that is proportionate to its capacity?
* is there a commitment to anti-discriminatory policies that is pervasive in the provider’s setting?
* what in-service training is there for advisers and paralegals? and are training records kept?
* are the premises appropriate and physically accessible?
* does the provider have reasonable opening hours including some hours outside normal working hours?
* is all advice free?

The assessment tool is moreover a search for evidence of organisational excellence in the areas of:

* case management
* complaints, suggestions and positive feedback
* governance
* financial management
* planning & managing resources
* operational management
* employer responsibilities
* training and development
* networking and partnership
* client-centred service
* casework
* social policy

As to applying these standards and measuring them, unlike the twofold approach we suggest above for the short-term pilot scheme, in a longer-term exercise in which primary legal aid is rolled out with permanence in mind, there is the luxury of a more nuanced and more potentially accurate assessment, which will keep one eye firmly on the prospects of continuous improvement for the organisation being audited. That said, there is merit in encouraging self-reflection and self-assessment as the precursor for more rigorous independent peer review, and we retain this dual approach for the longer-term organisational assessment proposal.

At present the organisational Assessment Tool tries to encompass a wide range of possible primary legal aid providers in the Latvian context. That is because the ultimate policy on who will be the providers, and whether it will be one body (a paralegals body, or just social workers) or a cross-sector mix (civil society organisations, lawyers and paralegals for example) is not yet decided. Nor is the context of the primary free legal aid provision decided: where it will be ‘homed’ – within MoJ, independently or a mix.

### What is the checklist?

This checklist is designed to help providers and reviewers assess the strengths and weaknesses of each provider organisation or legal practice.

It is important to make sure that self-assessment becomes a normal and regular aspect of stakeholders’ monitoring of quality in the primary legal aid advice and help they give. Once it is a regular part of their process, it will make more sense. Working to higher quality standards is ultimately more satisfying and enjoyable for everyone.

### How provider organisations can use this tool for reflective self-assessment

It can be done in a number of ways. These are partly determined by the structure and management of each organisation or legal practice.

Provider organisations should initiate a policy of regularly implementing this type of assessment, making sure they keep records of the results and outcomes. It is best if the procedure can be done as a process which will encourage learning and improvement, rather than a punitive and judgemental process.

For that reason we encourage providers to secure the endorsement of their workers in implementing the procedure, and we suggest that staff are asked to see it as a way of improving their practices, rather than a management tool for identifying individuals’ weaknesses.

It is recommended that provider organisations earmark dates for the assessment to be done at intervals of not more than six months. These dates should be put in the office diary. Opening hours should be suspended for those days. A file in the office should be opened which will contain both

* a schedule of dates when the assessment has been done or is going to be done, and
* hard copy of the filled-in assessment form

The first step is likely to be making sure that everyone understands why the assessment is being done. It might be good to introduce it as a concept at a team meeting, face-to-face, rather than by way of an e-mail. Sole practitioners working on their own should make sure they have understood the concept and rationale.

Everyone in the organisation should have a copy of the form, just for their own information, so they know the sorts of things that the organisation or practice is being asked to look at. It should be made clear they are not expected to fill in the form on their own (except for lawyers practising as a sole practitioner), because initially it is best if this is done as a collaborative team process. Sole practitioners should make sure they appreciate these points and read the form thoroughly.

It is then best to earmark 30 to 60 minutes to actually go through the form at a subsequent team meeting or, if alone, in a timeslot devoted to this task. There should then at that point be an "official" copy of the form that is filled in together by agreement, or alone by a sole worker. Answers, comments and action points can be written directly onto the form, rather than in a separate document.

Some of the questions may seem subjective, and indeed some of them are subjective. Where it is difficult to answer a question about one’s own organisation's practice, that might be the trigger for a discussion with colleagues or further deliberation.

### Following the assessment

At the end of the assessment form we explain what should happen in terms of learning, action points and record keeping with regard to the assessment. This should be undertaken in an organised way.

It reads as follows:

### What to do after undertaking this assessment

* *Circulate the filled-in assessment form among your colleagues*
* *Initiate discussion with all colleagues in your organisation, at the next available half-hour slot in your organisation’s next team meeting*
* *Make a list of areas to improve and set a date in your office diary by which to review progress*
* *Assign responsibility for achieving any concrete changes, where appropriate*
* *record that the assessment was done, in your office diary*

### Assessment by peer reviewer

The same peer reviewer or reviewers may be employed to undertake the organisational audit, and outcomes records and discussed with the organisation under review. A system is to be developed to classify commented-on features as to the degree of urgency for change (if any). The organisation should then be expected to correct any extreme or urgent faults, work correctively on other shortcomings with support from the central legal aid authority, and further build on identified strengths. Strengths and weaknesses are a useful area of discussion at any national partnership co-ordinating body that comes into being.

## Client feedback: a word of caution

This is often considered important by stakeholders in FLA projects. However, for the reasons set out on pages 6-7 above, client assessment can only provide a limited picture of the quality of performance by the provider. Often clients are only motivated to give feedback in situations where they have been quite unhappy or those when they have been unusually pleased with the result. Most organisations receive too little client feedback for it to be statistically useful. Moreover, the process of asking clients for feedback can sometimes interfere with the advice-giving process, and may be inappropriate in situations where clients already have some difficulty engaging with bureaucracy and paperwork. Nevertheless, where organisations have succeeded in collating useful client feedback, that may be taken account in addition to the results of record/file review.

# Conclusion

## Proposals for the quality assurance of primary legal aid

As explained in para 1.2 above we share the view of the UN, the EU and other stakeholders that any legal aid programme needs to be underpinned by a robust form of quality assurance as a safeguard for the vulnerable individuals who are the beneficiaries of legal aid. This may include Input and Structural features but should focus, in particular, on an assessment of the quality of the Process and Output aspects of the work of the advisers. **We recommend therefore that quality assurance is built into the design and implementation of the new primary legal aid scheme from the outset**.

**We further recommend that for the reasons contained in the Report that the quality assurance mechanism should contain three aspects**:

1. **Peer Review** of case records
2. **an audit of the Input and Structural aspects** of the organisations that employ the advisers delivering the Primary Legal Aid programme and
3. occasional **Client Satisfaction surveys**.

## Peer Review and primary legal aid

Experts in the Quality Assurance field are satisfied that valuable as institutional audits and client satisfaction surveys can be, the key to assessing the true quality of the work done and the results achieved by legal aid advisers for their clients is the use of peer review. This usually involves a scrutiny of a random sample of the advisers’ files or case records, although occasionally the assessment can include an observation of the adviser’s performance e.g. in a courtroom or of an audiotape of the adviser’s courtroom performances. In each case the case records or files of the adviser must contain sufficient detail for them to be assessed by an independent peer. **We recommend therefore that the case records used in the new primary legal aid scheme contain sufficient information to address the issues contained in the criteria adopted for the peer review of primary legal aid in Latvia.** We further **recommend that the criteria to be used in the new primary legal aid programme are those set out in Annex 3**. These range from preliminary issues to the adequacy of proposed referrals or follow up, or from the accuracy and appropriateness of any advice or assistance provided to clients, to assistance to the client in obtaining secondary legal aid. The scoring mechanism set out in Annex 3 is robust and has been used in a variety of jurisdictions globally. We **recommend its adoption in Latvia as part of the peer review of case records in the new primary legal aid scheme**. If quality assurance and peer review are to be introduced at the outset of the new primary legal aid programme then **we recommend that advisers who have substantial experience in providing primary legal aid or similar advice are recruited and trained in the use of the criteria and the marking scheme.** This training should extend to two full days and a further day after several months of the new scheme. By this means a consensus should emerge between the advisers not only as to the interpretation of each criterion but also in the use of the proposed scoring system.

## Peer Review and secondary legal aid

This Project focused on primary legal aid and the form and content with which it might be introduced in Latvia. As such time did not permit the research to be undertaken which would be necessary in order to decide whether peer review of case files might be introduced for secondary legal aid in Latvia. Whilst peer review of files in secondary legal aid has successfully been explored in around 15 jurisdictions globally, for peer review, the gold standard of quality assessment and assurance for legal aid providers to be adopted on a sustained basis requires a number of features to exist in that jurisdiction:

1. A commitment to continuous improvement in the quality of service provision in secondary legal aid cases from both the Ministry of Justice and the legal professional body;
2. An ability and willingness to devote a proportion of the jurisdiction’s administrative budget for legal aid to the assessment of quality at regular intervals;
3. The identification of good practice standards which are almost wholly client-centred in focus in the fields of legal practice in which legal aid is available or in which quality assessment is to be carried out. (The criteria for primary legal aid set out in Annex 3 could form the initial part of these criteria) ;
4. The files of secondary legal aid providers to be typically in such a form and with sufficient content as to provide enough evidence to indicate whether the standards or quality criteria identified in (c) have been met;
5. Sufficient experienced secondary legal aid providers to be willing to (1) assist in the drawing up of client-centred criteria / standards and (2) be trained in the use of these criteria and a robust scoring mechanism to gauge the compliance of service providers with these standards/criteria.

## Institutional Audit

Although peer review of files or case records should form the core of any quality assurance system for the proposed primary legal aid programme, **we recommend that it is augmented by an institutional audit of the provider organisations**, to assess how far they are meeting agreed standards for stakeholders with a primary legal aid remit. We further **recommend that these standards comprise a minimum level of activity and procedure that is needed to provide further reassurance of the actual quality of advice to the public.**

As argued in the text (para 3.2) the practice of regular organisational audits also engenders a culture of self-renewing improvement. Accordingly, **we recommend that self-assessment using an Organisational Assessment Tool or checklist becomes a normal and regular aspect of the provider organisations’ monitoring of quality in the primary legal aid programme**. We have set out what this checklist might include in Annex 4. **We recommend that the standards audited include premises, privacy and data protection as well as access to the service, seamlessness of the service, management of the provider, people management within the provider body, the running of the service, the meeting of client’s needs and the organisation’s commitment to quality.**

Finally, **we recommend that** following the self-assessment exercise with appropriate self-reflection**, external peer reviews should be undertaken at regular intervals to calibrate the self-assessment results against those of the wider provider community.**

## Client Satisfaction surveys

The third and final part of the proposed Quality Assurance Scheme for primary legal aid in the future is client feedback. For the reasons set out in para 1.3 above client assessments of the quality of the service that they have received from legal aid providers can only be partial at best. Given the information asymmetry between lawyers and clients the latter may struggle to gauge with any accuracy whether the advice and assistance that they received from the provider was legally adequate and appropriate, whether the service took longer or less time than was normal and whether the cost of the service was reasonable. It follows that neither client satisfaction surveys on their own nor a complaints systems can offer an a reliable or useful quality assurance mechanism of the services provided by legal aid providers. Nevertheless, since systematic client feedback can offer valuable information on the accessibility, empathy, sympathy, listening ability and communication skills of legal aid providers **we recommend that occasional client satisfaction surveys be conducted of recipients of primary legal aid**.

# Annex 1: current assessment of case record spreadsheet

Proposed form for current assessment of case record spreadsheet

[ 1= below acceptable standard, 2= attains acceptable standard, 3= exceeds expectations, C = Cannot say from the records if this criterion was met, N/A = this criterion is not applicable in this case. ]

1. **Were all the fields filled in by the advisor for a given client? Or if any are blank is it clear why?**

1 2 3 C n/a

Comments:

……………………………………………………………………………………………………………

……………………………………………………………………………………………………………

……………………………………………………………………………………………………………

……………………………………………………………………………………………………………

1. **Was the client given accurate and appropriate information and help about progressing or solving their case?**

1 2 3 C n/a

Comments:

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1. **Were any capacity, disability or linguistic issues in relation to the client recorded?**

1 2 3 C n/a

Comments:

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1. **Does the account of facts presented by the client column T correctly correspond with the adviser’s choice of field(s) of law in column Q?**

1 2 3 C n/a

Comments:

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1. **How sufficient and coherent is the**  **account of the consultation given in column U? – i.e.can the reviewer tell broadly what was asked about, what advice or help was given, and what referral is made if any?**

1 2 3 C n/a

Comments:……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. **Are any upcoming deadlines recorded (eg deadline for appeal against a government department decision), with a note as to how (and by whom) these will be met?**

1 2 3 C n/a

Comments:

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1. **Did the adviser give appropriate information and/or advice in relation to possible referrals?**

1 2 3 C n/a

Comments:

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1. **Is the future action to be taken by the client, if any, appropriate to the facts presented and the substance of the consultation?**

1 2 3 C n/a

Comments:

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1. **Has any action been promised on the part of the adviser, and if so, is it clear what this will be and when?**

1 2 3 C n/a

Comments:

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1. **If secondary legal aid was indicated (a) was the client advised to apply for it, and (b) were they assisted with the process?**

1 2 3 C n/a

Comments:

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1. **Are there any inconsistencies between the answers in the various columns, or unexplained gaps?**

1 2 3 C n/a

Comments:

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# Annex 2 Proposed form for organisational assessment of the pilot

See above at section 2.3.2 for guidelines on using this assessment template. We have included some answers received in connection with the pilot project.

|  |  |  |
| --- | --- | --- |
|  | **Self-assessment comments** | **Peer reviewer comments** |
| 1. Were / are the advisers appropriately supervised and supported? | “All consultants said that it was very good and sufficient. Only one mentioned that it had been difficult for her to reach us by phone.” |  |
| 1. Have the advisers had a briefing on how to complete the primary legal aid case-record in the spreadsheet template? | “The briefing was held during the training on September 20, 2023.” |  |
| 1. Have advisers had training in client care, working in non-discriminatory ways with disadvantaged people, and dealing with difficult clients *that is specific to their primary legal aid role*? |  |  |
| 1. Does the provider have an inclusion policy or anti-discrimination policy? |  |  |
| 1. Were all primary legal aid clients given a client satisfaction response sheet, either on paper or electronically? | “Yes - everybody who agreed to give their contacts was later sent a client satisfaction questionnaire.” |  |
| 1. Are clients aware of their right to make a complaint about the primary legal aid service and how to do so? |  |  |
| 1. Are clients systematically told about protection of their data, confidentiality, and the fact that the primary legal aid service is free? |  |  |
| 1. About the appropriateness of the venue for face-to-face advice appointments: | | |
| 1. Is there adequate waiting space, with seating? |  |  |
| 1. Is there privacy for a private conversation between the adviser and the client? |  |  |
| 1. Does the consultation space have chairs for adviser and client and anyone accompanying the client, and a desk? |  |  |
| 1. Are the premises physically accessible to those with mobility or other difficulties? If not, are alternative measures adopted to ensure their access? |  |  |
| 1. Is the venue easy to find and signposted from the street with clear signage? |  |  |
| 1. Is it clear from the signage that the primary legal aid service is distinct from the organisation’s normal core function? |  |  |
| 1. Is there a welcoming ambience both in lobby, waiting area and consultation space? |  |  |
| 1. Are / were the advertised opening times for the primary legal aid pilot adhered to at the venue? |  |  |
| **Further actions needed**  Urgent:  Mid-term:    Keep under review: | | |

# 

# Annex 3 Proposed form for future quality assessment

***I Preliminary issues relating to Monitoring / Evaluation***

1. Was an adequate record kept of the service provided?

**1    2    3    C    N/A**

[ 1= below acceptable standard, 2= attains acceptable standard, 3= exceeds expectations, C = Cannot say from the records if this criterion was met, N/A = this criterion is not applicable in this case. ]

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[**Note:** The adviser will be expected to keep adequate and appropriate records of the steps taken by the adviser – whether in files, attendance notes, file cards, or telephone call recordings. Content should include: - presenting issues; actions taken by the adviser (information or advice provided; options discussed; documents checked or drafted; referral made; immediate outcome]

1. Was the client’s consent to their personal data being processed, obtained?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[**Note:** Evidence of a signature will be necessary]

1. Were any capacity, disability, linguistic issues in relation to the client appropriately catered for?

**1    2    3    C    N/A**

**Comments…**……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[**Note:** An adviser would be expected to make a note of any such issues in the records e.g. that the client did not speak Latvian or was a non-native speaker, or that the client had comprehension difficulties.]

1. Were the advisers appropriately supervised and supported?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[**Note**: Advisers will need access to support and supervision where cases arise outside their competence or knowledge base]

***II Quality Criteria with respect to Information / Advice giving or Assistance provision***

1. How effective were the adviser’s initial fact and information gathering skills, including the identification of any additional information required and the taking of steps necessary to obtain it?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. Were the client’s legal/ justiciable issues correctly identified and, where relevant, any pertinent documents were reviewed ?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. Was the client given accurate and appropriate information and/ or advice in relation to these issues?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

**[Note**: In considering whether advice is accurate, the reviewer considers whether it is factually and legally acceptable. In considering whether advice or action is appropriate, the reviewer has regard to the circumstances of the case and the level of information available to the adviser and takes into account ethical, practical, tactical and legal considerations. Appropriateness also extends to the effectiveness of the communication between the adviser and the client.]

1. Did the adviser give appropriate advice to the client, where relevant, on alternative options both “legal” and “non-legal” e.g. litigation, mediation, self-help, third party assistance or secondary legal aid?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. Is there evidence on the file or in the records, or in a communication to the client, where relevant, of:
2. An agreement with the client as to what will happen next?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[ **Note:** Ideally there should be some evidence that the client understands what will happen next. This may come from the Client satisfaction questionnaire ]

1. Any upcoming deadlines prominently flagged that need to be observed, with a note on how and by whom these will be met?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. The drafting of an appropriate document or letter for the client?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. The filling in of an appropriate form for the client?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

(e) A prima facie assessment of the eligibility of the client for secondary legal aid, and advice to the client as to how to seek to obtain secondary legal aid?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

1. A referral being made to an appropriate alternative form of assistance?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

**[ Note**: This might include a provider of secondary legal aid, a mediator, a local politician, or a specialist organisation ]

1. Did the adviser, where relevant, provide adequate and appropriate follow up to the initial advice and/ or assistance?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[ **Note:** This includes whether any course of action agreed with the client was implemented appropriately. ]

1. Was a client satisfaction questionnaire handed out on paper or electronically to each client to rate the service received (objective success of outcome, attitude of the adviser, friendliness of reception, felt looked after or not, would recommend to a friend or not, etc.) with a request that it be e-mailed/messaged back or sent to Courts Administration legal aid team by pre-paid envelope?

**1    2    3    C    N/A**

**Comments…**…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[ **Note**: A record should be kept of the % of questionnaires that were returned and whether there are any obvious biases in the distribution of the responses. ]

**Overall mark for file/ case             1          2           3          4          5**

[ 1= Non-performance, 2= poor performance, 3= acceptable performance, 4= good performance, 5= excellent performance ]

**Having considered each of the individual criteria, the reviewer should allocate an additional mark for the file as a whole.**

**Comments on file/case overall**

**……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………**

**The reviewer should provide brief comments on the case. These should focus on any criteria on which a score of 1 is provided. If applicable, the reviewer should explain why a "fail" score has been given and suggest areas for improvement and ways in which these might be achieved. These comments will provide an initial indication as to any particular issues that require to be addressed. Where any high scores are given, these should also be drawn to the provider’s attention.**

# 

# Annex 4 Proposed form for future organisation assessment

### Physical aspects and inclusiveness

* is the approach to the primary legal aid consultation place clear and obvious, and not confusing or off-putting?
* is the signage adequate (bearing in mind the needs of people with either visual impairment or low literacy?
* is there adequate accessibility for individuals with disabilities?
  + can an individual with physical disability access the consultation place without help and assistance?
  + are signs and legal aid materials and leaflets available in brail letters for individuals with visual impairment?
* does the provider have access to an interpreter for sign language?
* is there a welcoming ambience on entering?
* are there psychological barriers to getting inside (consider: intimidating guards? door that can be open through special devices? dark corners in the lobby? undesirable people loitering?)?
* is the type of building appropriate?
* is the internal space adequate and is there enough space between items of furniture?
* is there adequate privacy for a client interview?
* is there a back office where primary legal aid advisers may work away from the public?
* are conditions for clients comfortable enough, with suitable seating (taking into account needs for some clients with physical disabilities eg for an upright chair etc) in
* any waiting areas?
* the consultation room or space?
* where there are insurmountable shortcomings in the physical premises, has the organisation taken creative steps to work around the problem? Do you
  + go downstairs to meet on the ground floor with a client who cannot climb stairs, if it is a building with no lift?
  + have a policy of asking colleagues normally working in the same room to leave temporarily while you see a client?
* undertake to physically assist a person if there are for example a small number of steps?
* guards: are they aware of the need to be welcoming and non-judgmental?
* are all appropriate languages available in written materials you make available to clients, and orally in face-to-face consultation with clients
  + Latvian?
  + Russian?
  + Others?
  + if not available there and then, is there ready access to translation services (whether by phone, online or face to face), and is this budgeted for?
  + are all appropriate languages available in written materials you make available to clients, and orally in face-to-face consultation?
* is there an “If you are unhappy with our service…” [ie complaints] poster displayed in an area where the public will see it?
* Is there other information about the right to lodge a complaint posted on visible place within the premises of the office?

### Policies and protocols

* is there a CoE Values poster displayed in internal staff areas?
* are the 8 FLA Values consciously upheld and positive steps take to inculcate those values among all workers?

### Values

|  |  |  |
| --- | --- | --- |
| **Value** | **Pervasiveness**  Score 1-5  (1 = poor,  5 = excellent) | **Steps** **taken to encourage this value?**  Score 1-5  (1 = poor,  5 = excellent) |
| Accessibility |  |  |
| Client-care |  |  |
| Collaboration and co-operation |  |  |
| Accessibility |  |  |
| Non-judgmental and non-discriminatory practice |  |  |
| Respect for clients |  |  |
| Transparency |  |  |
| Quality of advice |  |  |

### Policies

* is there policy on
  + confidentiality?
  + anti-discrimination – inclusiveness?
  + a quality commitment?
  + training / continuing professional development for caseworkers?
  + training / continuing professional development for non-lawyer, non-practitioner workers?
  + customer care?
  + staff safety and dealing with potentially violent or disruptive clients?
  + onward referrals (sending clients with a matter on which you can’t help, on to another agency or source of advice who you know can help)?
  + conflicts of interests?
  + code of conduct
  + recruitment   
    (does it try to ensure a good range of applicants?; does it mention the need for positive commitment to inclusiveness? Etc)
* how are workers kept informed of policy and protocols?

### Client feedback

* do you
  + ask clients orally how the service was?
  + have written complaint management system?
  + ask clients to fill in a form about how they found the service?
  + analyse the level and types of complaints (if any)?
* have you any other way of testing client opinion?

### Collaborative working and support systems

* are there
  + regular scheduled staff meetings?
  + information-sharing sessions?
  + a culture of teamwork in providing legal aid?
  + or if you are a sole worker, timeslots in your week that you block out for self-development, legal self-teaching?
* is someone available for a caseworker to discuss / get support on
  + legal points they are uncertain about
  + ethical issues
  + stress and work-related personal issues
* is the workforce encouraged to problem-share through informal discussion?

### Networking

* is the organisation a member of any national or international grouping? eg
  + professional (eg Bar Association) ?
  + campaign group?
  + group membership of any association of like-minded individuals?
  + confederation of similar agencies in Latvia?
  + international association (eg Human Rights Watch)
* do you (or do individual practitioners) take part in any informal or formal local networking? (Eg family-law practitioners group, lawyers’ professional get-togethers in your town or neighbourhood?)
* does the organisation subscribe to / conform with any accreditation scheme or ISO-type standard?
* is there formal or informal participation in any referrals protocol as between other organisations in the case of a client whose need for help is not covered by FLA?

### Organisational management: is the service well-managed

* is there a management board / management committee
* if so, are its members representative of the local community?
* does the organisation have
  + written mission statement?
  + written aims?
  + written objectives?
  + a strategic plan?
  + a financial (business) plan?
  + and systems for reviewing compliance with these?
* are all workers aware of these?
* are non-lawyer and non-practitioner and non-public-facing workers subject to the same expectations as regards commitment to the FLA Values?

### Overall case management: are the key physical elements of practical case management in place?

* is there an office diary?
* is it available to everyone and always kept in the same place?
* are there clear physically separate, well-labelled and well-filed card-covered casefiles?
* where the organisation has more than one legal practitioner / caseworker, is there an allocated case-owner for each case?

### In-service training and keeping up to date with the law

* do practitioners attend any training in the course of their work?
* does the organisation subscribe to legal databases (Official gazette, other databases of regulation, law-specific blogs online etc.)?
* do caseworkers regularly browse the internet using search terms about areas of law they need to know about?
* does the organisation subscribe to a regular printed law journal?
* does the organisation have regular information-sharing sessions?
* do caseworkers chat informally with other practitioners to keep abreast of new legal developments?
* does the organisation rely on mainstream printed media (newspapers and magazines)?
* do caseworkers attend face-to-face legal training?
* do caseworkers do computer-based training at their own pace?
* do caseworkers attend webinars and other scheduled online events?

### Quality assessment procedures

* is there a regular procedure for assessing individual casefiles against quality standards?
* is there peer review of a random sample of files
* is there structured self-reflective examination of the caseworker’s own files
* every month - 2 months - 6 months - year - more?
* is there a checklist that is applied (like this?), to measure performance?
* do caseworkers discuss good practice and bad practice with other lawyers socially and adjust what they do accordingly?
* do caseworkers and managers read about quality management in journals and online and apply some of the principles that they read about?

### Characteristics drawn statistically from casefiles

* is there peer review of a random sample of files?
* is there structured self-reflective examination of the caseworker’s own files?
* are records kept of when and which casefiles are quality-assessed?
* are you learning and taking action points from your casefile reviews?
* is there evidence that the quality of casefiles has improved as a result of reviewing them?

### What to do after undertaking this assessment

* Circulate the filled-in assessment form among your colleagues
* Initiate discussion with all colleagues in your organisation, at the next available half-hour slot in your organisation’s next team meeting
* Make a list of areas to improve and set a date in your office diary by which to review progress
* Assign responsibility for achieving any concrete changes, where appropriate
* record that the assessment was done, in your office diary
* record that the assessment was done, in your quality assessment file and keep the copy

1. Workshop on the development of a primary legal aid service in Latvia: Scope; Workshop on the development of a primary legal aid service in Latvia: Referrals concept; Workshop on the development of a new class of professionals to provide primary legal aid in Latvia (paralegals); Workshop on the development of a new class of professionals to provide primary legal in Latvia (paralegals); Workshop on the development of quality standards and quality assurance methods, including peer review for legal aid in Latvia and Workshop on the development of a training module for providers of primary legal aid in Latvia [↑](#footnote-ref-1)
2. Representatives of the Ministry of Justice, the Legal Aid Administration, the Social centres of the Muncipalities - Sigulda Region Municipality Social Service, Kuldiga Region Municipality Agency "Social Service", representatives from the Council of Sworn Advocates of Latvia, the representatives from the Local Governments Training Center (LGTC) and the representative from the legal clinic (University of Latvia), Council of Certified Mediators [↑](#footnote-ref-2)
3. General Assembly Res. 67/187, entitled ‘United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems’, annex. [↑](#footnote-ref-3)
4. UNODC, UNDP, Global Study on Legal Aid, Global Report (2016), available online at <http://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf>; Country Profiles are available at <http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/global-study-on-legal-aid.html> [hereinafter: Global study on Legal Aid]. [↑](#footnote-ref-4)
5. Commission Recommendation of 27 November 2013 on the right to legal aid for suspects or accused persons in criminal proceedings. [↑](#footnote-ref-5)
6. United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Vienna 2013 <https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf> [↑](#footnote-ref-6)
7. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings, OJ L 297, 4.11.2016. Available online in 24 languages at:

   <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L1919> [↑](#footnote-ref-7)
8. Guidelines of the Committee of Ministers of the Council of Europe on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law (2021) [↑](#footnote-ref-8)
9. See Richard Moorhead, Avrom Sherr, Lisa Webley, Sarah Rogers, Lorraine Sherr, Alan Paterson and Simon Domberger, *Quality and Cost*, (2001). [↑](#footnote-ref-9)
10. See Richard Moorhead, Avrom Sherr and Alan Paterson “Judging on Results” *1 International Journal of the Legal Profession* 191,200 (1994) and Tamara Goriely, “Contracting in Legal Aid: How much justice can we afford?”, Proceedings of the International Legal Aid Group conference, Edinburgh, 1997. [↑](#footnote-ref-10)
11. A discussion of international studies using client satisfaction surveys as part of the assessment of the quality of poverty legal services can be found in Alan Paterson, Professional Competence in Legal Services (1990). See also Richard Moorhead, Avrom Sherr and Alan Paterson “What clients know: client perspectives and legal competence” 10 International Journal of the Legal Profession 5-35 (2003). The Free Legal Aid System in Ukraine: The First Year of Operation Assessment report also drew on client assessments at p. 47. A more up to date survey of client satisfaction amongst users of FLA can be found in the 2019 QALA client satisfaction survey:([*http://qala.org.ua/wp-ontent/uploads/2019/09/1-16\_UA.pdf*](http://qala.org.ua/wp-ontent/uploads/2019/09/1-16_UA.pdf)) [↑](#footnote-ref-11)
12. UNODC Global Study on Legal Aid (2016) [↑](#footnote-ref-12)
13. Office of Fair Trading (2013) “Economic Research into Regulatory Restrictions in the Legal Profession”, London: Office of Fair Trading: http://www.oft.gov.uk/ shared\_oft/reports/professional\_bodies/OFT1460.pdf [↑](#footnote-ref-13)
14. John Boersig and Romola Davenport, “ Distributing the legal aid dollar- effective, efficient and quality assured?” ILAG conference paper, Ottawa, 2019 [↑](#footnote-ref-14)
15. A. Sherr et al., *Quality and Cost* (London: The Stationery Office, 2001) [↑](#footnote-ref-15)
16. Paterson, A., “Peer Review and Quality Assurance” 13 (2007) Clinical Law Review 757; Sherr, A. and Paterson, A. “Professional Competence, Peer Review and Quality Assurance in England and Wales and in Scotland” 45 (2008) *Alberta Law Review* 151 [↑](#footnote-ref-16)
17. A pilot peer review of FLA files was conducted for the report *Free Legal Aid System in Ukraine: The First Year of Operation Assessment* Ukrainian Legal Aid Foundation, International Renaissance Foundation and Ukrainian Helsinki Human Rights Union, URL http://issuu.com/irf\_ua/docs/hr-2014-4\_fin\_engl/1). [↑](#footnote-ref-17)
18. Alan Paterson and Avrom Sherr “Peer Review and Cultural Change: Quality Assurance, Legal Aid and the Legal Profession” ILAG conference paper, Johannesburg, 2017). <http://www.internationallegalaidgroup.org/images/miscdocs/Conference_Papers/Peer_Review_and_Cultural_Change.3docx_28APAS29.pdf> [↑](#footnote-ref-18)
19. John Boersig and Romola Davenport, “ Distributing the legal aid dollar- effective, efficient and quality assured?” ILAG conference paper, Ottawa, 2019. <http://www.internationallegalaidgroup.org/index.php/conferenecs/ottawa-2019/conference-papers> [↑](#footnote-ref-19)
20. S.Nikaratas and A. Limante, “Tools and Criteria for Measuring |Legal Aid Quality: Guidelines for EU Member States” QUAL-AID Report (Law Institute of Lithuania, 2018)16 <https://www.jura.uni-frankfurt.de/75941968/QUAL_AID_Evaluation_of_Legal_Aid_Quality.pdf> [↑](#footnote-ref-20)
21. See also Sharon and Paterson, UNODC Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes (2019 [↑](#footnote-ref-21)
22. In principle the pilot project could have allowed the advisers to provide assistance with letters or simple documents or forms. In practice it was not suggested to the advisers that they do this and no record is being kept where such assistance is provided. [↑](#footnote-ref-22)
23. Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024 [↑](#footnote-ref-23)
24. ibid section 2 [↑](#footnote-ref-24)
25. ibid section 3.1 [↑](#footnote-ref-25)
26. See para 2.4 below. [↑](#footnote-ref-26)
27. See para.2.4 below. [↑](#footnote-ref-27)
28. Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024 [↑](#footnote-ref-28)
29. A full version of the proposed form is in Annex 1. [↑](#footnote-ref-29)
30. In this Table a “1” score is a below acceptable standard, a “2” - attains acceptable standard and a “3” - exceeds expectations. A “C” score means that the reviewer cannot tell from the case record whether the criterion has been met. N/A means that criterion is not applicable in this case. [↑](#footnote-ref-30)
31. a full version of the proposed form is at Annex 2 [↑](#footnote-ref-31)
32. section 4.6, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024 [↑](#footnote-ref-32)
33. a full version of the proposed form is at Annex 3 [↑](#footnote-ref-33)
34. “1” = below expectations – a fail, “2” = attains acceptable standard – this is a broad mark, and “3”= exceeds expectations. The shorter scale for criteria was adopted since the early research indicated that reviewers as a group struggled to grade out of seven possible marks consistently amongst themselves. [↑](#footnote-ref-34)