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# Points allocation in subsidized legal aid

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*research into hours spent*



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**summary**

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## S Summary

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### S.1 Policy context

Subsidized legal aid is intended to allow people who cannot afford to pay the costs of legal services on their own to receive legal assistance.

Legal aid providers receive reimbursement for this legal assistance on the basis of a fixed-fee system. Points are allocated to cases in proportion to the average time spent on them. Generally, one point corresponds to one hour of work.

In 2017, the Evaluation Committee on Point Allocation for Subsidized Legal Aid (Van der Meer Committee I) investigated, among other things, the extent to which points allocated in the subsidized legal aid system still corresponded to the actual average time spent by lawyers or mediators. Cebeon supported the Committee at the time with an analysis of the Legal Aid Board's (RvR) time records. As a result of its investigation, the Committee proposed various measures on adjusting the points allocated for different types of cases (see appendices E and F for an overview).

The Van der Meer I Committee also recommended that the allocation of points should be regularly assessed against the actual time spent (once every three years). In January 2022, the Committee's proposals on increasing the number of points allocated were adopted. On 1 September 2022, all point allocations (including reductions) were incorporated into the currently applicable Legal Aid Reimbursement Decree 2000 ('*Besluit vergoedingen rechtsbijstand 2000*' - Bvr).

*The central question in this research is to what extent the time spent on cases in the current system of subsidized legal aid corresponds to the point allocations used, both the fixed-fee for standard cases and cases with point surcharges and discounts.*

Cebeon conducted this research on behalf of the Scientific Research and Data Centre (WODC) for the Evaluation Committee on Point Allocation for Subsidized Legal Aid (Van der Meer Committee II). This research is just one of the activities intended to provide input for the Committee's recommendations advice on the legal aid system's points system.

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### S.2 Research method

#### ***time statements from the Legal Aid Board's records***

Requests for subsidized legal aid are addressed to the Legal Aid Board. The Legal Aid Board registers, assesses, and approves applications for subsidized legal aid. The legal aid provider (lawyers and mediators) must provide details of the time spent in a subsidized legal aid declaration. These time records form the basis of this research. The research only used records of legal aid providers who had given permission to do so. If permission was given, the Legal Aid Board provided anonymized data from records to the researchers.

#### ***doubts about the reliability of time statements***

However, there is some doubt about the extent to which the hours stated by the legal aid provider are always a reliable reflection of the hours actually spent. This is not entirely surprising considering the

effort required to accurately keep track of the hours worked. Furthermore, the hourly statement is not even used to determine the reimbursement in many cases. This may limit its perceived importance.

### ***selecting reliable hourly statements***

To address doubts about the reliability of some of the time statements, it was decided in the research design to separate the reliable and less reliable statements as well as possible, and to only use those classified as reliable to determine the average time spent.

Primarily, this involved asking all legal aid providers to estimate how closely the reported hours on their invoices matched the actual time spent on their cases. To this end, an online survey was conducted among all legal aid providers who had submitted at least one declaration (assessment) in the past three years. 38% of legal aid providers responded. The sample provides a representative picture of the population. Based on the responses concerning reliability in the survey, the records from over 1,700 legal aid providers were used, involving nearly 135,000 case codes with a determination (reimbursement by the Legal Aid Board).

With a view to ensuring reliable (robust) results, data of records from the two most recent years was used to determine the current average time spent: 2022 and 2023. The figures for 2021 were analyzed separately, firstly because a different points allocation system applied at the time, and secondly because the world was in the grip of the Covid-19 pandemic, so hours spent may be less representative.

### ***demarcation of standard and non-standard cases in this research***

The reimbursement for subsidized legal aid is based principally on fixed points. This number corresponds to the average time spent on a 'standard case'; a case without specific elements that increase or decrease the time required.

In practice, however, a number of deviations may occur. Each of these have a different impact on the time spent by the legal aid provider. The flat-rate system takes this into account by applying surcharges and discounts. These surcharges (and discounts) are allocated in addition to or deducted from the standard fixed fee. Additionally, 'interconnectedness' plays a role in some case codes. This means that cases from one or a group of clients are considered to be so interconnected that the legal aid provider spends less time on the second or subsequent case. Interconnectedness can be settled in various connected case codes. For this reason, these interconnected cases, along with cases involving surcharges or discounts, were ignored when determining standard cases. Finally, some cases involve reimbursement for extra hours. If a case turns out to require a lot of work in practice, the legal aid provider can submit a request for reimbursement for additional hours. A case is eligible for an allowance for extra hours if the number of hours spent is more than double the fixed number of points (before 2022, it had to be more than triple). Case codes with extra hours were not considered in this study (and were therefore also excluded from non-standard cases).

Surcharges, discounts, or interconnectedness played a role in 10 to 15% of all the cases considered in this research. The different deviations can lead to different amounts of time spent, so surcharges and discounts occur in different numbers of points.

These different situations and combinations are discussed in more detail in the full research report. This summary focuses on the time spent on standard cases after the introduction of the new points allocation system.

### S.3 Time spent

The table below shows the most commonly used case codes within the determined additions in the sample.<sup>1</sup> Almost 70% of all declared case codes (determinations) are among the 24 commonest case codes.

**Table S.1: Average time spent on standard cases compared to the new points allocation system (flat rate) sorted by the number of cases**

case code	description	1. fixed points	2 current time spent	(1-2) difference	n	standard deviation	Cohen's d
S040	Crimes, first instance hearing in single-judge chamber	7	6.9	0.1	4,345	3.9	0.0
Z021	Other crimes under the Compulsory Mental Health Care Act (Wvggz) and Care and Coercion Act (Wzd)	4	4.3	-0.3	3,697	1.8	-0.1
V062	Legal aid in two phases	8	9.0	-1.0	2,042	3.8	-0.3
Z022	Wvggz authorization after prior healthcare authorization	5	4.8	0.2	2,004	2.0	0.1
P043	Supervision order and out-of-home placement	8	8.4	-0.4	1,732	4.7	-0.1
S041	Public Prosecution Service settlement/penalty order	6	5.7	0.3	1,321	2.8	0.1
P030	Alimony/subsistence	13	14.0	-1.0	1,020	9.1	-0.1
Z080	Disputes/detainee complaints	4	4.4	-0.4	883	3.3	-0.1
P041	Visitation arrangements	12	14.0	-2.0	866	8.4	-0.2
V064	Case as referred to in Article 30 of the Aliens Act (Vw)	6	6.2	-0.2	786	3.6	0.0
P100	Personal and family law, other disputes	12	13.0	-1.0	749	7.2	-0.1
V010	Immigration law	8	8.4	-0.4	748	4.5	-0.1
Z140	Detention of aliens	4	4.3	-0.3	736	2.4	-0.1
D020	Incapacity for work (including under the Work and Income According to Labour Capacity Act (WIA)/ Disability Insurance Act (WAO))	10	9.4	0.6	716	4.7	0.1
Z151	Conversion of community service order	5	5.3	-0.3	715	2.8	-0.1
C010	Work and Social Assistance Act (Participation Act)	8	8.5	-0.5	703	4.0	-0.1
Z150	Enforcement of a suspended sentence	5	5.1	-0.1	673	2.8	0.0
V042	Asylum appeal	10	9.2	0.8	648	5.1	0.2
P040	Parental authority/guardianship	11	12.2	-1.2	614	7.5	-0.2

<sup>1</sup> See Appendix A of the report for a complete overview.

case code	description	1. fixed points	2 current time spent	(1-2) difference	n	standard deviation	Cohen's d
S050	Crimes, first instance hearing in multi-judge chamber	14	15.0	-1.0	614	9.1	-0.1
P015	Divorce or termination of partnership with secondary claims	13	11.6	1.4	604	7.3	0.2
B010	Administrative law	9	10.2	-1.2	602	5.8	-0.2
Z023	Wvggz healthcare authorization without prior crisis measure	6	4.8	1.2	546	3.1	0.4
O013	Violent and sexual crime with serious injuries	15	14.5	0.5	490	8.6	0.1

Source: Ceebeon's analysis of Legal Aid Board data  
 NB: Small differences may occur due to rounding off in the table

The table makes it clear that for most case codes, the average time spent is higher than the fixed amount of time allocated. The research also shows that the difference between fixed points and time spent decreased following the implementation of the recommendations of the Van der Meer I Committee. This means that the new points allocation system is generally more in line with the current time spent (after 1 January 2022).

In some case codes, the difference is negative (i.e. the time spent is higher than the fixed number of points in a standard case in accordance with the new points allocation). The case codes with the largest negative difference are shown in the table below. These are case codes that the committee could look at more closely.

**Table S.2: Average time spent on standard cases compared to the new points allocation system (flat rate) sorted by the difference (1-2)**

case code	description	1. fixed points	2 current time spent	(1-2) difference	no. (n)	standard deviation	Cohen's d
A020	Termination of employment contract	16	23.0	-7.0	53	13.2	-0.5
A010	Nullifying or voiding dismissal	19	24.9	-5.9	88	14.7	-0.4
P012	Termination of cohabitation with additional claims	13	17.3	-4.3	195	9.7	-0.5
V074	Intention (art.5a(5)/ 2nd sentence) to terminate asylum procedure	5	8.5	-3.5	79	5.1	-0.7
P090	Guardianship / administration	10	12.9	-2.9	173	8.7	-0.3
H040	Accommodation rental dispute	15	17.8	-2.8	135	11.4	-0.3
O033	Debt restructuring / payment arrangement	10	12.7	-2.7	126	6.1	-0.4
P091	Special curatorship	10	12.6	-2.6	124	8.8	-0.3
O011	Street and/or contact ban	11	13.5	-2.5	70	10.7	-0.2
O030	Contract law dispute	16	18.5	-2.5	273	13.1	-0.2
V013	Residence of family members	8	10.3	-2.3	342	5.6	-0.4
P041	Visitation arrangements	12	14.0	-2.0	866	8.4	-0.2

Source: Cebeon's analysis of Legal Aid Board data  
NB: small differences may occur due to rounding off in the table

### ***perception of changes in the point allocation***

In addition to the time records, legal aid providers were asked in an online survey to indicate approximately how the actual time spent related to the fixed time. It turned out that in almost all legal areas, a majority or even a considerable majority of legal aid providers responded that the time spent was higher than what is reimbursed on a flat-rate basis (when asked, 44% responded that far too few points were allocated, and 36% responded that slightly too few points were allocated). The issue still persists for legal aid providers in this regard. At the same time, 55% of respondents believe that the current points allocation is a clear improvement over the old flat-rate points system (before 1 January 2022).

### ***On-call services***

In the research, it was requested to show on-call cases separately. The Legal Aid Board does not keep any time records of on-call cases. For this reason, questions about on-call services were included in the online survey. Around 45% of all legal aid providers who completed the online survey indicated that they provide on-call services. This group was asked about the legal areas in which they offer on-call services. Most legal aid providers reported on-call services for criminal cases (81%) followed by on-call services for young people (45%). In general, responders said that insufficient points were allocated for on-call services (approximately 82% of legal aid providers who provide on-call services).

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## **S.4 Conclusion**

Following the implementation of recommendations by the Van der Meer I Committee, we observe an improvement in both the time records and the assessments of legal aid providers. However, legal aid providers still spend more time than is reimbursed. The average often deviates negatively from the fixed number of points awarded, where case codes with surcharges in particular involve more time spent than is reimbursed. In combination with the reimbursement per point, a large majority of legal aid providers therefore believe that they are still paid too little for their services.

The research shows that targeted adjustments could be considered to better align points allocated with the costs that legal aid providers incur per area of law.