



Ministry
of Justice



Legal Aid
Agency

Legal Aid Statistics in England and Wales

January to March 2016

Ministry of Justice Statistics bulletin

These statistics are derived from data held by the Legal Aid Agency, produced by the Legal Aid Agency's statistics team and published by the Ministry of Justice.

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Introduction

Legal Aid Statistics in England and Wales is published every quarter, presenting the key statistics on activity in the legal aid system. This edition comprises the first release of official statistics for the three month period from January to March 2016 and also provides the latest statement of all figures for previous periods and longer term trends.

Information published in this release

The *Legal Aid Statistics: January to March 2016* release, published at <https://www.gov.uk/government/collections/legal-aid-statistics>, consists of the following documents:

- **Bulletin:** This bulletin, which provides key figures, graphs, explanation and commentary.
- **Tables:** A set of tables, which give further detail and full time series for each area.
- **Charts from bulletin:** The underlying data from which the charts and graphs in Legal Aid Statistics are created
- **More detailed data:** A more detailed set of data, provided in the form of a csv (comma separated values) file, to facilitate detailed analysis using pivot tables, and re-use of the data using a variety of software packages.
- **More detailed data guidance:** An index to the csv file of more detailed data and guidance on how to work with the CSV file using pivot tables.
- **Provider data:** Provider level data, provided in the form of a csv file to allow further analysis on the number of provider offices to complete work in a period, the amount of work completed and the expenditure associated with that work.
- **Client diversity data:** A set of data provided in the form of a csv file showing diversity characteristics of legal aid clients.

To accompany this information, **A User Guide to Legal Aid Statistics**, which includes a brief background to the legal aid system, information on data sources, data quality and revisions, information about how these statistics are used and a glossary of key terms used in this bulletin, can be found at: <https://www.gov.uk/government/statistics/a-guide-to-legal-aid-statistics-in-england-and-wales>

The next edition of Legal Aid Statistics will be published on Thursday 29 September 2016

In accordance with principle 2 of the code of practice for official statistics, the MoJ is required to publish transparent guidelines on its policy for revisions. A copy of this statement can be found at: www.justice.gov.uk/downloads/statistics/mojstats/statistics-revisions-policy.pdf Details about specific revisions can be found in our user guide.

A list of officials who have received pre-release access to each legal aid statistical release up to 24 hours in advance of publication can be found on the webpage for each respective release, accessible from <https://www.gov.uk/government/collections/legal-aid-statistics>

User feedback

Feedback from users helps us to make the Legal Aid Statistics valuable and relevant. We can be contacted at statistics@legalaid.gsi.gov.uk or you can follow this link to complete our short user survey: <http://www.smartsurvey.co.uk/s/6U58M>

Measuring activity in the legal aid system

Workload

The legal aid system involves a diverse range of activities and services, from relatively quick, lower-cost events such as the provision of pre-charge advice in a police station to a complex, relatively high-cost court case.

Additionally, workload volumes can be measured at different stages in delivery. For example, legal aid work in a court can be measured at the point when an order for legally aided representation is granted, or after all of the work on a case is completed and the provider has been paid for the work.

Therefore, the units in which workload can be measured differ across the system, and it is difficult to summarise workload for the system overall within a single number. For this reason, users are advised to look at trends in workloads for each area of legal aid separately.

Expenditure

This bulletin presents expenditure in terms of the total value of payments made to legal aid providers in relation to pieces of work (cases) that are completed in the period. Presenting expenditure data on this 'closed-case' basis means that it can be shown alongside the work to which it relates, and to the same level of detail.

This is different from the way expenditure figures are presented for budgeting and accounting purposes, such as those in the Legal Aid Agency's (LAA) Annual Report and Accounts, which are presented on an accruals basis (meaning that they report the value of the work done in the period). There are important differences between these two measures of value which mean that they are not directly comparable. These differences include timing:

- For more complex work, for example many crime higher and civil representation cases, a portion of the work on a case that is completed and paid for in a given period may have taken place over previous periods, but on the closed-case basis its entire value will be included within the expenditure figures for the period in which the case closes.
- Similarly, the value of any work that is done in a given period on cases that have not yet been completed or paid for will not be included in the closed-case expenditure figures for that period.

The combined effect is that expenditure figures on the closed-case basis lag behind those presented on an accruals basis (such as those in the LAA's Annual Report and Accounts),

so any trends in expenditure will emerge later, particularly for more complex areas of legal aid work.

Another important difference is that the figures in this bulletin do not take account of income received in the period or expenditure in relation to debt write-offs (to illustrate, the LAA's income in 2014-15 was £198m and expenditure in relation to debt write-offs was £22m, out of total net programme expenditure (that is, excluding administration costs) of £1,586m).

Key findings

Criminal legal aid

1. The gradual decline of recent years in **crime lower** workloads has continued in the context of falling overall crime rates, and the latest quarter saw a 9% fall compared to the same period in the previous year (see figure 3).
2. **Expenditure on crime lower** has declined more than workloads, down 15% compared to the same period of the previous year (see figure 4). This reflects the impact of recent reductions to the fees paid for most crime lower legal aid work.
3. In **crime higher**, the trend in new work entering the system is declining, with the number of representation orders granted in the crown court in the last quarter down 19% compared to the same period of 2015 (see figure 8).
4. The volume of **cases completed in crime higher** in the last quarter remained stable (see figure 10), driven largely by the number of sitting days in Crown Courts across England and Wales, which are in turn managed in response to workloads currently in the criminal justice system.

Civil legal aid

5. The implementation of the LASPO Act in April 2013 resulted in large reductions in overall **legal help** workload and the overall trend subsequently levelled out at around one-third of pre-LASPO levels. In the last quarter new matter starts were however 13% lower than in the same period of 2015 (see figure 12).
6. Workloads in **civil representation** fell by a smaller proportion than legal help following the implementation of LASPO, before levelling out at around two-thirds of pre-LASPO levels. The number of certificates granted in the last quarter was however up 10% compared to the same period of the previous year (see figure 12).
7. After sharp falls following LASPO, the number of **mediation** assessments in the latest quarter was 14% down compared to the same period in 2015 and the number of starts was down by 18% over the same period.

Exceptional Case Funding

8. There were 390 applications for **ECF** received between January and March 2016. This is the highest received in a singular quarter since Oct-Dec 13.
9. Between January and March 2016, over half of those that had been determined were granted (54%).

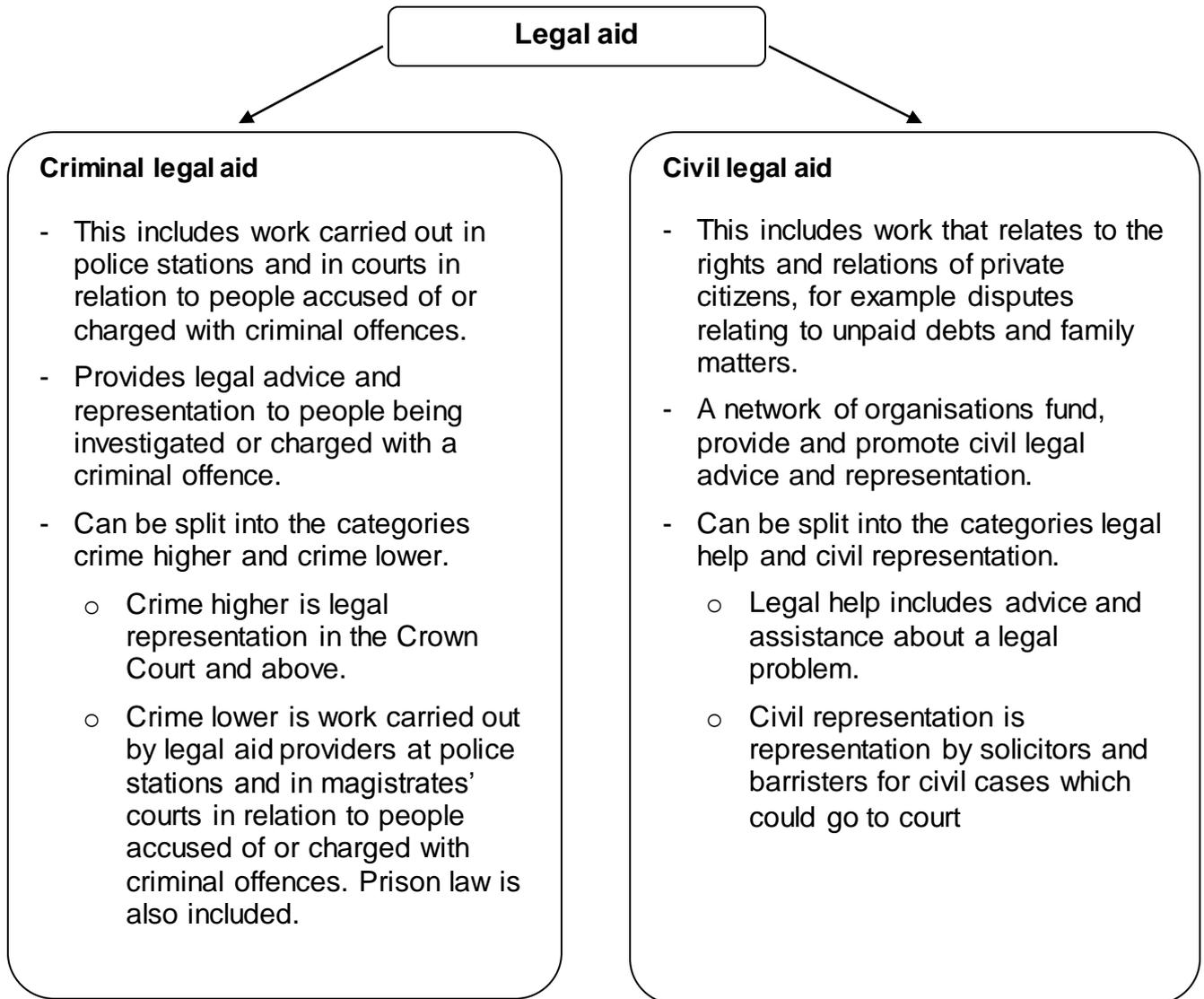
Annual chapters

10. This edition of Legal aid statistics includes additional section that are updated only annually. These present figures for legal aid providers, appeals against legal aid decisions, representations, some areas of criminal legal aid and client characteristics.

Analysis and commentary

Summary

Legal aid workload can be broken down into two main justice areas, criminal and civil:

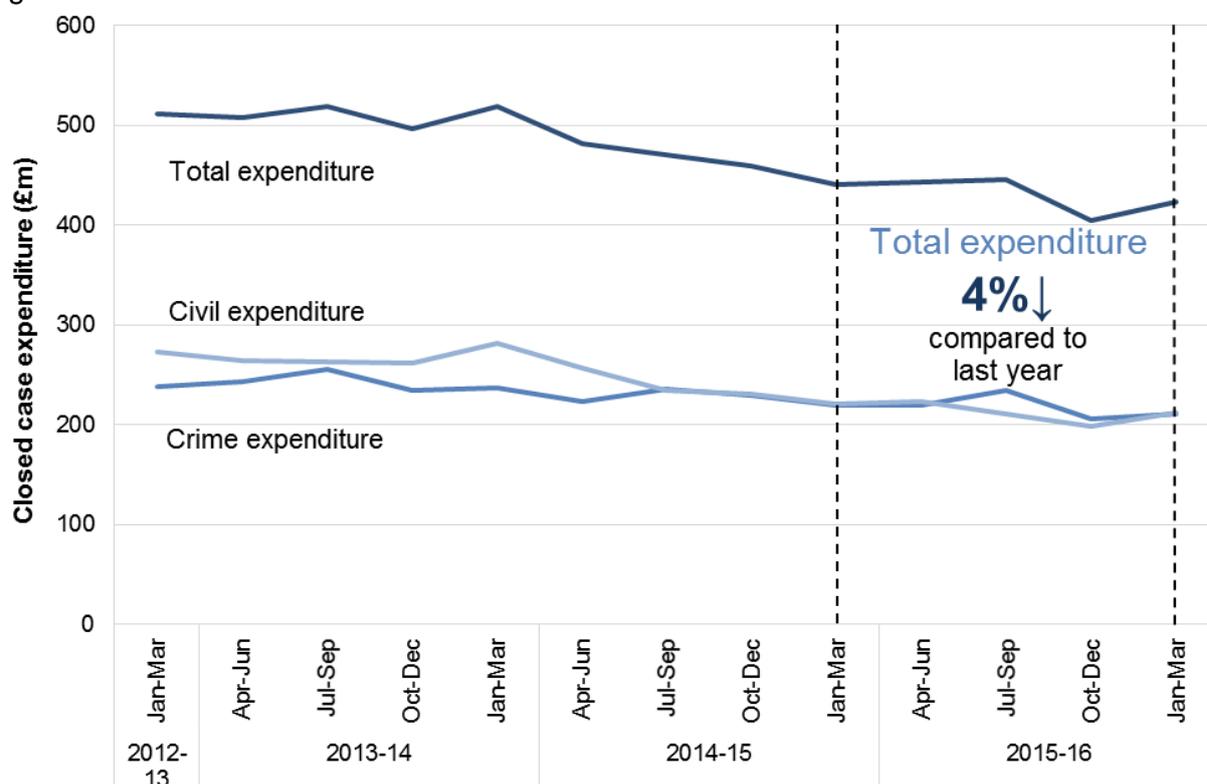


It is difficult to summarise workloads across the legal aid system meaningfully within a single number because of the diversity of services being provided, so users of these statistics are best advised to look at trends in workload for each area of legal aid separately.

Perhaps the best way to summarise the entire system in a broad sense is to look at expenditure. These statistics present expenditure in terms of the value of payments made to legal aid providers for work completed in each period, which is different from the way expenditure figures are presented for budgeting and accounting purposes (see page 5 for further explanation).

On this ‘closed-case’ basis, expenditure on work completed between January and March 2016 was just over £420m¹, a 4% reduction on the same quarter of 2015 and an 18% reduction on the same quarter of 2013, but a 4% increase from the previous quarter (see figure 1). Expenditure on civil legal aid has fallen further than that on crime over this period. These trends reflect changes to workloads, fees and the scope of legal aid over recent years, although they are not adjusted for inflation. These changes are discussed in more detail throughout this statistical bulletin.

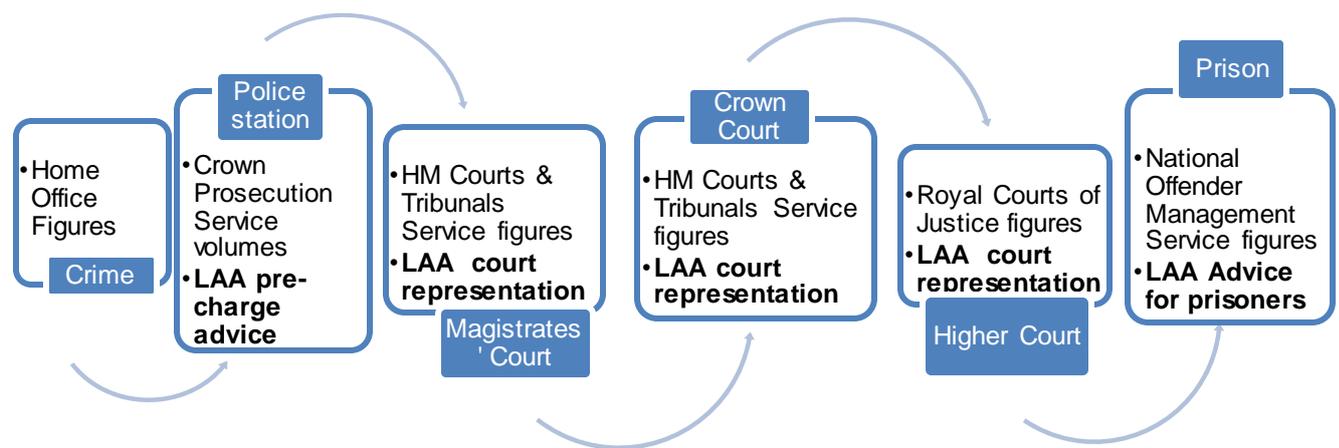
Figure 1: Value of payments made for cases completed in January 2013 to March 2016, by legal aid scheme



¹ Data on the value of completed cases are provisional and subject to change in subsequent publications. Figures include mediation in civil representation and central funds in crime higher but not higher courts.

Criminal legal aid

The diagram below shows the availability of legal aid flows (in bold) throughout the Criminal Justice System with legal services touching on the system from start to finish.



All criminal cases are potentially within the scope of the criminal legal aid scheme, subject to the Interests of Justice test and the means test operating to exclude some cases.

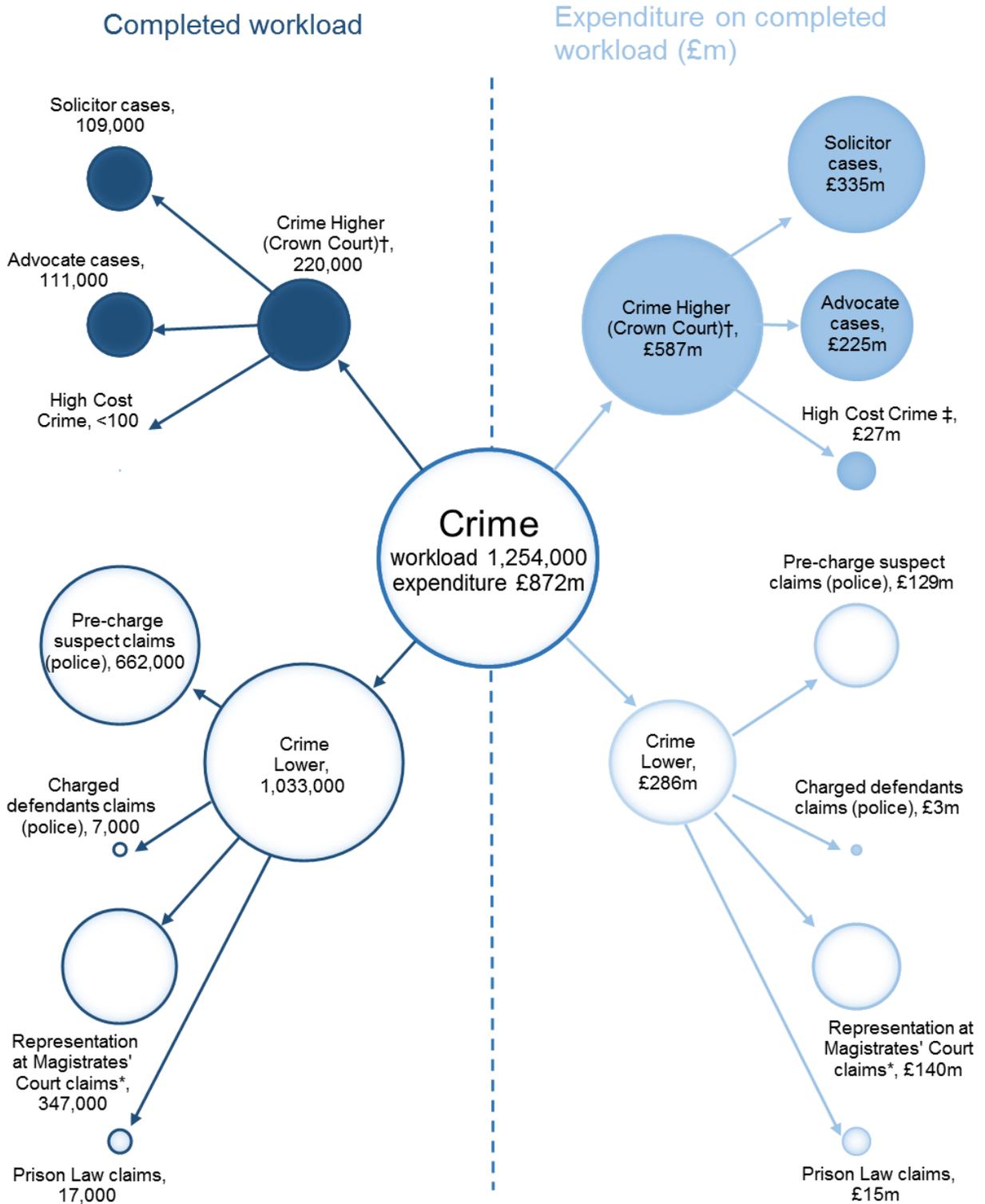
Figures are given in this report for each of the areas above and are categorised into Crime Lower and Crime Higher. Figure 2 below shows the relative size of each category and area both in terms of workload volumes and expenditure.

Crime Lower includes information from the pre-charge and police station stage, the early court system (including magistrates' courts) and prison assistance. These are the relatively higher volume, lower cost units of criminal legal aid work. For more detailed figures on Crime Lower, see Tables 2.1 to 3.1 of the Tables published alongside this report.

Crime Higher includes work in the Crown Courts and Higher Courts. This relates to more serious criminal matters only and involves the relatively lower volume, higher cost units of criminal legal aid work. Most cases within the Crown Court have both a litigator (solicitor) and an advocate (barrister or higher solicitor advocate). A small proportion of the most complex Crown Court cases are categorised by the LAA as Very High Cost Cases (VHCCs) and managed differently. For more detailed figures on Crime Higher, see Tables 3.2 to 4.4 of the Tables published alongside this report.

Workload in the wider Criminal Justice System has fallen in the last few years and as a consequence some areas of criminal legal aid have also seen a gradual fall. The largest reduction in workload within criminal legal aid between January and March 2016 and the same period in the previous year was for pre charge defendants, which has fallen by around 15,500 cases (9%).

Figure 2: Volumes and expenditure within criminal legal aid area, April 2015 to March 2016



* includes court duty solicitor sessions

† This total does not include the higher courts

‡ The spend for high cost crime is the on-going spend for the last 12 months, not closed case spend

Figures are for the 12 months to March 2016

Note: figures have been rounded so may not sum to totals

Crime lower

The gradual decline in crime lower workloads in recent years has continued in the context of falling overall crime rates, and the latest quarter saw a 9% fall compared to the same period in the previous year (see figure 3).

Expenditure on crime lower has declined more than workloads, down 15% compared to the same period of the previous year (see figure 4). This reflects the introduction in March 2014 of a reduction of 8.75% to the fees paid for most crime lower legal aid work. It may also reflect to some extent the impact of a second reduction of the same size introduced from July 2015. This second reduction was suspended from April 2016, just after the period covered by this statistical release.

Figure 3: Number of cases within crime lower, Jan-Mar 2013 to Jan-Mar 2016

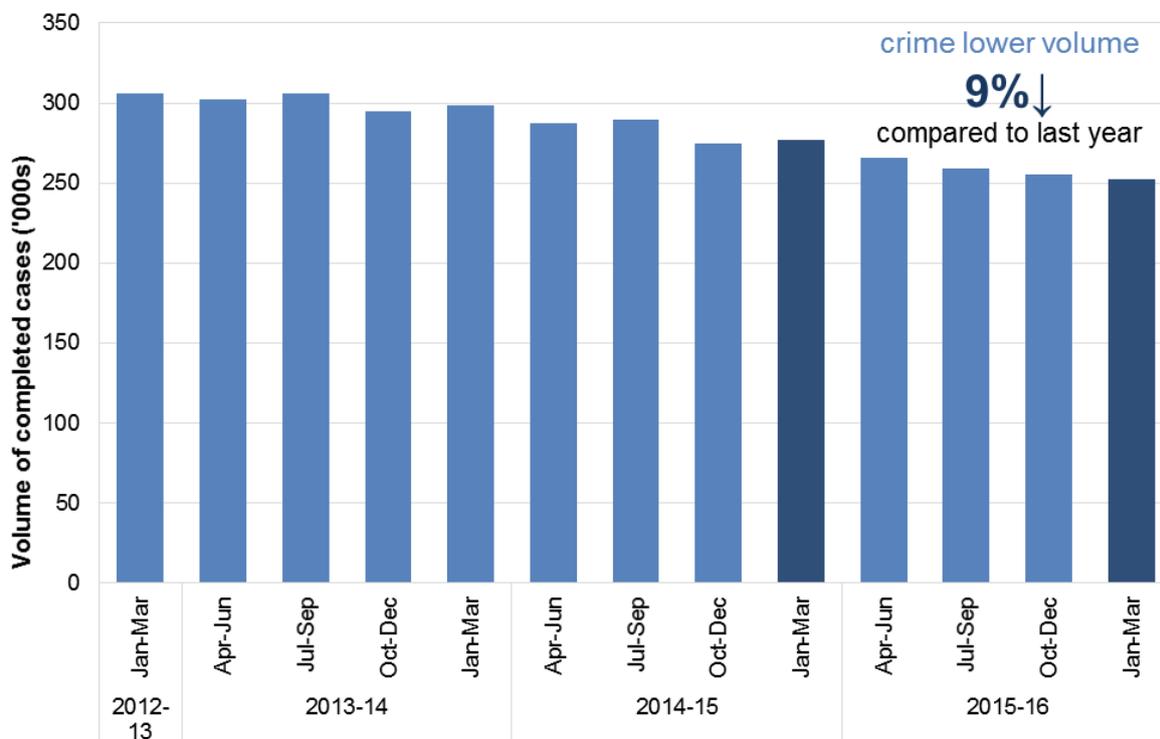
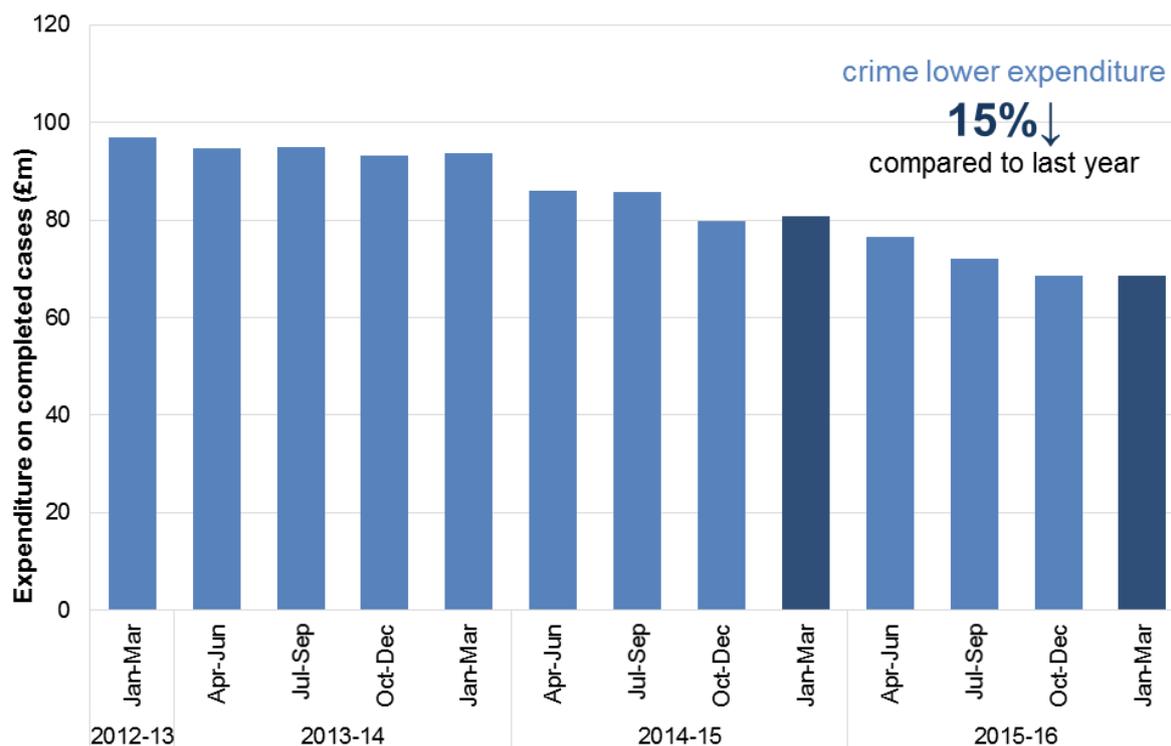


Figure 4: The value of completed crime lower cases, Jan-Mar 2013 to Jan-Mar 2016



Note: Data on the value of completed cases are provisional and subject to change

Pre-charge suspects (Table 2.1 and 2.2)

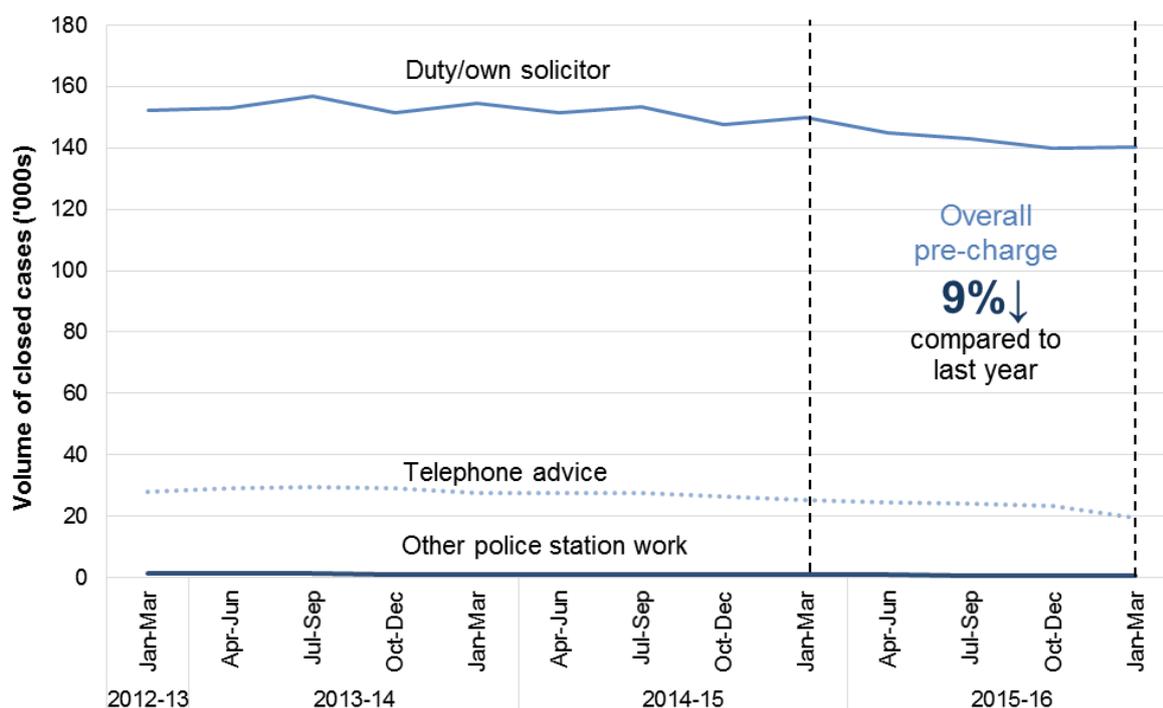
Anyone in England and Wales who is interviewed by the police or attends a police station can receive advice funded by legal aid either on the telephone or by a solicitor in attendance with the suspect. The LAA has limited control over the volume of police station claims. Changes to police numbers and priorities will lead to changes in the number of arrests, charges and cautions.

Pre-charge work made up almost two-thirds of the crime lower workload between January and March 2016 but less than half of crime lower expenditure. Pre-charge legal aid workload between January and March 2016 fell by 9% compared to the previous year (see figure 5). Over the last two years the trend has been gradually downward, but not by as much as crime lower as a whole or overall Crime Survey figures for England and Wales².

The majority of the pre-charge workload (87% in January to March 2016) consists of suspects receiving legal help with a solicitor in attendance at the police station.

²<http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2015>

Figure 5: Workload with pre-charge suspects, Jan-Mar 2013 to Jan-Mar 2016



Magistrates' court (Table 2.1 and 2.2 and 3.1)

Legally-aided representation in the magistrates' court comprised around one-third of the crime lower workload between January and March 2016 and around half of crime lower expenditure. The volume of completed work in the magistrates' court fell by 8% in this quarter when compared to the same period of the previous year.

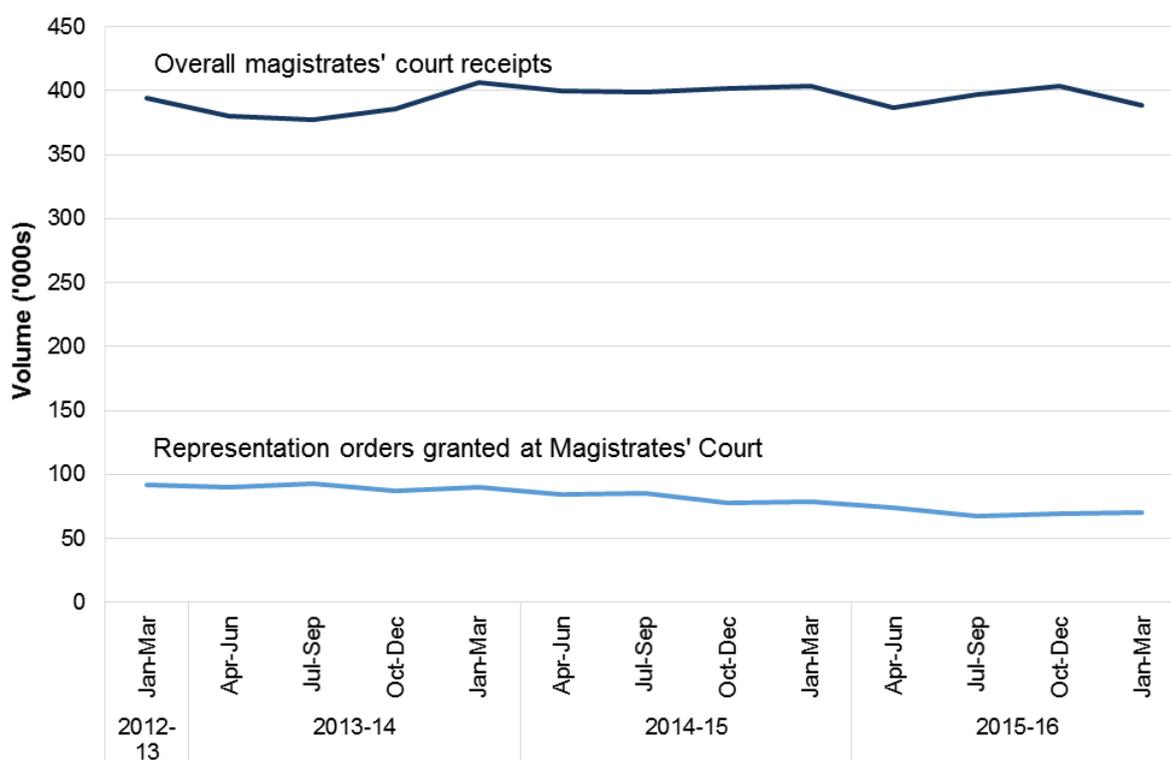
The number of orders granted for legally-aided representation in the magistrates' court fell by 11% in this quarter when compared to the previous year. This continues the existing downward trend of the last 2 years. Disruptive action taken by some criminal legal aid providers during July and August 2015 may have reduced the figure for the July to September quarter of 2015 to some extent. The proportion of applications that are granted has changed very little over recent years, at around 95% (table 3.1). The overall number of receipts in the magistrates' court³ (including those not involving legal aid) was 4% lower than the same than in the same period of the previous year. Figure 6 shows the overall number of receipts and the number of representation orders granted in the period.

Receipts in the magistrates' court include triable-either-way and indictable trials, summary motoring, summary non-motoring and breach cases. The overall number of receipts is much greater than the numbers of legal aid representation orders because applications for legal aid are not submitted for many of the less serious (summary) offences as the circumstances will not meet the criteria set out in the Interests of Justice test.

The Interests of Justice test considers the merits of a case (for example a person's previous convictions, the nature of the offence and the risk of custody) to determine if an applicant qualifies for legal aid. The more serious the charge or possible consequences for the defendant, the more likely that the case will qualify for legal aid.

³ <https://www.gov.uk/government/collections/criminal-court-statistics>

Figure 6: Magistrates' court trends - representation and receipts, Jan-Mar 13 to Jan-Mar 16

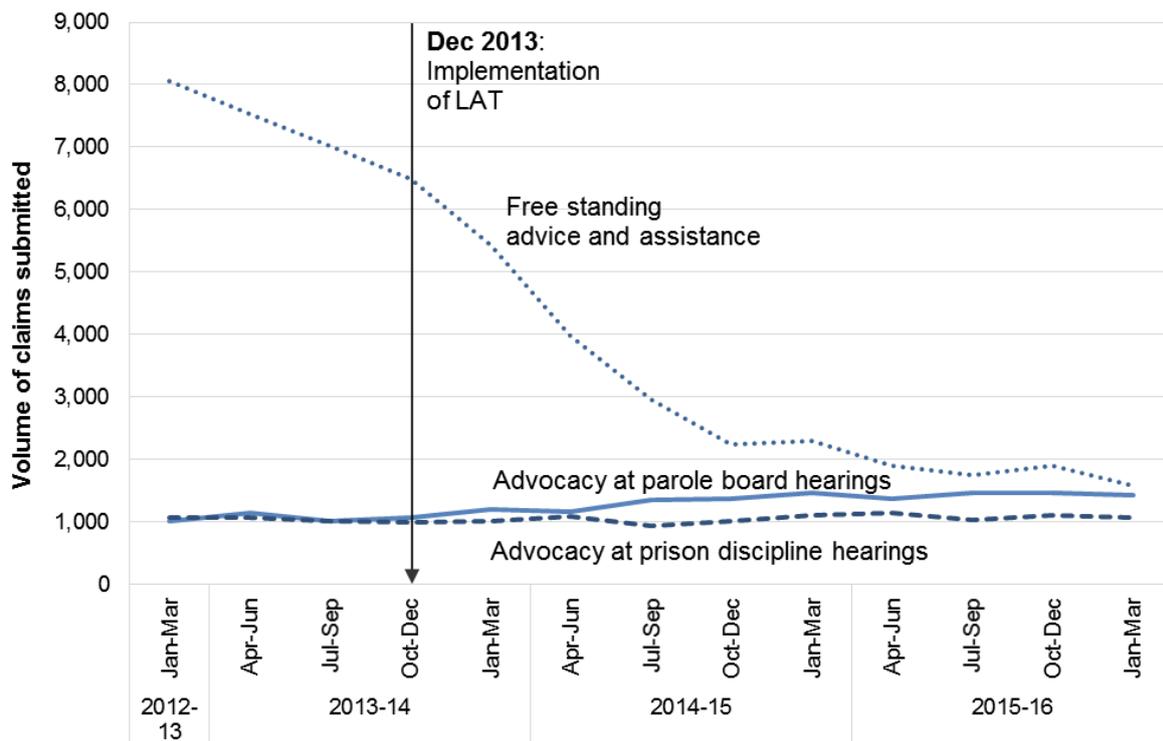


Prison Law (Table 2.1 and 2.2)

Prison law made up less than 2% of the crime lower workload between January and March 2016, but around 5% of expenditure. In July 2010 changes were made to legal aid for prison law, including a new requirement for legal aid providers to apply to the LAA for prior approval before starting work on treatment cases. Following those changes, prison law workload began to decline (see figure 7).

In December 2013, under the Legal Aid Transformation (LAT) programme, changes were made to the scope of legal aid available for prison law. These changes appear to have accelerated the existing downward trend in prison law workload over the following year, with free standing advice and assistance accounting for most of the decline. The trend has been more stable over the last year, although workload fell 16% in January to March 2016 compared to the same period the previous year. Expenditure on prison law over the same period fell by 12%.

Figure 7: Volume of workload within prison law, Jan-Mar 2013 to Jan-Mar 2016



Crime higher

Representations at Crown Court (*Table 3.2*)

The workload in the Crown Court can be broadly split into the following categories:

Either way offence: An offence which can be tried either before the magistrates' court or the Crown Court.

Indictable offence: A criminal offence that can only be tried in the Crown Court.

Committed for sentence: A case where a magistrate decides that the penalties available to them are inadequate and commits the case to the crown court for sentencing.

Appeals: The Crown Court deals with appeals from magistrates' court against conviction and sentence

The number of legal aid representation orders granted in the Crown Court fell by 19% in this quarter when compared to the previous year, continuing a decline that began in 2014. All categories of orders declined over this period, but those relating to indictable offences fell proportionately less than other categories (see figure 9).

The downward trend in orders is largely driven by a reduction in cases received in the Crown Court overall over this period⁴ (see figure 8). Over 99% of applications for legal aid in the Crown Court are granted, and this has changed very little over recent years (table 3.2).

Similarly to orders in the magistrates' court (see above), disruptive action taken by some criminal legal aid providers during July and August may have reduced the figure for the July to September quarter of 2015 to some extent.

These figures are subject to upward revisions in subsequent releases as some cases move up from the Magistrates' to the Crown Court, so figures for the most recent 2 to 3 quarters should be considered provisional.

For more information on data quality and revisions please see the User guide to legal aid statistics.

⁴ <https://www.gov.uk/government/collections/criminal-court-statistics>

Figure 8: Representation orders granted and receipts in the Crown Court, Jan-Mar 2013 to Jan-Mar 2016

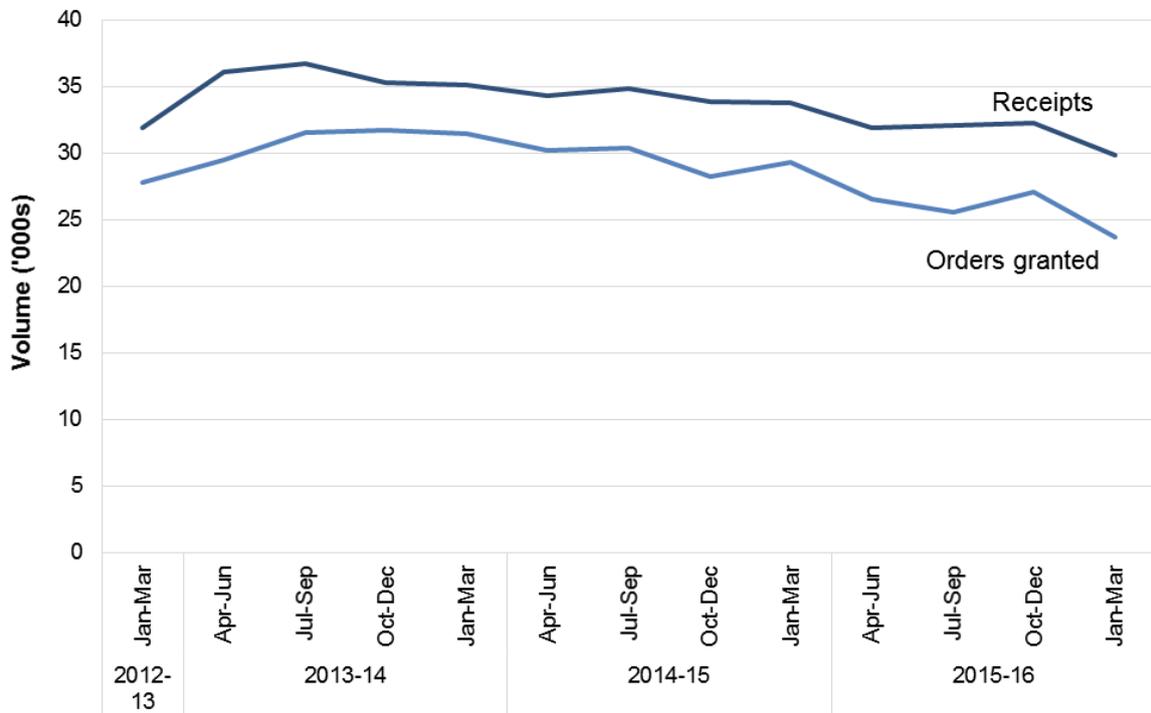
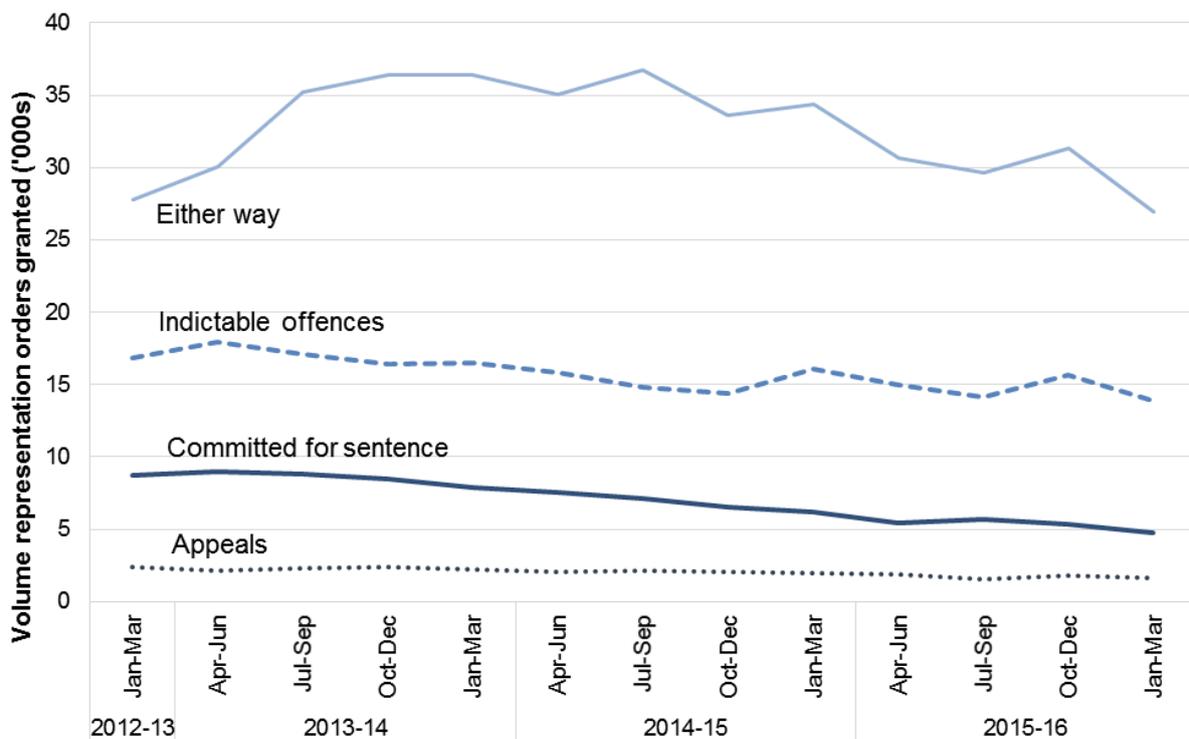


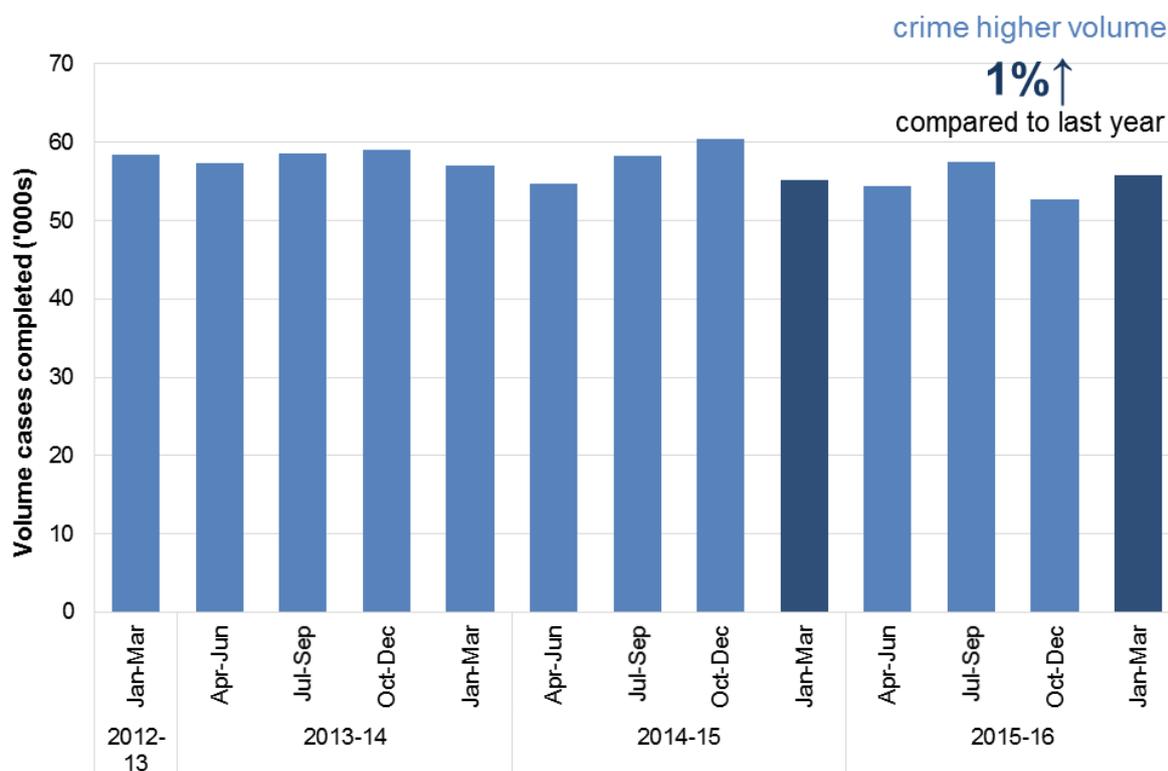
Figure 9: Representation orders granted in the Crown Court, Jan-Mar 2013 to Jan-Mar 2016, by case category



Volumes of cases completed in the crime higher category have declined slightly over the last three years, although increased by 1% from the same period of the previous year (see figure 10). These volumes relate only indirectly to trends in crime and new orders for representation; they are driven largely by the number of sitting days in Crown Courts, which are in turn managed in response to workloads within the criminal justice system.

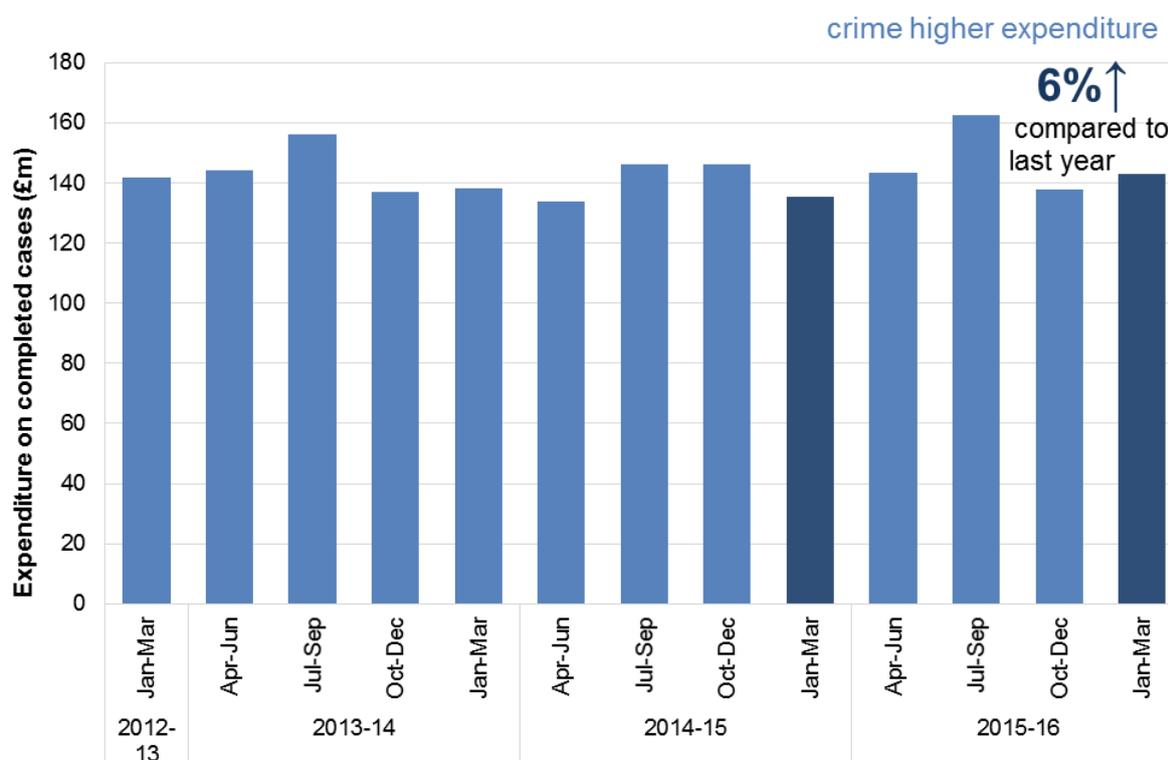
The trend in the value of payments for completed cases in crime higher (figure 11) has been generally similar to that of the volumes over the last 3 years but, although volumes in Jan-Mar 2016 were only 1% higher than the same period in the previous year, expenditure was up by 6%. This reflects an increase in the proportion of this work which comprises relatively complex, lengthy trials. This has been accompanied by an increase in the amount of prosecution evidence involved, which is an important driver of legal aid costs. Together, these factors have outweighed the impact of reductions over this period to fees paid to solicitors for crime higher legal aid work.

Figure 10: Number of cases completed within crime higher (Tables 4.2 – 4.4), Jan-Mar 2013 to Jan-Mar 2016



Note: High cost cases are case starts and both litigator and advocate case completions are included.

Figure 11: The value of completed crime higher cases (*Table 4.2 – 4.4*), Jan-Mar 2013 to Jan-Mar 2016



Note: High cost cases are case starts and both litigator and advocate case completions are included.

Very High Cost Cases (VHCCs) (*Table 4.4*)

VHCCs are those cases in which, if the case were to proceed to trial, it would be likely to last more than 60 days. In fact, these cases can span a number of years and, while they may involve relatively small numbers of cases or defendants, the number of related contracts with providers and the amount spent are high in comparison. For each VHCC opened there may be multiple defendants, each represented by a different provider with separate VHCC contracts. The LAA makes decisions in relation to authority to incur expenditure for expert reports and runs a High Cost Case contracting scheme seeking to limit expenditure on these complex cases.

Total expenditure on VHCCs from January to March 2016 was £5.8 million, a reduction of 9% compared to January to March 2015. Falling VHCC costs are due to changes in rates paid and also a reduction in the proportion of cases classified as a VHCC due to the threshold being increased from 40 to 60 days on 1 April 2013. VHCCs currently represent around 4% of the overall cost of legal aid in the Crown Court.

Other criminal legal aid

There are some areas of criminal legal aid that are not covered in the crime lower and crime higher categories:

Discretionary and legacy claims

This is legal aid in the Crown Court covering discretionary and legacy claims related to graduated fee schemes. These claims include:

- discretionary claims for costs under a Representation Order i.e. litigators' claims for confiscation proceedings under the Proceeds of Crime Act, advocates' claims for committals for sentence and appeals to the Crown Court, and breaches of Crown Court orders;
- proceedings predating the various fixed fee schemes (legacy cases) or falling outside the scope of the formal schemes.

The figures in table 4.1 show a reduction in expenditure over the last few years as cases have moved out of discretionary claims in to the main graduated fee schemes. Much of the remaining £12m of expenditure in 2015-16 relates to confiscation proceedings.

The Higher Courts: Court of Appeal and Supreme Court

Legal aid for the higher courts is expenditure paid by the Court of Appeal, Senior courts cost office and Supreme Court, and is administered by those courts. The grant of legal aid is also determined by the courts by an Interest of Justice test only as there are no means tests for this area.

Figures for this area of criminal legal aid are shown in Table 4.1. The volume figures are based on numbers of payment transactions. For the 12 month period from April 2015 to March 2016 there were 3,500 claims from the Court of Appeal, with a value of around £2.8m. For the Senior courts cost office, there were just under 600 claims in the 12 months from April 2015 to March 2016, with associated expenditure of just over £4.2m. Expenditure in the Supreme Court for the 12 month period from April 15 to March 16 was just under £0.4m. Expenditure in the Supreme Court relates to a very small number of cases.

Central Funds

This category encompasses arrangements to meet costs in a variety of scenarios that are not covered by the main criminal legal aid schemes. Some aspects of these are administered by the LAA and others by Her Majesty's Courts and Tribunals Service.

In 2015-16 the total expenditure for Central Funds was just over £49m. This is £11m (22%) lower than the previous year.

In October 2014 the LAA's administrative system for Central Funds payments was improved to allow more detailed data to be collected. This improved data has been used to provide more detailed statistics from that point, as shown in Table 11.1. In summary:

- The largest area of expenditure (£13.5m in 2015-16) relates to the reimbursement of defendants who have been acquitted after privately funding their defence lawyers. The process for assessing and authorising reimbursement of costs from central funds in this scenario is normally triggered when a judge grants a **Defence Cost Order (DCO)** for legal aid at Magistrates, Crown or higher courts.

For Crown Court cases which began between October 2012 and January 2014 a DCO is no longer available. For cases starting after January 2014 a DCO may be granted where an application for legal aid was initially submitted and refused. Prior to October 2012, magistrates DCOs were paid at private hourly rates, but since then they have been paid at legal aid hourly rates.

- Another sizeable area of Central funds expenditure (£11.4m in 2015-16) covers the costs of lawyers required where a defendant is unrepresented but where the court decides that the defendant must not themselves be allowed to cross-examine a **vulnerable witness**, with cases involving domestic violence being typical. This situation is covered by the terms of section 36 of the Youth Justice and Criminal Evidence Act 1999.
- The costs of **interpreters and translators** in court comprise another area of Central Funds expenditure (£10.7m in 2015-16).
- The remainder of Central Funds expenditure (£13.4m in 2015-16) goes to meet the costs of court **intermediaries** (£6.7m in 2015-16) and successful **private prosecutions** (£4.6m in 2015-16) and towards meeting some of the reasonable **costs of attending magistrates' court** for witnesses, experts and defendants (£2.1m in 2015-16).

Civil legal aid

Many events and issues in people's lives which are not associated with crime, but which concern the rights and relations of private citizens, can also require legal assistance. These can be issues such as discrimination, dealt with through the telephone advice service, or a divorce with several court appearances.



Civil legal aid can be broadly categorised into legal help (see Tables 5.1 to 5.3) and civil representation (Tables 6.1 to 6.9). The nature of each form of service is explained in the diagram above. The first point of contact for a client of civil legal aid is usually legal help, which covers help via telephone, face-to-face with a solicitor or at Not-for-Profit centres.

Many of these matters will then extend into civil representation with full investigations undertaken or in-court representation given. However, under some circumstances a client may enter straight into civil representation. Legal Aid for representation at the Mental Health

Tribunal or the Immigration & Asylum Tribunal is funded through controlled legal representation.

Legal aid for representation in other categories, or in higher courts for immigration and asylum or mental health, is funded through civil representation. Public funding is also available for family mediation, which is an alternative to settling family disputes through Court proceedings.

The implementation of LASPO in April 2013 resulted in large reductions in overall **legal help** workload and expenditure. Since this initial fall workloads have levelled out overall at around one-third of pre-LASPO levels. In the last quarter new matter starts were however 13% lower than in the same period of 2015 (see figure 12).

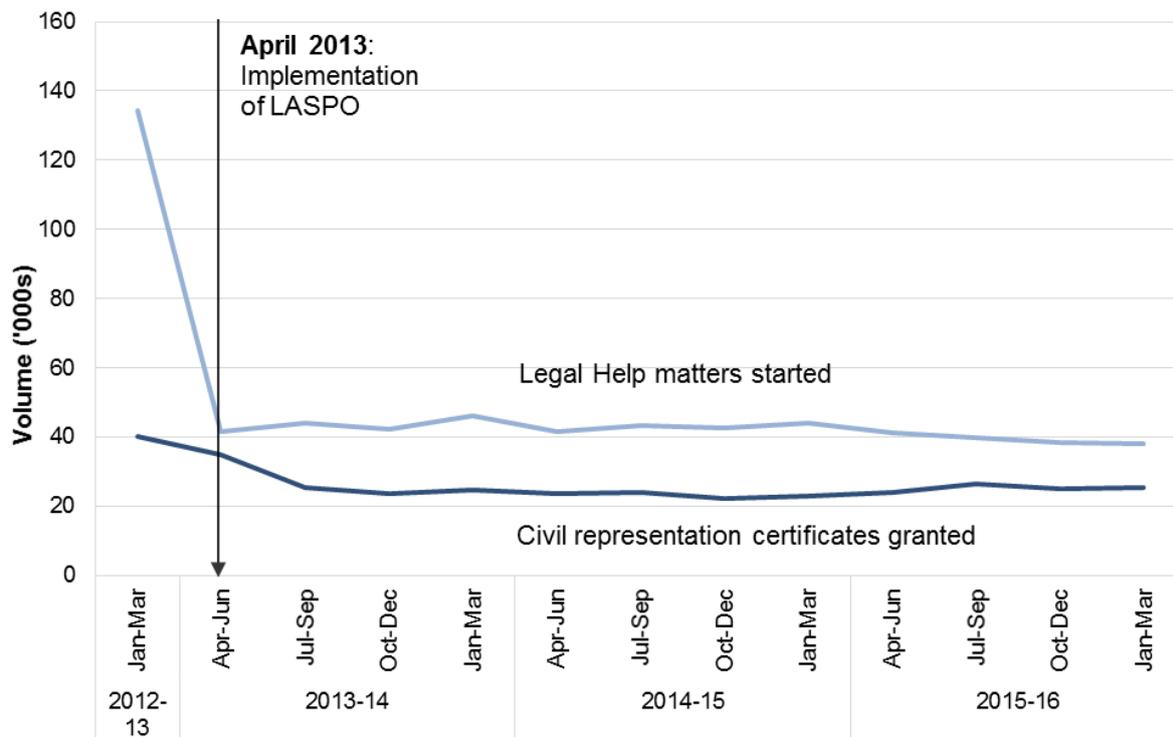
Unlike for civil representation, the decision to offer legal help or controlled legal representation to a client is generally devolved by the LAA to legal aid providers, who must apply means and merits tests to each potential client. LAA administrative systems do not therefore hold information on applications for legal help that are not granted.

Workloads in **civil representation** also fell substantially following the implementation of LASPO, though by a smaller proportion than legal help. They now appear stable overall at around two-thirds of pre-LASPO levels. The number of certificates granted in the last quarter was however up 10% compared to the same period of the previous year (see figure 12).

In response to feedback from users, we have continued in this edition to show a second way of presenting figures on the granting of certificates for civil representation. In the original presentation, grants are shown against the period in which the decision was made and recorded (see table 6.2) – these are referred to as ‘decision-based timing’. In the newer presentation, grants are also shown against the period in which the application to which they relate was made – these are referred to as ‘application-based timing’ (shown alongside applications in table 6.1). Each way has advantages and disadvantages for the user: the former shows more accurately the timing of latest workload entering the system, while the latter enables the calculation of the proportion of applications in a given period that were granted. We would welcome further feedback from users on this addition via the contact details in Annex A.

The proportion of applications for civil representation that are granted has increased in recent years, with around 90% of all applications received over the last 12 months initially granted a certificate compared with around 83% prior to the introduction of LASPO (see table 6.1). This may be due to a change in the mix of areas of law involved. For example, the proportion of applications that relate to the special children act has increased; such applications are not subject to a means or merit test and almost all are granted.

Figure 12: Trends in overall legal help/controlled legal representation and civil representation, Jan-Mar 2013 to Jan-Mar 2016

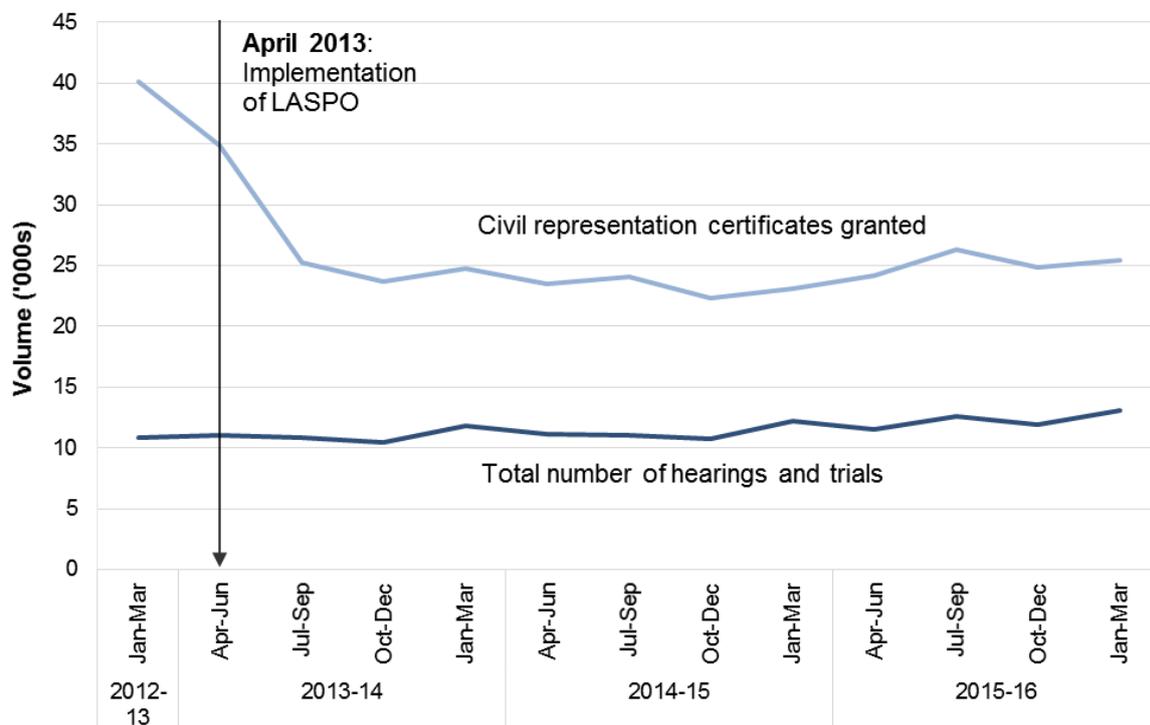


Civil representation and overall court volumes

Figure 13 shows the number of certificates granted for legally-aided civil representation (see table 6.2) and the number of hearings and trials overall from court data, with figures from the latest release of Civil Justice Statistics quarterly (table 1.6). The trends were broadly similar until the implementation of LASPO, when there were large reductions in civil representation workload.

However, in the last few quarters, as civil representation workload has stabilised, there are signs that the trends are becoming similar again. More certificates are granted than the final number of hearings and trials as not all claims will reach court and each case can have multiple legal aid certificates covering multiple parties in the case.

Figure 13: Trends in civil representation and overall court workload - legal aid certificates granted and total number of hearings and trials, Jan-Mar 2013 to Jan-Mar 2016

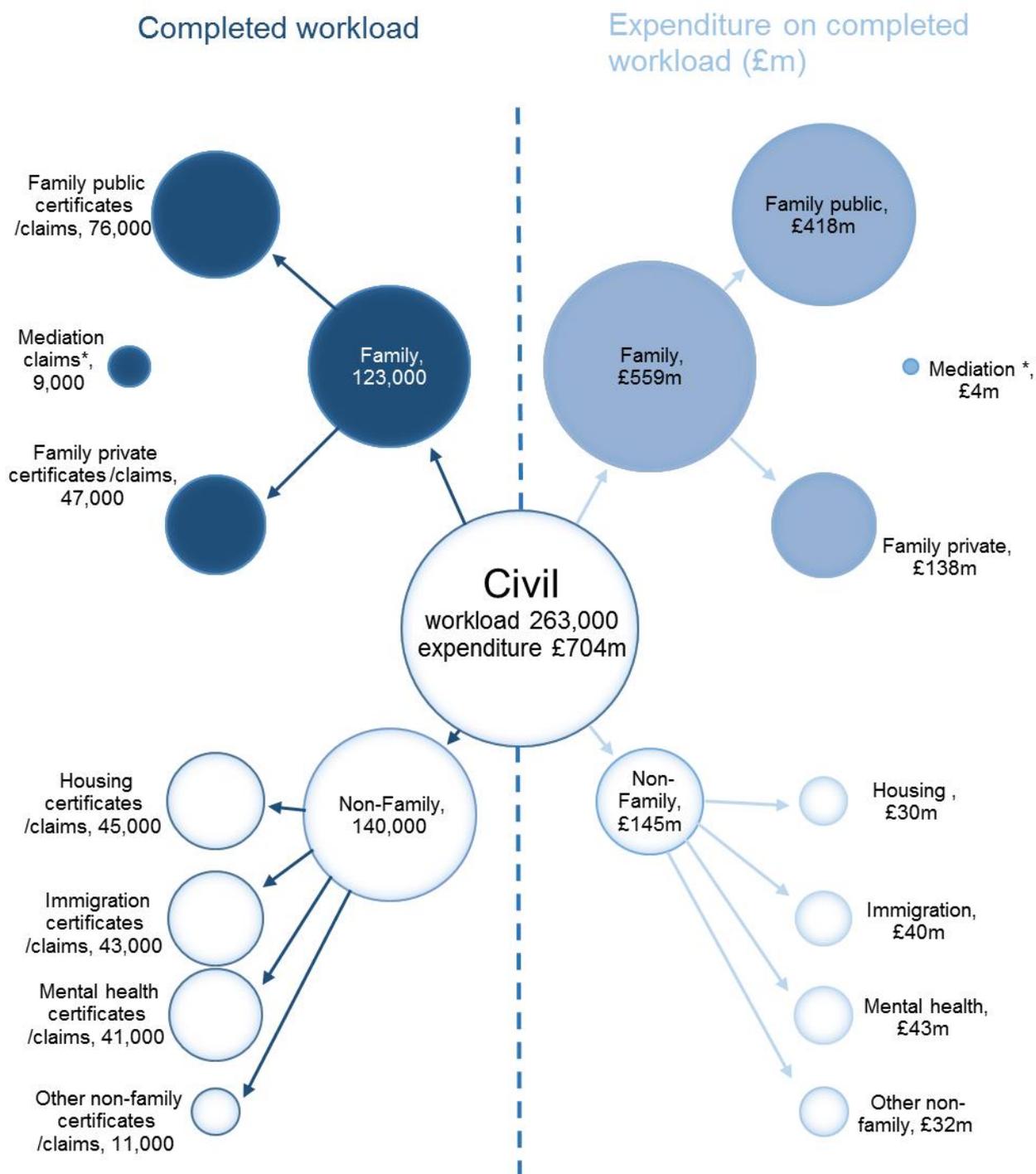


Civil legal aid by category of law (Tables 5.1 - 6.7)

A range of categories of law are covered within the scope of civil legal aid. Legal aid may be available for benefit appeals, debt (if your home is at risk), special educational needs, housing, discrimination issues, help and advice if you are a victim of domestic violence or issues involving a child being taken into care. A full list of the type of work contained within each category is given under 'civil' in the glossary in the User guide to legal aid statistics.

Figure 14 shows the volume of completed work and the associated expenditure for each area of civil legal aid over the latest 12-month period, combining both legal help and civil representation. Although workloads are spread fairly evenly across categories, in expenditure terms family public law is by far the largest area of civil legal aid.

Figure 14: Civil legal aid volumes and expenditure by category of law, April 15 to March 16



*Mediation figures are not included in the family total
 Figures are for the 12 months to March 2016

Notes: Figures are a combination of legal help / controlled legal representation matters started and civil representation certificates granted, and have been rounded so may not sum to totals. The figure for family mediation is not included within the Family (private) total and excludes mediation information and assessment meetings (MIAMs). Figures also exclude housing possession court duty scheme and telephone operator service volumes and expenditure.

Family

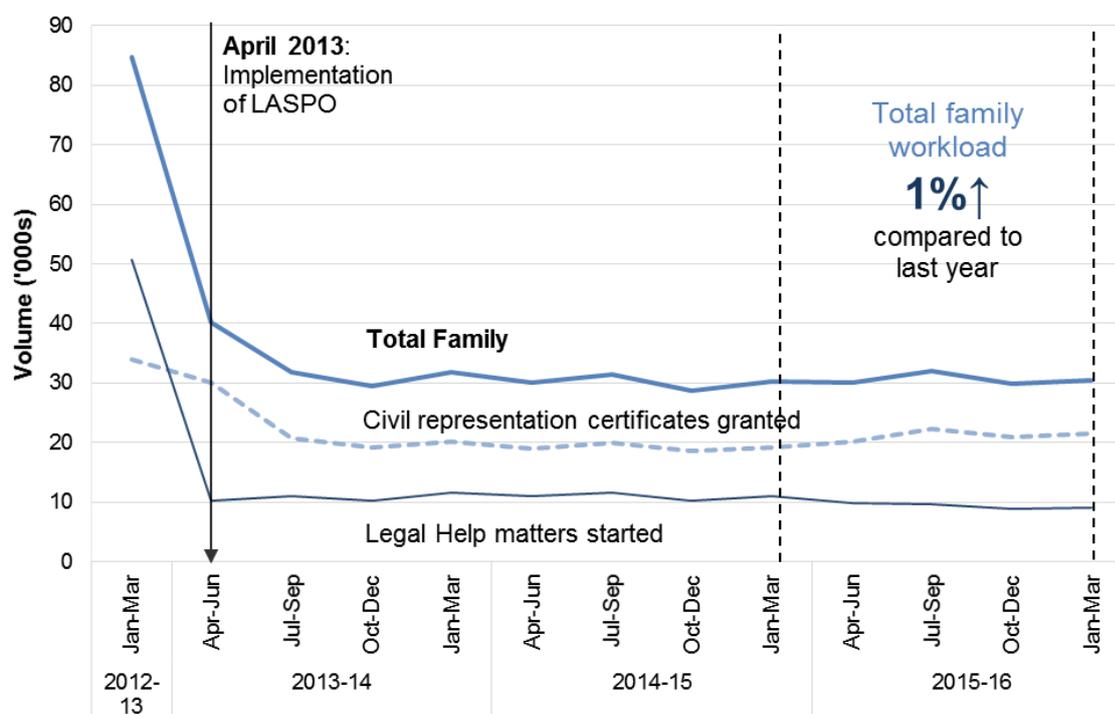
The category of family legal aid covers work on both private and public family law and includes work associated with the Children Act, domestic abuse, financial provision and family mediation.

Public family law is one of the most important components of legal aid, accounting for more than half of civil legal aid expenditure and more than a quarter of all legal aid expenditure. Public family cases may deal with issuing Care and Supervision Orders to protect vulnerable children and are primarily driven by the issuing of proceedings by individual Local Authorities. They are, for the majority, non-means and merits tested and the LAA has no control over the volume of these cases.

The LASPO Act removed many areas of civil law from the scope of legal aid, including some areas of private family law, and there was a large decrease in family **legal help** workload following its implementation. This now appears to have stabilised, but new matter starts in January to March 2016 were 18% lower than the same quarter of 2015. **Civil representation** fell less sharply following LASPO, and the trend subsequently levelled out. In recent quarters this has increased by 12%, largely due to an increase in public law family certificates (figure 15).

Some areas of family legal aid, in particular domestic violence and public family law, were not affected by scope changes in the LASPO Act and so did not show large decreases in volume when the Act was introduced. In public family law the civil representation workload has increased recently, with 16% more certificates granted in Special Children Act and other public law Children Act proceedings in January to March 2016 than in the same period of the previous year (table 6.2). Legal help matters completed in family public law decreased by 5% over this period (table 5.2). Public family workloads in civil representation and legal help are higher than before the LASPO Act was introduced.

Figure 15: Family workload: legal help and civil representation, Jan-Mar 2013 to Jan-Mar 2016



Note: overall workload has been calculated by adding legal help matters started and civil representation certificated granted.

Family mediation

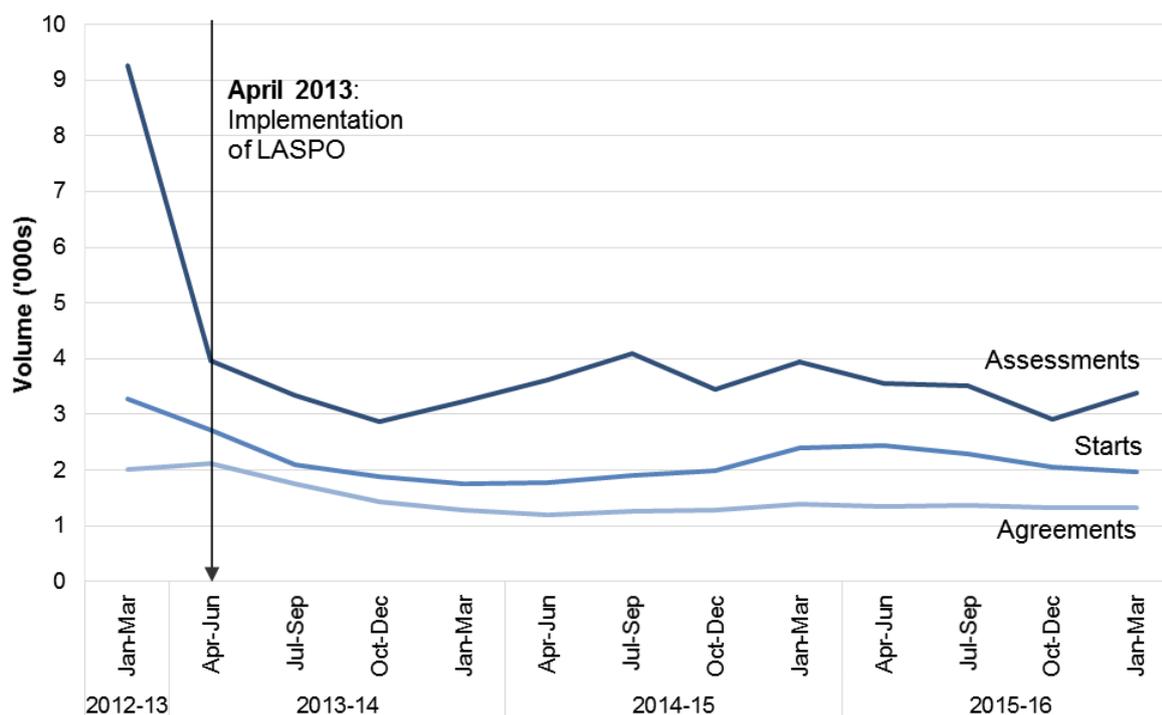
Family mediation (Tables 7.1 – 7.2) involves an independent and impartial professionally accredited mediator discussing problems with a divorcing or separating couple. The process is cheaper and quicker than using the courts and it also allows for a more flexible approach.

Changes in legislation during April 2014 mean that most divorcing couples must now attend a mediation assessment before a matter can go to court. If an agreement cannot be reached through mediation alone, then some arrangements can be decided by a court order.

A mediation assessment, sometimes also known as a MIAM (Mediation Information and Assessment Meeting), is an initial meeting between one or both parties and a mediator. The aim of the meeting is to see if mediation could be used to resolve the issue, rather than going straight to court.

The number of MIAMs fell sharply after the introduction of LASPO in April 2013. Since then MIAMs have fluctuated and were down by 14% in the last quarter compared to the previous year, but appear to be stabilising at around half of pre-LASPO levels (see figure 16). Parties can attend mediation assessment meetings alone, separately or together. The majority of couples attend assessment meetings separately (see table 7.1).

Figure 16: Family mediation assessments, starts and agreements Jan-Mar 2013 to Jan-Mar 2016



It is not possible from the data held by the LAA to track a family's progress through the various stages of mediation. Although the number of mediations reaching each stage within a time period can be reported, it cannot be determined from a given set of assessments what proportion of them led to starts, or what proportion of starts led to agreements.

Nevertheless it appears that, while the number of mediation starts initially fell by a similar proportion to assessments following LASPO, starts have recovered somewhat and are now around 60% of pre-LASPO levels.

Family mediation can be used to resolve issues to do with children or property and finance following divorce or separation, and the 'all issues' category describes mediations which deal with both areas. The children category consistently accounts for the majority of starts, comprising 65% of all mediation starts from April 2015 to March 2016 (this information is taken from the more detailed data published alongside this bulletin).

Mediations can either break down or result in an agreement. Like other areas of mediation agreements fell following LASPO. They have since stabilised at about 60% of pre-LASPO levels (see figure 16).

Mediations in the 'all issues' category can reach full agreement, where agreement is reached on all issues, or partial agreement, wherein an agreement has been reached on either children or property and finance, but not both. As such, successful agreements include both partial agreements and full agreements. Over the last year 62% of all mediation outcomes involved successful agreements. The rate of success varied between different categories of mediation, with the highest proportion of agreements (66%) in the children category (this information is taken from the more detailed data published alongside this bulletin).

Non-family

Following the implementation of LASPO the non-family area of civil legal help has reduced and some areas of law have fallen out of scope.

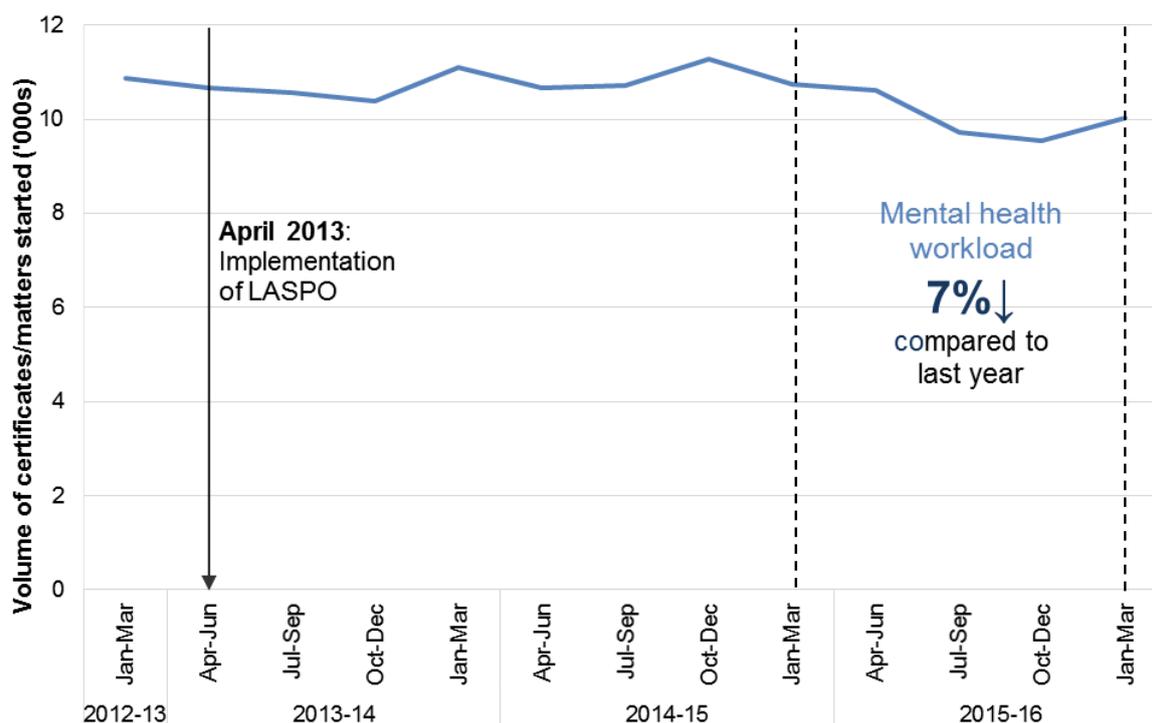
Mental Health

Within mental health the majority of funding is spent on providing assistance to sectioned clients appealing the terms of their detention before a mental health tribunal. Although a distinct level of funding, controlled legal representation, which relates to representation at the Mental Health Tribunal, is here reported alongside legal help.

There is a statutory duty to provide advice and representation in these cases, and they are funded without reference to a client's means. The number of providers carrying out this work is small compared with some other categories. Providers have to travel to discrete NHS and private hospital locations to advise high priority detained clients. More information on mental health tribunals is available on the gov.uk website <https://www.gov.uk/mental-health-tribunal/overview>

Mental health workload increased by 14% over the 2 years to October to December 2014, but fell by 7% when comparing the latest quarter to the previous year (see figure 17). Most of this reduction is due to the exit from the legal aid market of the largest provider of mental health legal help and controlled legal representation in summer 2015.

Figure 17: Workload in mental health, Jan-Mar 2013 to Jan-Mar 2016



Note: workload has been calculated by adding legal help / controlled legal representation matters started and civil representation certificated granted.

Immigration

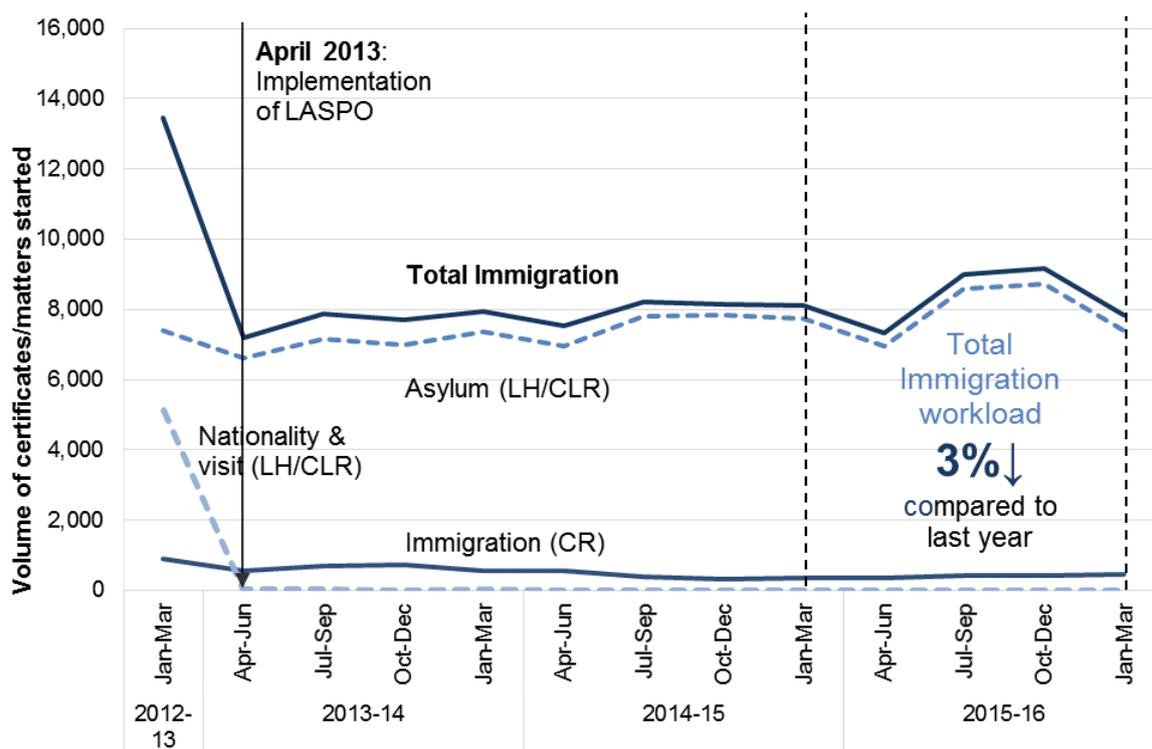
The LASPO Act, which came into effect on 1 April 2013 made changes to the scope of legal aid for immigration law, but some areas remained in scope. These include asylum, immigration-detention, victims of trafficking or domestic violence, and judicial review. Although a distinct level of funding, controlled legal representation, which relates to representation at the Immigration and Asylum Tribunal at the First-tier-Tribunal (FTT) and Upper-tier-Tribunal (UTT), is reported alongside legal help.

The volume of legally aided immigration cases halved between April to June 2012 and April to June 2013.

This fall was primarily caused by the removal from scope under the LASPO Act of nationality and visit visas work. Although this category cannot be separately identified within data on civil representation, legal help and controlled legal representation data show that new matter starts for this type of work fell from more than 5,000 to just a few cases in each quarter following the introduction of the LASPO Act.

The workload that remains in the immigration category consists largely of asylum-related work. Having fallen by 40% over the 5 years to 2013-14, new matter starts in the asylum category stood 3% lower in the January to March 2016 quarter than in the same quarter of the previous year (see figure 18).

Figure 18: Workload in immigration, Jan-Mar 2013 to Jan-Mar 2016



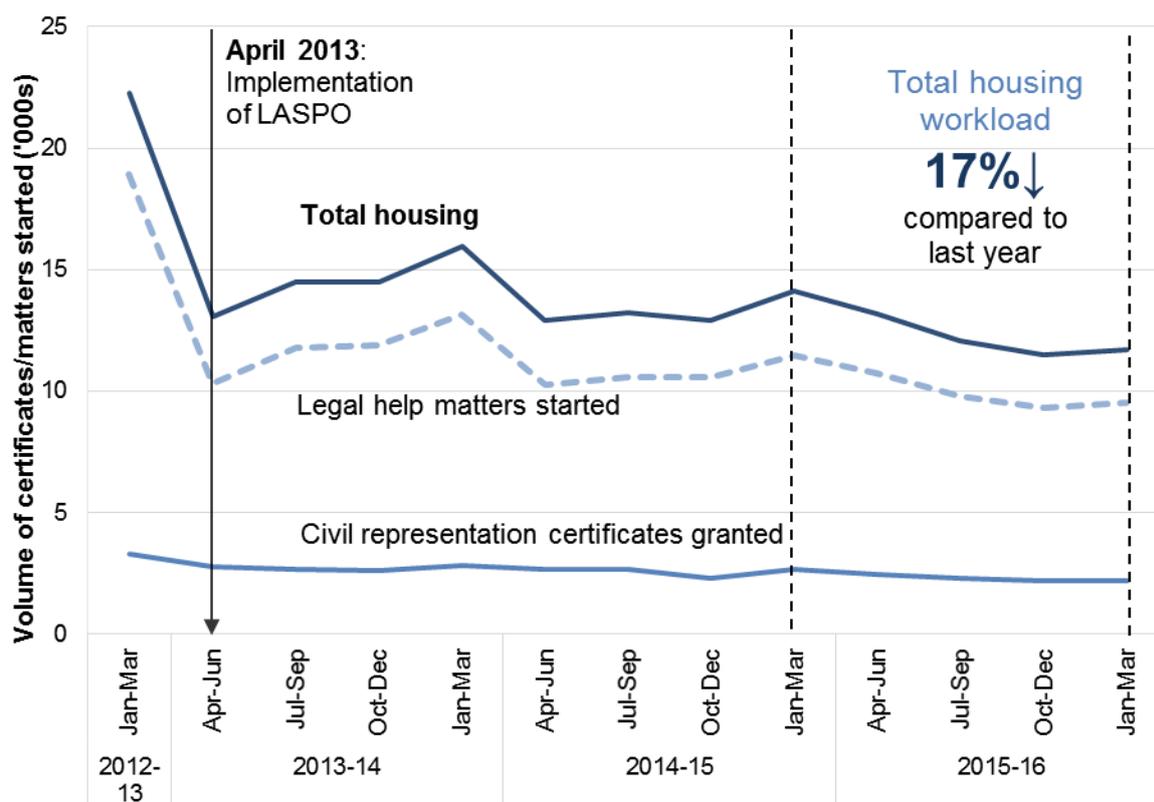
Note: workload has been calculated by adding legal help / controlled legal representation matters started and civil representation certificated granted.

Housing

In April 2013 the LASPO Act made changes to the scope of legal aid for housing issues, but some areas remain in scope. These include cases where there is serious disrepair or homelessness and possession proceedings.

The volume of legally-aided housing cases halved between July to September 2012 and July to September 2013 (see figure 19). In January to March 2016 there was a 17% decrease compared to the same quarter the previous year. Workload figures in this category of law are driven by legal help, which comprises more than 80% of overall housing legal aid volume.

Figure 19: Workload in housing law, Jan-Mar 2013 to Jan-Mar 2016



Note: workload calculated using legal help matters started and civil representation certificates granted.

Other non-family

Figure 20 below shows the civil legal aid workload in areas of law other than family, mental health, immigration and housing. These tend to have much lower volumes of work, with the majority of proceedings within these categories removed from the scope of legal aid by the introduction of the LASPO

Figure 20: Non-family workload: legal help and civil representation, Jan-Mar 2015 to Jan-Mar 2016

	Jan-Mar 2015	Apr-Jun 2015	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016
Actions against the police etc.	699	719	661	659	751
Clinical negligence	56	111	80	114	89
Community care	1,191	1,258	813	819	870
Consumer	0	0	0	0	0
Debt	299	271	196	154	119
Discrimination	423	441	366	268	347
Education	477	436	431	387	476
Employment	2	2	0	3	14
Miscellaneous	78	189	212	174	185
Personal injury	1	12	10	13	2
Public law	520	521	609	649	605
Welfare benefits	75	65	51	65	77
Other Non-family	3,821	4,025	3,429	3,305	3,535

Note: workload has been calculated by adding legal help matters started and civil representation certificates granted. A longer time series for legal help new matter starts can be found in table 5.1 and for civil representation certificates granted in table 6.2.

Civil legal aid subcategories

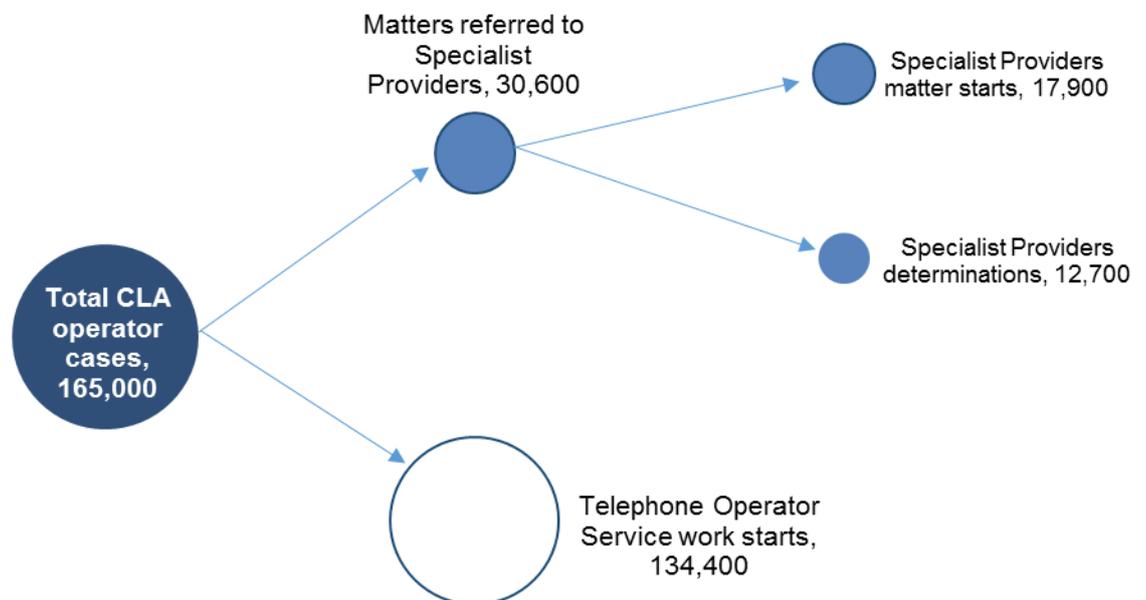
Legal help telephone service

Figure 21 shows the nature of the legal help telephone service. The first point of contact for a client is usually the telephone operator service. This service diagnoses a client's case which, if it is potentially in scope and the client is financially eligible, is forwarded on to a specialist provider.

Between April 2015 and March 2016, 19% of telephone operator cases were referred to the specialist telephone service for advice, where a specialist then assessed whether the matter should be started, or instead determined (for example because it is subsequently deemed out of scope, lacks merits or the client has failed to provide evidence). Those which resulted in a matter being started are included within overall legal help figures in Tables 5.1 – 5.3.

The remaining 81% of cases were dealt with entirely by the operator service. In such instances the client is referred to a face-to-face legal help provider, an alternative helpline or offered self-help resources.

Figure 21: Workload in telephone service, April 2015 to March 2016



Note: Figures have been rounded so may not sum to totals.

Judicial reviews

Legal aid for judicial reviews takes the form of civil representation and can cover all categories of civil law. Applications for legal aid for judicial reviews are made by those requiring assistance in challenging a government decision.

Of all civil representation applications granted, only a small number, fewer than 5,000 a year, relate to judicial review. The number granted in Jan-Mar 2016 was 18% higher than in the same quarter in 2015 and driven by an increase immigration judicial reviews.

The CSV file of more detailed figures published alongside this document additionally includes figures for applications, applications granted, and outcomes (showing whether the case is considered a judicial review).

Figure 22: Judicial Review applications granted by category, Jan-Mar 2015 to Jan-Mar 2016

Category	Jan-Mar 2015	Apr-Jun 2015	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016
Actions against the police etc.	2	4	4	1	1
Community care	132	131	145	129	151
Debt	0	1	0	0	0
Education	5	6	3	4	3
Housing	136	150	142	151	134
Immigration	314	314	385	403	420
Mental health	5	4	2	2	3
Miscellaneous	20	24	15	18	13
Other public law Children Act proceedings	0	6	0	3	1
Public law	208	243	302	284	247
Welfare Benefits	0	3	0	1	1
Judicial Review total	822	886	998	996	974

Applications for civil representation legal aid in private family law cases on the basis of evidence of domestic violence or child abuse

With effect from April 2013, the LASPO Act removed legal aid for most private family law including issues such as contact or divorce. However, legal aid remains available for such cases where there is a risk of domestic violence or child abuse. Applicants are granted legal aid funding for these cases if they can prove the incidence or risk of domestic violence or child abuse through a range of prescribed forms of evidence.

Between 1 April 2013 and 31 March 2016 the Legal Aid Agency received 22,355 such applications. During this same period 14,726 certificates were granted (see Figure 23).

6.8 and 6.9 of the Tables published alongside this report provide detailed figures on this type of application. The majority of applications cite evidence relating to domestic violence. Most of the remainder cite evidence relating to child abuse, but for a minority of applications the evidence category is unknown or unclear from the data held for reporting purposes.

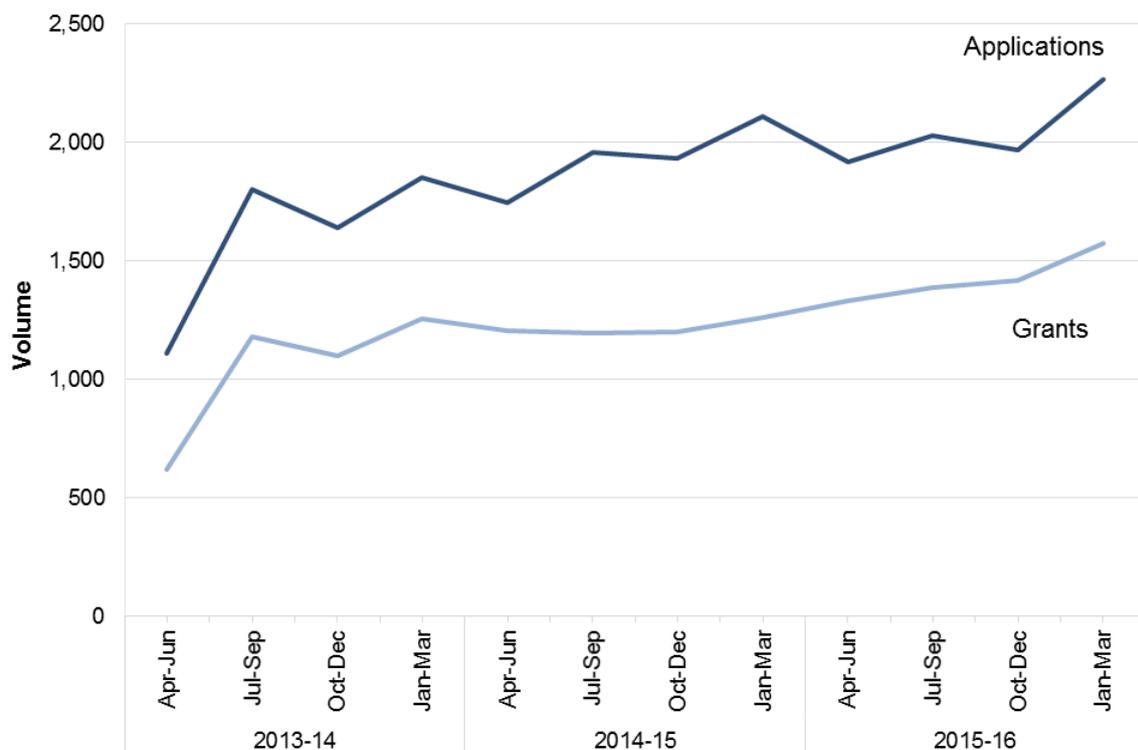
In response to feedback from users, we have introduced a second way of presenting figures on the granting of certificates for civil representation. In the original presentation, grants are shown against the period in which the decision was made and recorded (see table 6.9) – this can be referred to as ‘decision-based timing’. In the newer presentation, grants are also

shown against the period in which the application to which they relate was made – this will be referred to as ‘application-based timing’ (shown alongside applications in table 6.8). Each way has advantages and disadvantages for the user: the former shows more accurately the timing of new workload entering the system, while the latter enables the calculation of the proportion of applications in a given period that were granted. We would welcome further feedback from users on this addition via the contact details in Annex A.

There has been a steady upward trend both in applications and numbers of certificates granted, with the number granted during January to March 2016 (on decision-based timing) 25% higher than the same period of the previous year (see table 6.9).

The proportion of applications granted has remained steady at around 70% since the inception of this type of application, with the latest quarter at 73% (see table 6.8).

Figure 23: Applications, and certificates granted (decision-based timing) for civil representation legal aid in private family law cases on the basis of evidence of domestic violence or child abuse, Apr-Jun 2013 to Jan-Mar 2016



Exceptional case funding

Under some circumstances clients can get civil legal aid even though their case is not in scope. This is known as Exceptional Case Funding (ECF) and these cases are dealt with by an ECF team within the LAA. See Tables 8.1 and 8.2 for detailed figures on ECF.

The ECF scheme was introduced from 1 April 2013 as part the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO).

An ECF application for civil legal services is made where a case falls outside the scope of civil legal aid but the client or conducting solicitor believes there is a requirement to provide funding. This is because failure to do so would be a breach of the Human Rights Act 1998, or any rights of the individual to the provision of legal services that are enforceable EU rights.

An ECF determination can generally only be granted if:

- the means criteria are met (this relates to the client's financial eligibility), and
- the standard legal aid merits criteria are met (this relates to the likelihood of the client being successful), and
- the exceptional case criteria detailed above are met.

There is discretion to waive the means eligibility limits relating to inquests if, in all the circumstances, it would not be reasonable to expect the family to bear the full costs of legal assistance at the inquest. This will depend on factors such as the history of the case, the applicant's assessed disposable income and capital and the estimated costs of providing representation.

More information on the means and merits criteria can be found on the gov.uk website <https://www.gov.uk/work-out-who-qualifies-for-civil-legal-aid>

Unlike other legal aid applications, clients can make ECF applications directly to the LAA. If the ECF application sent directly by the client is assessed as being eligible for ECF funding, their application may be granted subject to them finding a legal aid provider to act for them. As a result of litigation discussed later in this chapter, a client can now be awarded a grant straight away whereas prior to 27 July 2015 this decision was only preliminary (termed a positive preliminary view or 'PPV').

More information on ECF and the procedure for applying as an individual can be found on the gov.uk website <https://www.gov.uk/legal-aid-apply-for-exceptional-case-funding>

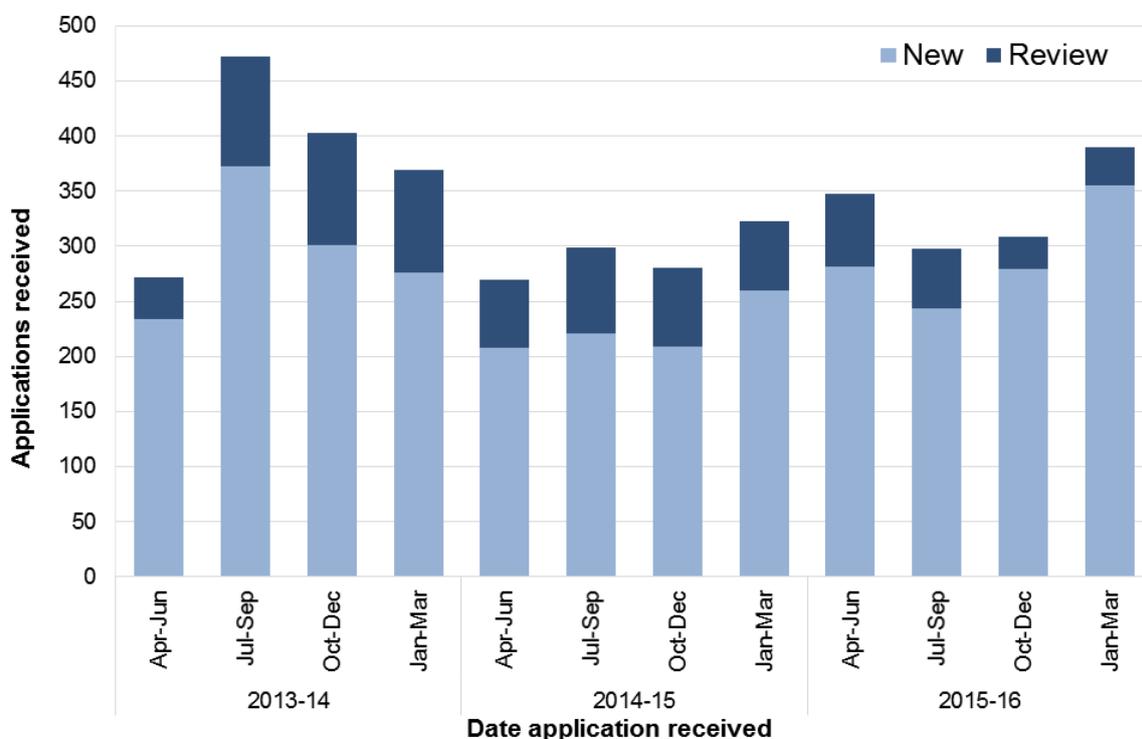
Applications

There were 390 applications for ECF received between January and March 2016. This is over a fifth higher than the number received during the equivalent period of 2015, and the highest in a singular quarter since Oct-Dec 13.

91% of ECF applications received from January to March 2016 were new. The remaining 35 applications were re-submitted for review; this is a case which has previously been rejected or refused ECF funding and has been resubmitted by the client for reconsideration. The proportion of applications received this quarter which were reviews is the joint lowest it has

ever been, the same as last quarter (see Figure 24). This may be a result of the increasing proportion of applications that have been granted in recent quarters.

Figure 24: Volume of ECF applications received, new or review, Apr-Jun 13 to Jan-Mar 16.



For the 355 new applications, the average turnaround time for assessment during January to March 2016 was 13 working days, against a target of 20 (see figure 25). The average turnaround time for reviews in this period was 8 working days, against a target of 10. These figures do not take into account recent changes to targets for specific application types⁵.

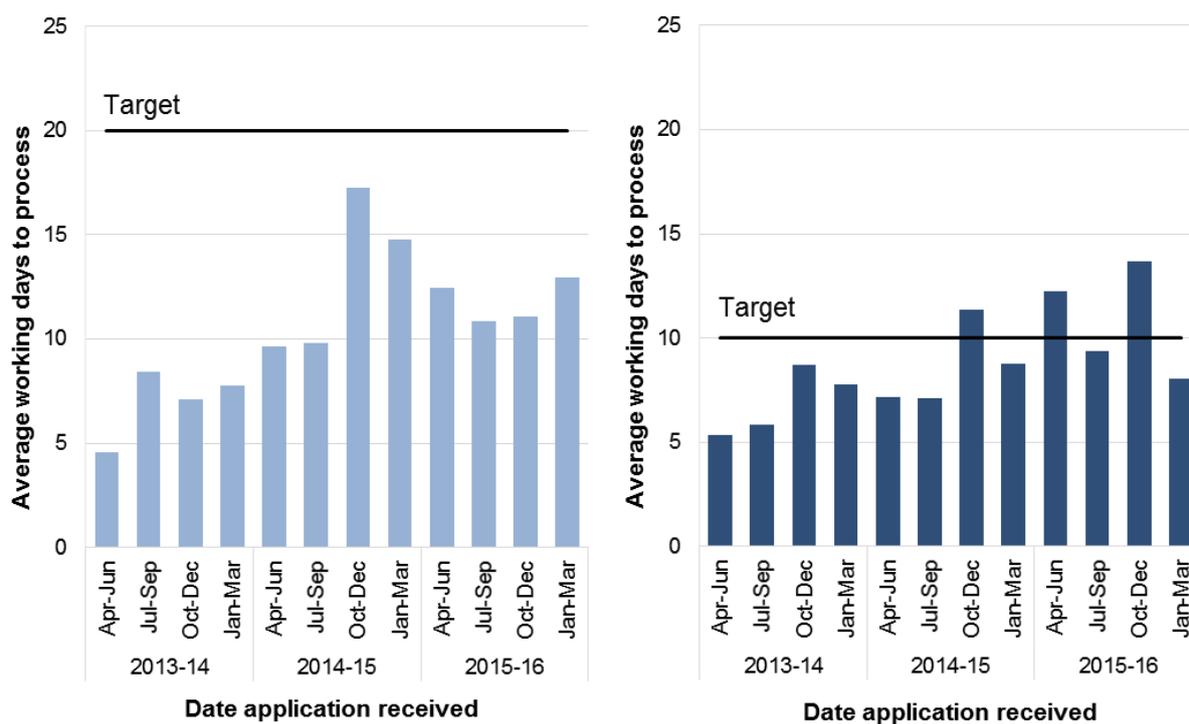
The average turnaround time excludes cases currently awaiting assessment as of 31 May 2016.

The turnaround time for each ECF application starts on the date it is received by the LAA ECF team and finishes on the day a decision over the case is made. This excludes weekends, bank holidays and time spent waiting for further information from the applicant. This might be financial information to support the means assessment, for example.

This quarter, 70 ECF applications (18%) were made directly by the client, which is the highest proportion in a quarter since the scheme began and double the proportion this time last year. The remaining 320 applications (82%) were submitted by legal aid providers. The increased volume of direct client applications may be a result of simplifications brought in to the ECF application form, implemented in response to the judicial review mentioned below.

⁵ As a result of the Judicial Review, certain cases may be treated as urgent with shorter targets.

Figure 25: ECF application turnaround time, new and review, Apr-Jun 13 to Jan-Mar 16.



Determinations

Applications that are not withdrawn by the client can receive three different determinations: rejected, refused or granted (PPV if submitted by an individual prior to 27 July 2015). For an application to be granted it must meet the three appropriate criteria detailed at the beginning of the chapter. Applications may be refused if they do not meet these criteria.

Rejected applications differ in that they do not get to the stage where they would be assessed against the means and merit criteria. This will be because they are either:

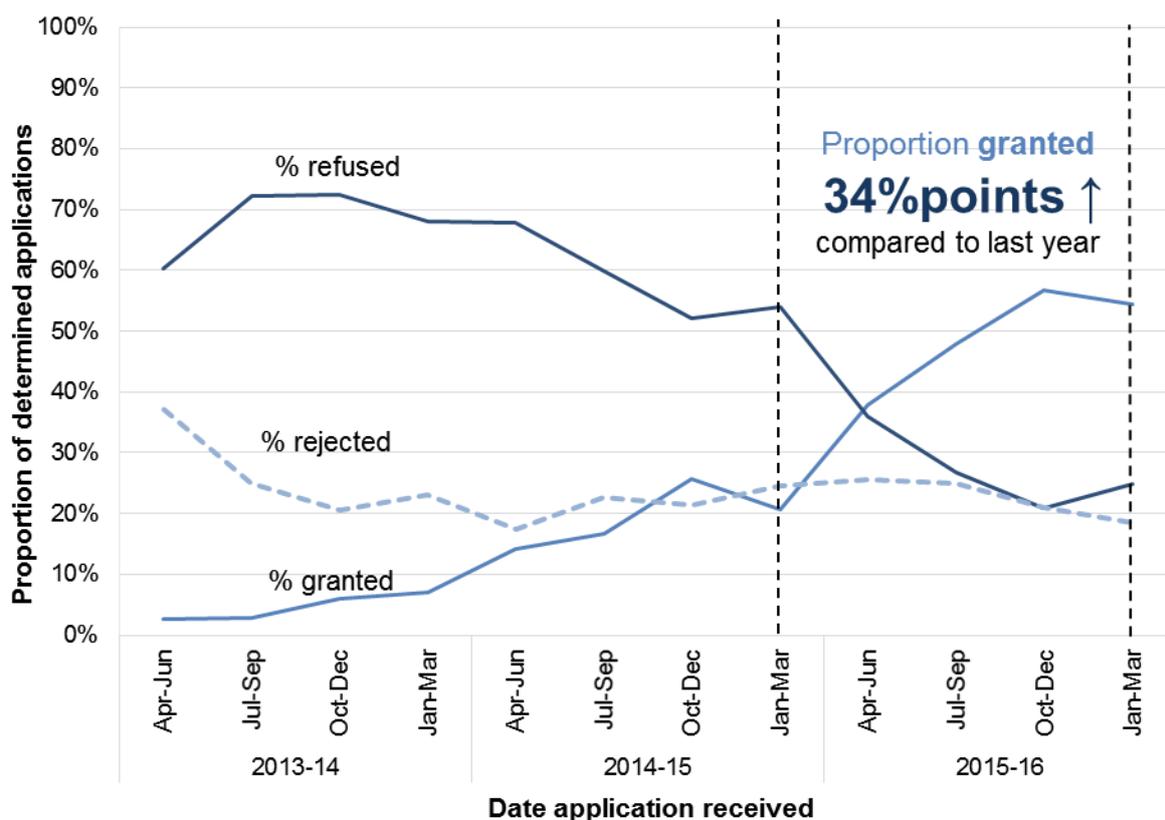
- in scope (eligible) for legal aid,
- an incomplete application, or
- “other” which encompasses issues such as the timeliness of submission and eligibility for review

Of the 390 ECF applications received between January and March 2016, 370 (95%) were determined by the LAA as of 31 May 2016, with the remaining 20 awaiting assessment. A further 20 applications remain awaiting a determination from earlier quarters.

The number and proportion of ECF applications being granted has generally been increasing since the scheme was first introduced in April 2013 (see figure 26). Between January and March 2016, over half of all applications that were determined by 31 May 2016 were granted (54%). This is slightly lower than last quarter, although this may increase with subsequent revisions when the awaiting applications are determined. This is 34 percentage points higher than the proportion granted in the same period of last year.

In this same period, a quarter of applications were refused and just under a fifth were rejected. The number and proportion of ECF applications being refused has generally been falling since 2013, while rejections have remained relatively steady.

Figure 26: ECF determinations by outcome, Apr-Jun 2013 to Jan-Mar 2016.



Changes in relation to court judgements

On 13 June 2014, judgment was handed down in the case of *Gudanaviciene and others v Director of Legal Aid Casework* [2014] EWHC 1840 (Admin). The claimants, who were each seeking to challenge various immigration decisions, argued that they should have been granted legal aid under the exceptional case funding regime. The court found that the level required to justify legal aid was set too high and as a result the threshold for meeting the ECF merits criteria for immigration cases was lowered.

On 15 July 2015, judgement was also handed down in the case of *IS*; a judicial review challenging the operation of the ECF scheme. The court found that there was “unacceptable risk” that the ECF scheme was not able to provide legal aid in those instances where failure to do so would be a breach of the Human Rights Act 1998, or any rights of the individual to the provision of legal services that are enforceable EU rights, and that the Civil Legal Aid (Merits Criteria) Regulations 2013 were unlawful. This judgement was appealed at the Court of Appeal in March 2016. In May 2016, the court upheld that the LAA regulations were

lawful, contrary to the initial judgement. This does not affect the published period, where applications with a 'poor' or 'borderline' prospect of success would have been considered for funding. The impact of this may have contributed to the high volume of grants this quarter.

Applications and determinations by category of law

Of the ECF applications received between January and March 2016, immigration (40%), family (28%), and inquest (16%) remained the most requested categories of law (figure 27).

Over the past year, the number of inquest applications as a proportion of the total received has decreased, whereas immigration applications have increased.

The impact of the first court judgement discussed above can be seen in the figures, with a much higher proportion of ECF immigration applications granted since that judgement (see table 8.2). Almost three quarters of all immigration applications from January to March 2016 were granted, the highest proportion for any category of law.

Figure 27: ECF determinations by category of law, Jan-Mar 2016.

Category of law	Awaiting	Granted	Refused	Rejected	Withdrawn	Total
Immigration	1	115	19	19	2	156
Family	2	46	39	21	1	109
Inquest	13	35	10	3	1	62
Other	3	3	20	22	5	53
Housing/Land Law	1	1	3	2	0	7
Welfare Benefits	0	1	1	1	0	3
Grand Total	20	201	92	68	9	390

Appeals and representations

Appeals

There are two main types of appeal relating to decisions on the award of public funding for legal aid: funding appeals and cost assessments.

Funding Appeals

These are appeals against determinations made by the LAA. They include reviews and full appeals against determinations on whether a client qualifies for legal aid, scope decisions or the extent of funding granted for a case.

For civil representation, individuals have the statutory right to formal review by LAA on financial (means) or legal (merits) grounds for all decisions. Some decisions also carry the further statutory right to appeal if the result of the internal review is deemed unsatisfactory. This right to appeal simply applies for legal grounds; means decisions only carry the right to review.

The civil representation funding appeals process begins in the first instance with an internal review which must be submitted within 14 days of the determination notification. If the original decision is upheld and the individual is still not satisfied, then they may have their case referred to an Independent Funding Adjudicator (IFA) if eligible. Decisions which involve means or whether a case is within scope do not have right of appeal.

The IFA is required to consider the appeal and return their recommendation. The verdict of the IFA is binding on the LAA in certain issues regarding appeals of decisions about whether the client qualifies for legal aid. These include assessments on the prospect of success and the calculated ratio of costs to benefits of the proceedings.

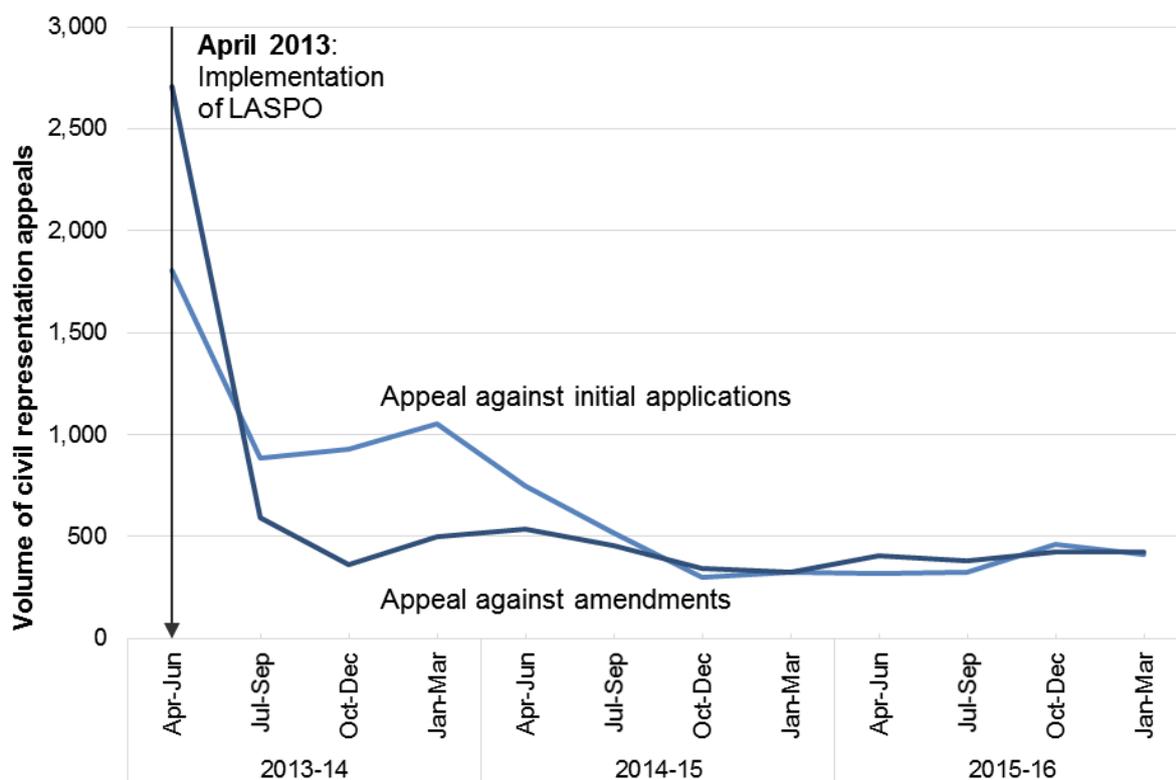
Figures in this bulletin include volumes of legal appeals against initial civil representation applications and civil representation amendments. Data are available on the category of law of the certificate that is being appealed, and the outcome of this appeal. Figures are published against the date the final decision was made by the LAA.

As figure 28 illustrates, volumes fell sharply as a result of LASPO, which caused civil representation volumes in general to drop (Figure 13). There were 11% fewer total civil representation legal appeals in 2015-16 compared to 2014-15. However, since October to December 2015, total civil representation appeals have been slowly increasing; the volume of appeals in January to March 2016 was 29% higher than the same quarter in 2015.

37% of appeals against decisions on initial applications for civil representation in relation to family cases were granted in 2015-16. The equivalent figure for non-family applications was 10%. For amendments, the proportion of appeals granted was 36% for family cases and 37% for non-family.

The family category for which the highest proportion of appeals against decisions on initial applications were granted was Special Children Act cases (87%). The most common type of appeal against an initial application was for Private Law Children Act Proceedings, where 27% were granted.

Figure 28: Volumes of legal appeals against decisions on civil representation initial applications and appeals, Apr-Jun 2013 to Jan-Mar 2016.



More detailed figures for appeals against civil representation determinations are provided in Table 10.1, where appeals against initial applications are broken down by category of law. Corresponding figures on appeals against amendments can be found in the CSV file of more detailed data file published alongside this bulletin.

Cost assessment

Also known as a billing appeal, this is where a legal aid provider wishes to appeal the decision of the LAA relating to the cost of contract work, and so may submit an appeal for a costs assessment. In a similar process to funding appeals, the matter will first go to internal review and then it may be referred to an Independent Costs Assessor (ICA) who may decide to confirm, increase or decrease the amount assessed. These data are recorded on a National Appeals tracker as the current data systems do not capture this information reliably. It is hoped that future publications may be able to include figures in this area.

Interests of Justice (IOJ) appeals

There are two stages of IOJ appeal; administrative in the first instance and then judicial review. If the administrative IOJ appeal is refused, applicants have the right to further appeal through a judicial review which is referred to the Magistrates' court for consideration. There may be multiple administrative appeals but the judicial review result is final. Figures on IOJ appeals have not been included in this publication but may be requested.

Representations

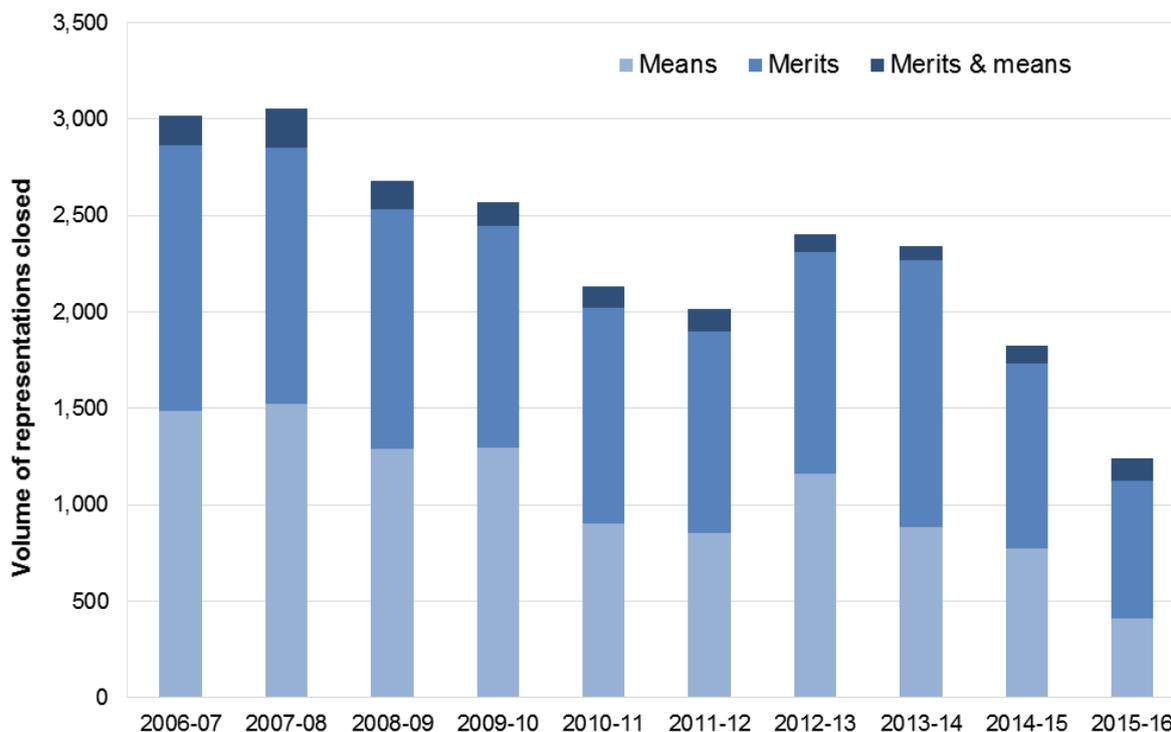
When legal aid funding is granted to an individual, their opponents or other third parties may make representations against the grant of legal aid or continuation of funding.

Representations may be made concerning the legal merits of the case, the financial means of the applicant, or both. Detailed figures are presented in Table 10.2, with further detail published in CSV format alongside this bulletin.

The representations process may be lengthier than the appeals process, as some cases require collating large amounts of evidence. Where the result of the representations decision is that a certificate is withdrawn, this determination may be subject to appeal to IFA.

The volume of representations closed out in 2015-16 was 32% lower than in the previous year (Figure 29). 33% of the closed representations concerned the financial means of the applicant, 57% were regarding the legal merits of the case and the remaining 9% were for both.

Figure 29: Volume of representations closed out in the given financial year, by type, 2006-07 to 2015-16.



Legal aid providers

Legal aid services in England and Wales are delivered through solicitor firms, Not-for-Profit organisations, telephone operators and barristers who are contracted by the LAA to do legal aid work. The legal aid schemes require various types of contract covering different types of work. To find a provider with an active contract in your area, follow this link, <http://find-legal-advice.justice.gov.uk/>

This chapter presents the number of providers who have completed work and received associated payments from the LAA in any given quarter or financial year, rather than the number of providers who hold contracts to provide legal aid. The intention of this is to focus on numbers of active providers and on how legal aid work is distributed among them, and so enable analysis of the legal aid market.

A provider may consist of a large firm with several offices around the country or a single office location at which one or more individuals are based. The primary unit used in this section is the provider office. For many advocates and some others this will in fact mean a single individual. This is the unit by which most billing and payment for legal aid work is conducted, and these are the administrative processes from which the statistics in this chapter are derived.

User consultation response

In the previous Legal Aid Statistics bulletin we asked users to share with us their views on the provider section in particular. We heard from two legal aid provider firms, two provider representative bodies and colleagues from around the MoJ and LAA. We have also taken into account user feedback received prior to this specific consultation period. The following is a summary of the views expressed and our responses:

- Most respondents felt that the introduction of the provider section had been a valuable addition to the statistics, but that it could be made more valuable with some changes.
- Most respondents welcomed the inclusion of provider names alongside the figures, as enabling further analysis of the market and enhancing the transparency of the legal aid system. One group of users was concerned however that, for certain areas of civil law, the inclusion of provider names could increase the likelihood that costs could be linked to individual cases and that this could put providers and clients at increased risk of receiving unwanted attention or harassment. In response, we have included provider names in the more detailed dataset published alongside this bulletin to enhance the value of the statistics but, within the figures on workloads, individual cells with small numbers of cases have been suppressed to mitigate the risk described.
- Some users emphasised the importance that the expenditure figures in the provider section should be accompanied by clear explanation to avoid any misunderstanding that they represent providers' net income or 'take-home' pay. On a related point, one group of users wanted the VAT element of payments to providers separately identified for criminal advocates. In response, in this edition we have broken down expenditure on payments to providers in more detail as described later in this chapter. This includes showing VAT separately in payments to criminal advocates in the more detailed provider dataset.

- Several users said that the value of the provider section would be enhanced by the addition of a local authority level geographic breakdown as this would facilitate comparison with other related statistics. We agreed, and in this edition we have added a local authority breakdown to the more detailed provider dataset.
- One group of users asked that the tables and the more detailed dataset include more detailed breakdowns of the areas of the legal aid system in which providers are working. In response in this edition we have increased the detail shown on providers of criminal legal aid in table 9.1 and added Tables 9.3 and 9.4 to present more detail on numbers of providers working in civil representation and legal help respectively. We will continue to look at ways of publishing more detailed data in future.
- Some users asked that the frequency with which statistics on legal aid providers is published be increased. We will take this into account in prioritising our resources.

Tables 9.1 to 9.4 present summary figures and alongside these a CSV file with more detailed data published alongside this bulletin provides, at the provider office level, the name and category of each provider, the volume of each type of legal aid work completed in each quarterly period and the associated expenditure.

In this edition we have increased the detail provided on expenditure associated with for civil legal aid, with the total amounts broken down into on disbursements, counsel fees, solicitor profit costs and, if applicable, the portion of the cost that was met by the opponent. In criminal legal aid, alongside the total amount paid, expenditure is further broken down by total VAT element, disbursements, counsel and litigator expenditure.

Data from a variety of sources held by the LAA was combined to produce these statistics. For more information on data sources, quality and usage can be found in the User Guide to Legal Aid Statistics.

The timing with which a completed piece of work and the total payment, or expenditure, associated with it are reported are based on the point at which the final payment for that piece of work was authorised by the LAA.

This means that the figures for a given period may include the value of work conducted in earlier periods, and similarly the value of any work that providers may have undertaken during the period on cases which have not yet completed will not be included. It is important to consider this when using these statistics because many more complex pieces of work, for example in Civil Representation or the Crown Court, can last for several years.

The expenditure presented in these statistics represents total legal aid fee payments. It is not equivalent to providers' profits, earnings or take-home pay. Most providers must pay taxes such as VAT and meet professional costs and other overheads, similar to businesses and self-employed individuals in many other industries. All providers listed in this analysis are included because they completed and were paid for at least some legal aid funded work in the period covered. Any provider may work full-time on legal aid funded work, may combine it with other work not covered by these statistics, such as private work, or otherwise work part-time. The figures exclude payments to the named firm in some instances where the claim included work undertaken by others on their behalf.

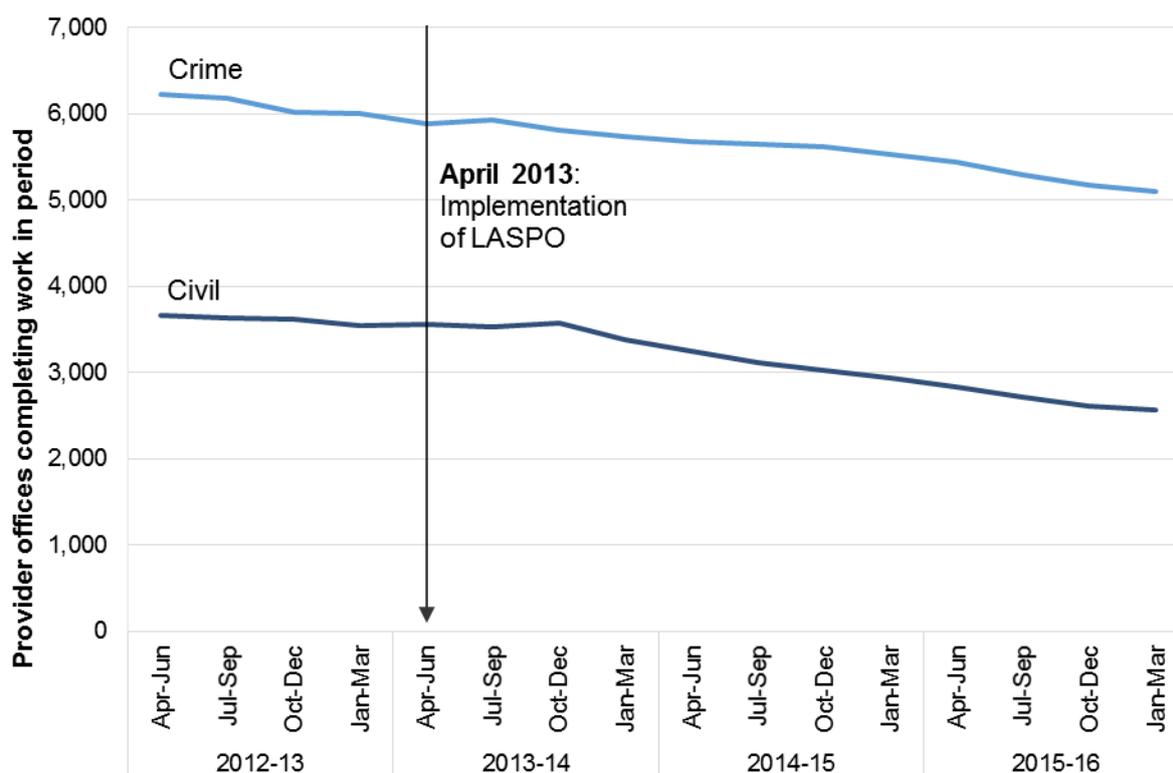
The amount attributed to an advocate may include payments subsequently made to other advocates as remuneration for work carried out on behalf of the named advocate. Likewise, the figures exclude payment to an advocate when they have carried out work on behalf of an instructed colleague. This Instructed Advocate scheme is designed to allow the lead barrister being paid control of the case and fee. There are scenarios where the Instructed Advocate may have no control of the case and fee, for example when the legal team is changed, and although they ultimately make the claim the proportion of the fee they received can be small.

Payments are made only after the claims are scrutinised and possibly adjusted leading to payments in a different financial year subsequently and payments to a provider office may include recoupments against previous payments leading to an overall negative payment.

All providers

Figure 30 shows the number of provider offices who have received claim expenditure from the LAA for work done between April to June 2012 and January to March 2016. It shows a gradual fall in the number of provider offices for both crime and civil work, although the fall has been greater for civil (down 13%) than for crime (down 8%) when comparing the latest quarter to the same quarter a year ago.

Figure 30: Civil and crime provider offices Apr-Jun 2012 to Jan-Mar 2016.



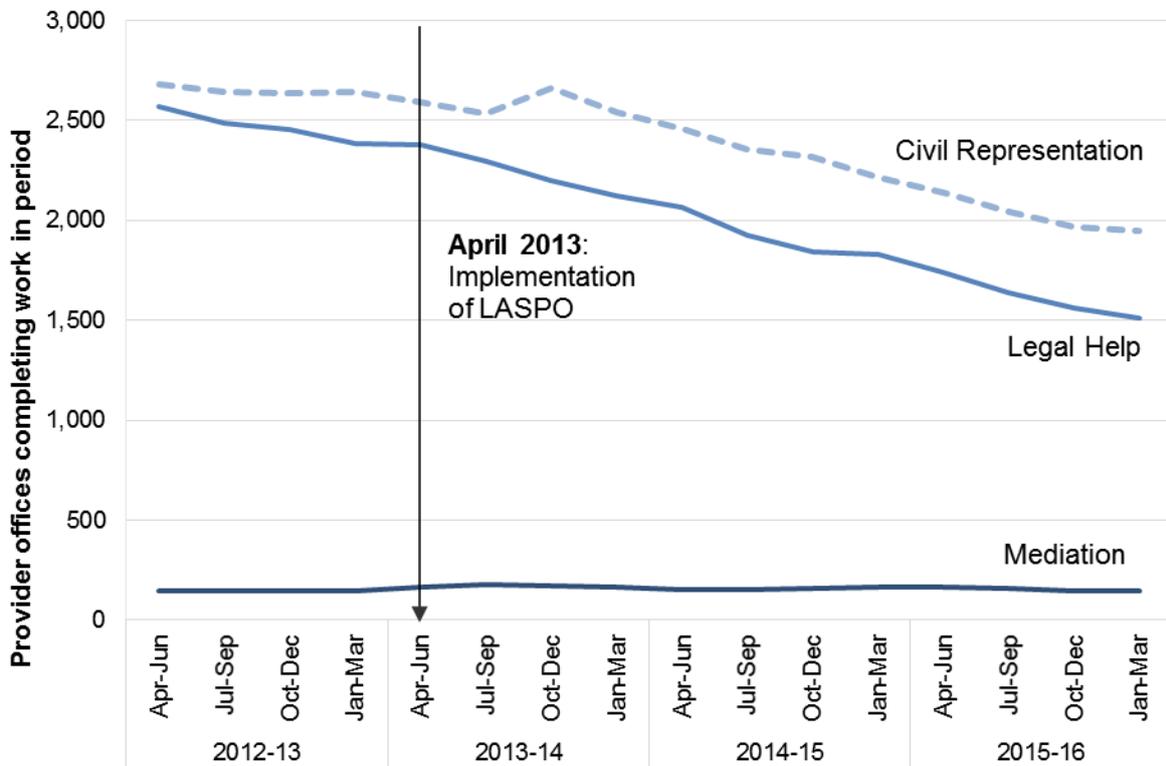
Civil providers

The large majority of civil provider offices are solicitor firms and the remainder are Not-for-Profit organisations. Their legal aid work comprises legal help, mediation and civil representation.

Figure 31 shows that numbers of solicitor firm provider offices completing legal help and civil representation work began falling before the introduction of the LASPO Act and this trend has continued since then. The number of provider offices completing mediation work has increased over the two years following the LASPO Act but has declined in the last financial year.

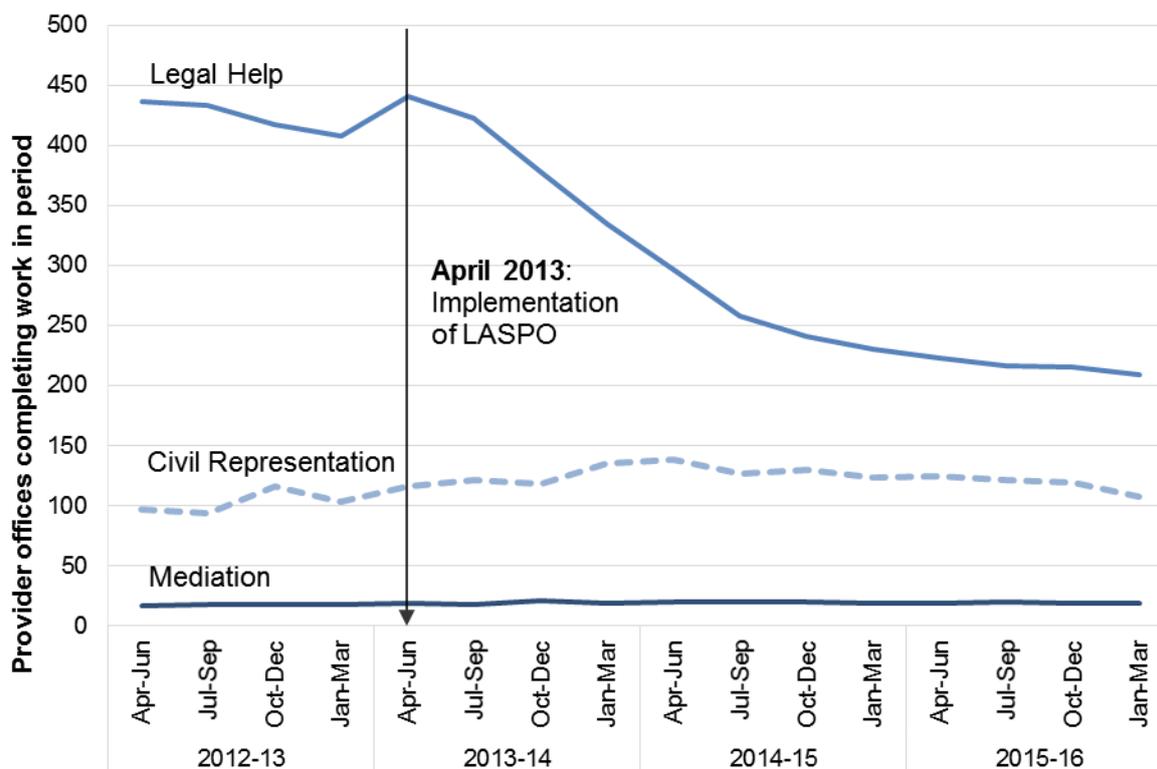
These trends in provider numbers broadly match the trends in workload shown in the civil legal aid chapter of this bulletin.

Figure 31: Number of Solicitor firm provider offices by category of civil legal aid work, Apr-Jun 2012 to Jan-Mar 2016.



The number of Not-for-Profit providers working in legal help has followed a similar downward trend over the last four years but in contrast the number providing civil representation has increased slightly following the LASPO Act but has declined in the last two financial years (Figure 33).

Figure 32: Number of Not-for-Profit provider offices by category of civil legal aid work, Apr-Jun 2012 to Jan-Mar 2016.

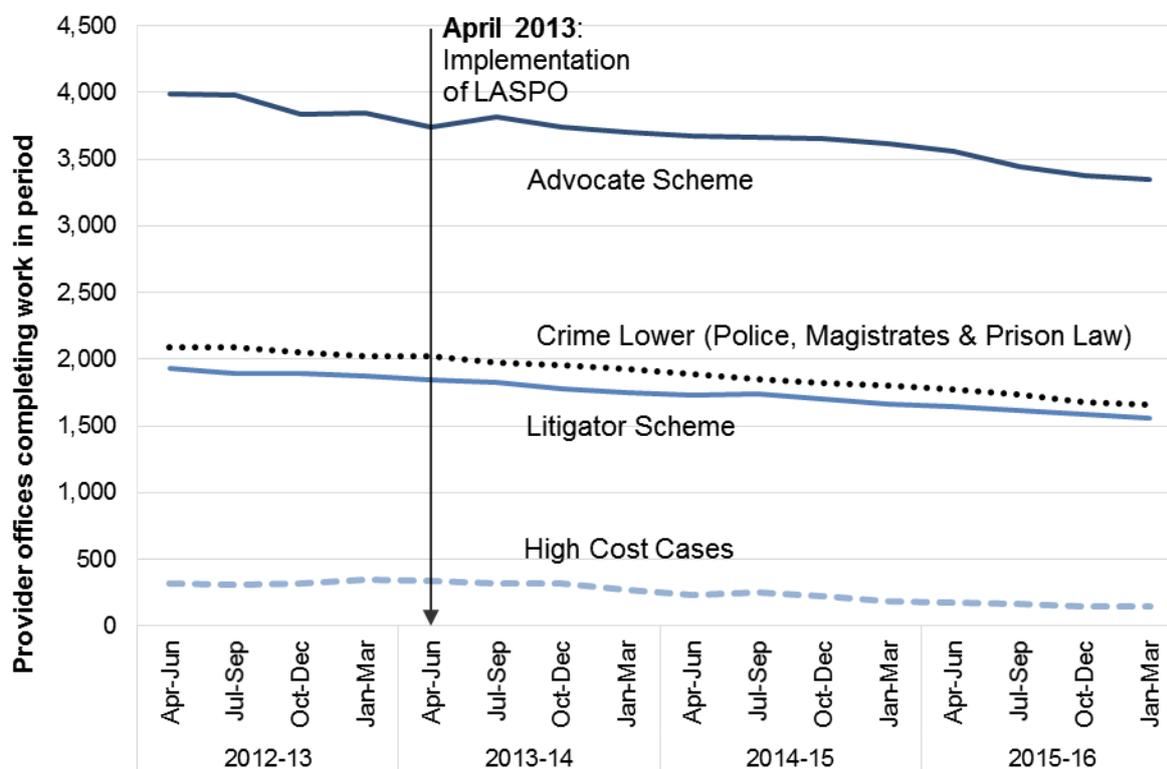


Crime providers

The schemes through which criminal legal aid is provided are the Advocate Graduated Fee Scheme (covering barristers and higher solicitor advocates), the Crime Lower scheme (covering police station work, magistrates' court and prison law), the Litigator Graduated Fee Scheme (for solicitor firms) and finally the high cost cases scheme for the Crown Court covering both solicitor firms and advocates. Where payment is made under the non-panel agreement to an advocate this expenditure is assigned to the firm under contract and not the advocate.

For crime overall there has been a steady but gradual downward trend in numbers of provider offices completing work, with an 18% fall between April to June 2012 and January to March 2016. This has been fairly similar across all criminal legal aid schemes (see Figure 33).

Figure 33: Number of provider offices by category of criminal legal aid work, Apr-Jun 2012 to Jan-Mar 2016.



Providers by region

All figures provided in the publication on the geographic breakdown of legal aid are based on the provider office location and not the location of the client. A provider may serve clients from other geographic areas as well as that in which the office is located.

Figures for further breakdowns of completed work and expenditure by area of law and local authority area are available from the more detailed provider data. Particular caution should be exercised when interpreting the geographic distribution shown in this data because it reflects only the location of the provider office. This means that it cannot be used as a reliable indicator of the distribution of the clients or benefits of legal aid, or to infer a precise picture of coverage of legal aid services. This is especially true at the more detailed local authority area breakdown. For example, although figures can be used at the regional level to show volume and expenditure on work done by providers based in Wales, it cannot be used to infer a detailed picture of local provision or coverage of legal aid services within Wales, or a precise measure of the proportion of legal aid funding that is spent in Wales.

The four maps below (figures 34 – 37) show the number of civil provider split between solicitor firm and Not-for-Profit organisation and the number of litigator and advocate crime providers for the latest financial year, together with the change since the previous year.

Figures 34 – 37 show that across the 4 different types of provider office, most are concentrated in regions of high population. Looking at the year-on-year change in each region, the downward trends in provider numbers shown above appear fairly evenly distributed across the 12 regions.

Figure 34: Number of solicitor firms in England and Wales who received payment for civil work completed during 2015-16

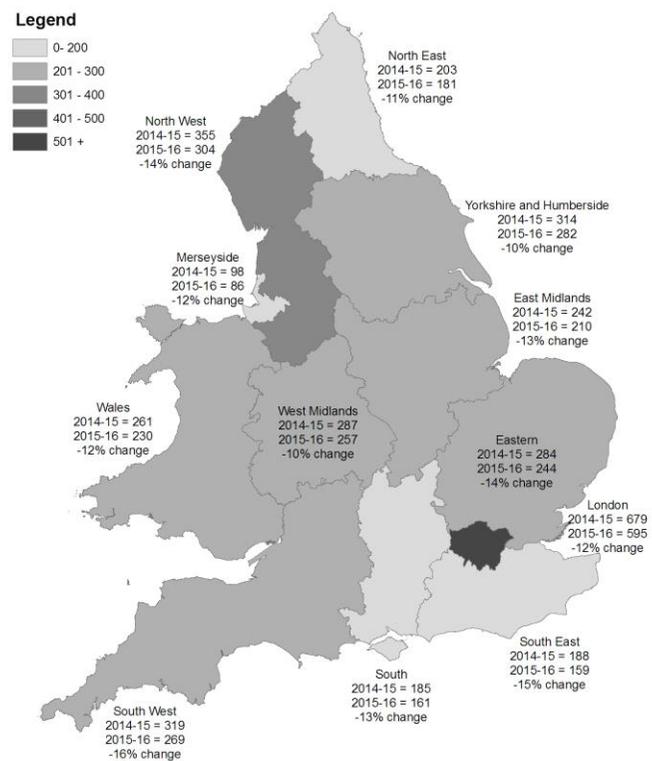


Figure 35: Number of Not-for-Profit organisations in England and Wales receiving payment for civil work completed during 2015-16

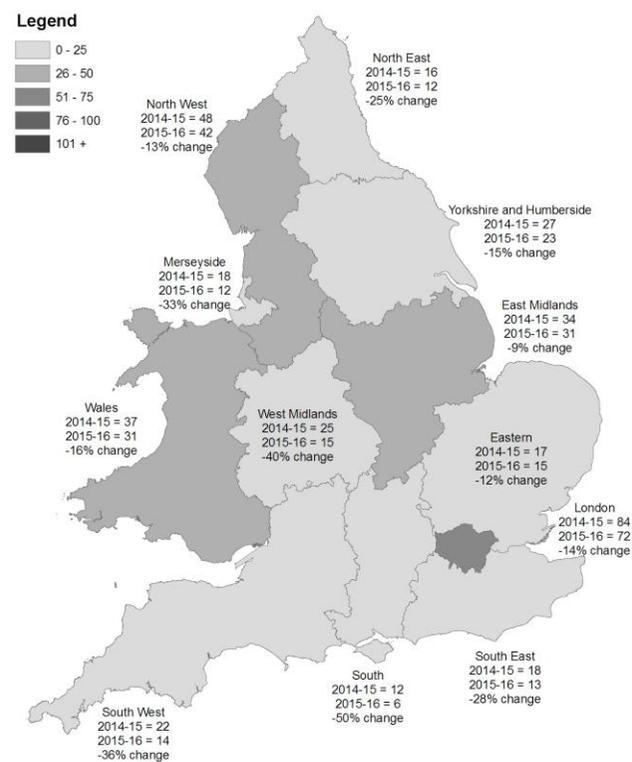


Figure 36: Number of litigators in England and Wales who received payment for criminal work completed during 2015-16

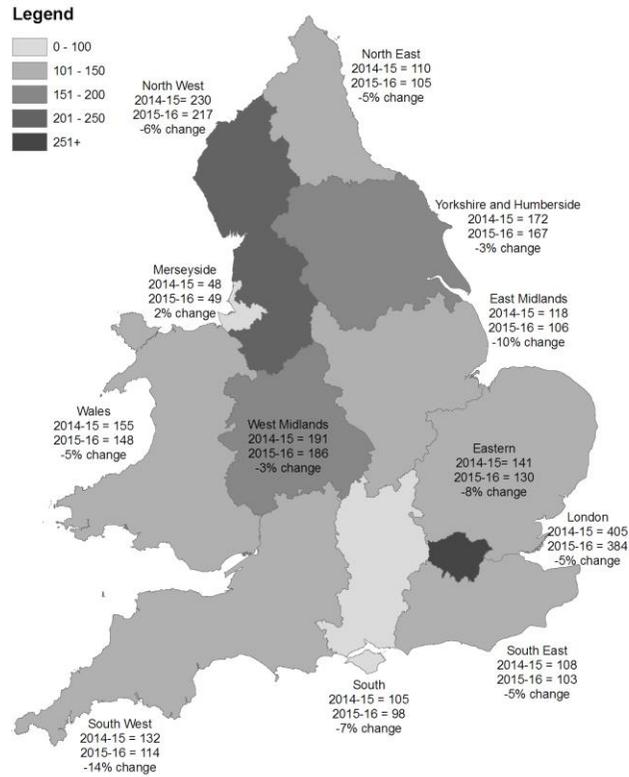
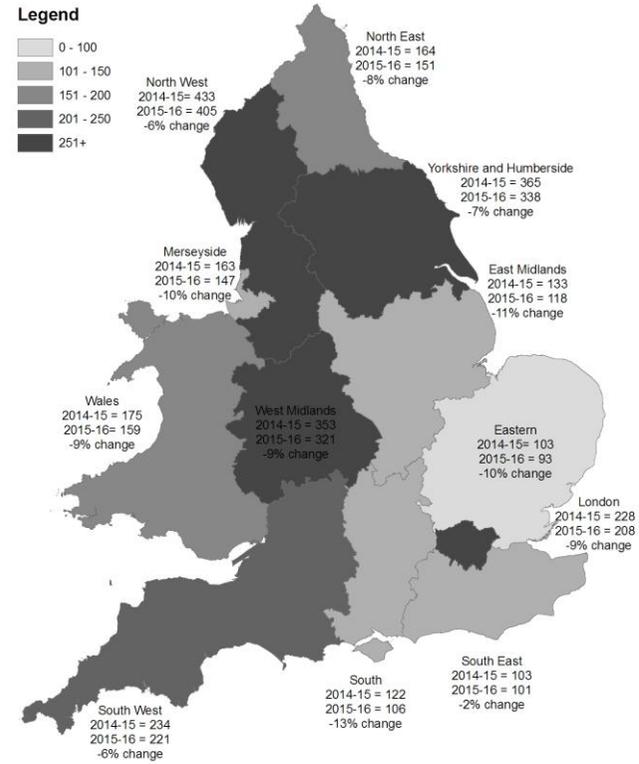


Figure 37: Number of advocates in England and Wales who received payment for criminal work completed during 2015-16



Client characteristics

Client characteristics

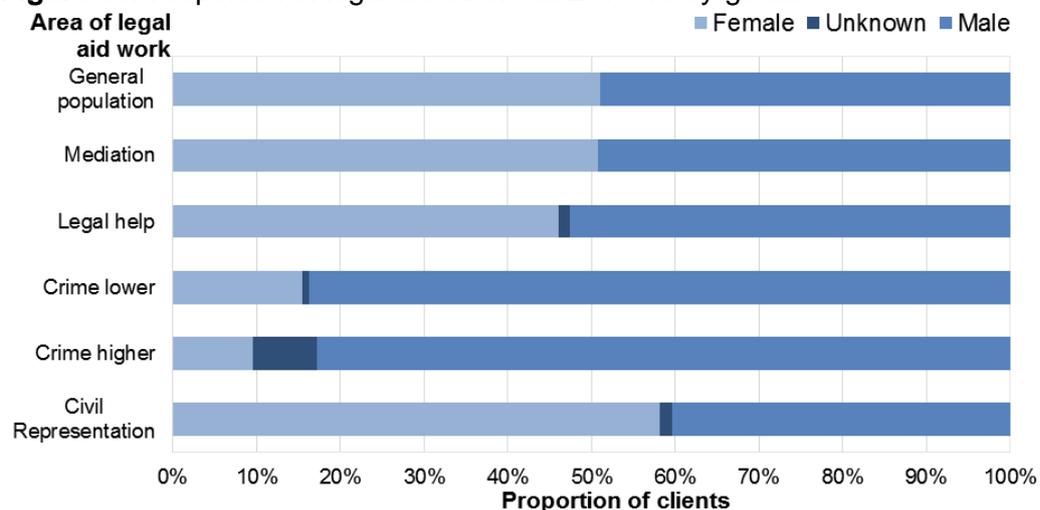
The charts below show the breakdown of client protected characteristics for all areas of legal aid, compared with the national breakdown from the 2011 census data from the Office for National Statistics⁶. This information is provided against the date the case was closed for all areas except for crime higher and magistrates' court age, which use the date the legal funding was granted. Mediation characteristics are for those clients who received full mediation only, not MIAMs.

Gender

The gender profile of criminal legal aid clients in 2015-16 differs from the national profile with a much greater proportion of male clients (Figure 38). This reflects the picture across the criminal justice system as a whole⁷ and has been consistent throughout the past 4 years for which data are published. The only change has been the proportion of unknowns in Crown Court data decreasing.

The gender profile of civil legal aid clients in 2015-16 broadly matches the general population for mediation and legal help. Civil representation clients have a slightly greater proportion of female clients (58%). Between 2012-13 and 2015-16, the proportion of female legal help clients has been decreasing slightly comparative to male clients (down 8 percentage points over 4 years).

Figure 38: Proportion of legal aid clients in 2015-16 by gender



⁶ Unrounded estimates of the usually resident population by age and sex, along with household estimates on census day, 27 March 2011

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/2011censuspopulationestimatesbysingleyearofageandsexforlocalauthoritiesintheunitedkingdom>

⁷ MOJ, Criminal Justice statistics quarterly: <https://www.gov.uk/government/organisations/ministry-of-justice/series/criminal-justice-statistics>

Disability

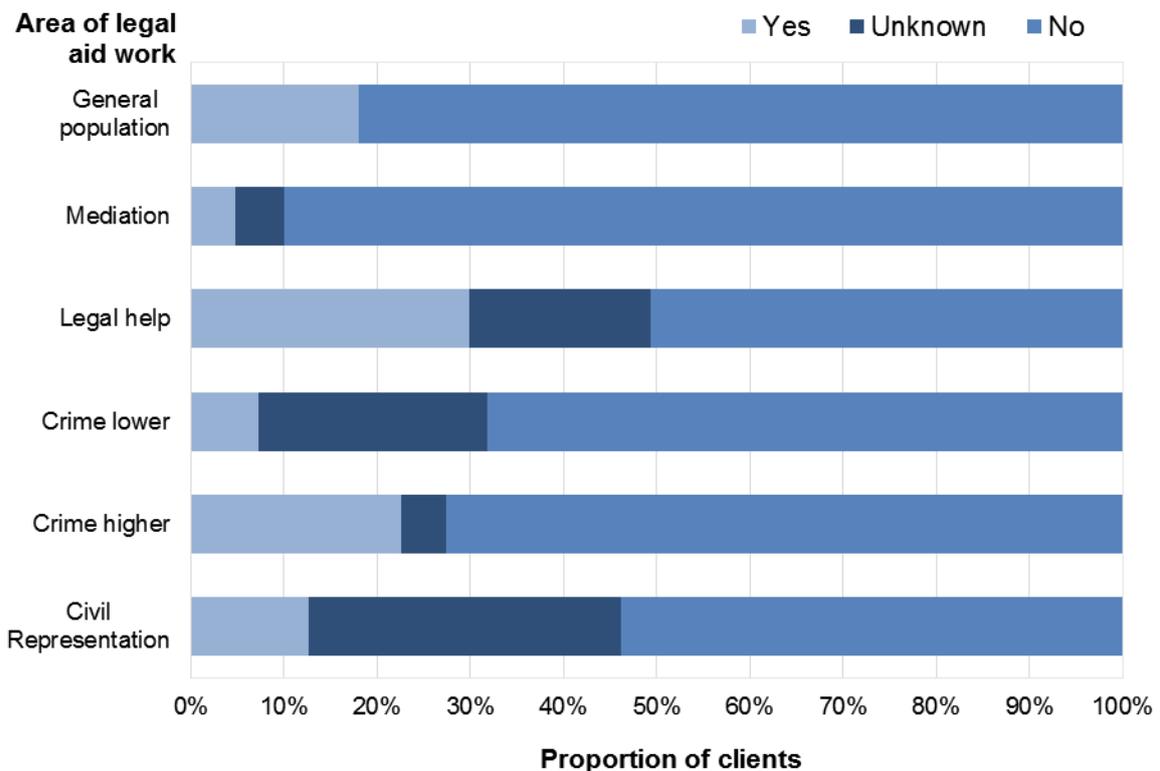
Figure 39 shows the proportion of legal aid clients who reported to have a disability. It is difficult to draw firm conclusions for most categories of legal aid on this characteristic because of the relatively high proportion of unknowns, especially for crime lower and civil representation.

Nevertheless, it can still be concluded that legal help has a higher proportion of clients with disabilities than the general population. This probably reflects the fact that mental health controlled legal representation work is included within legal help; in 2015-16, individuals with a mental health condition made up 22% of the total number of legal help clients, and 74% of those reporting a disability. This is not available in the published data, but more detailed disability data can be requested for some areas.

The overall picture of client disability status changed little between 2014-15 and 2015-16, with the exception of crime higher where we are now seeing fewer unknowns in the data. This has allowed us for the first time to see that the proportion of legally aided clients with a disability in the Crown Court is higher than the general population average.

Disability profile information was not available for mediation prior to Jan-Mar 2015, when reporting moved onto a new system, so in the underlying data there are only 5 quarters worth of information as opposed to the full 4 years for other areas.

Figure 39: Proportion of legal aid clients in 2015-16 by disability status



Ethnicity

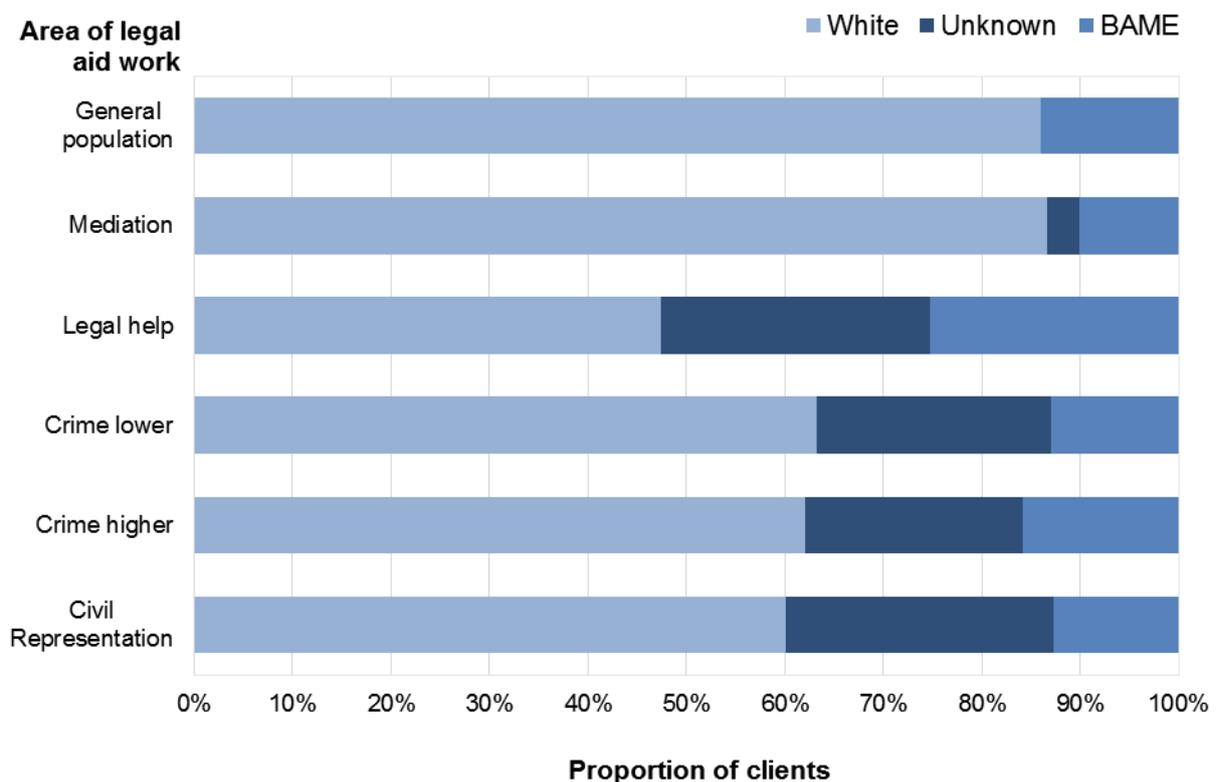
Figure 40 compares the proportion of legal aid clients who are from black and minority ethnic (BAME) origins with the general population. It is difficult to draw firm conclusions from this comparison because of the relatively high proportion for which ethnicity is unknown in most areas.

Nevertheless, we can see that the proportion of full mediation clients who are BAME corresponds with the general population. Also, the proportion of legal help clients reporting a black or minority ethnicity is larger than in the general population. This may partly reflect the fact that immigration controlled legal representation work is included within legal help.

The proportion of legal help clients self-reporting their ethnicity as white fell from 64% in 2012-13 to 47% in 2015-16, however the BAME proportion only rose by 6 percentage points, and instead the proportion of unknowns has increased during this time.

Overall, the ethnicity profile of legal aid clients in 2015-16 is little changed compared with 2014-15.

Figure 40: Proportion of legal aid clients in 2015-16 by broad ethnic group



Age

Due to the relatively small proportion of unknowns for age, these have not been included for this graph, but are available in the underlying client diversity data file.

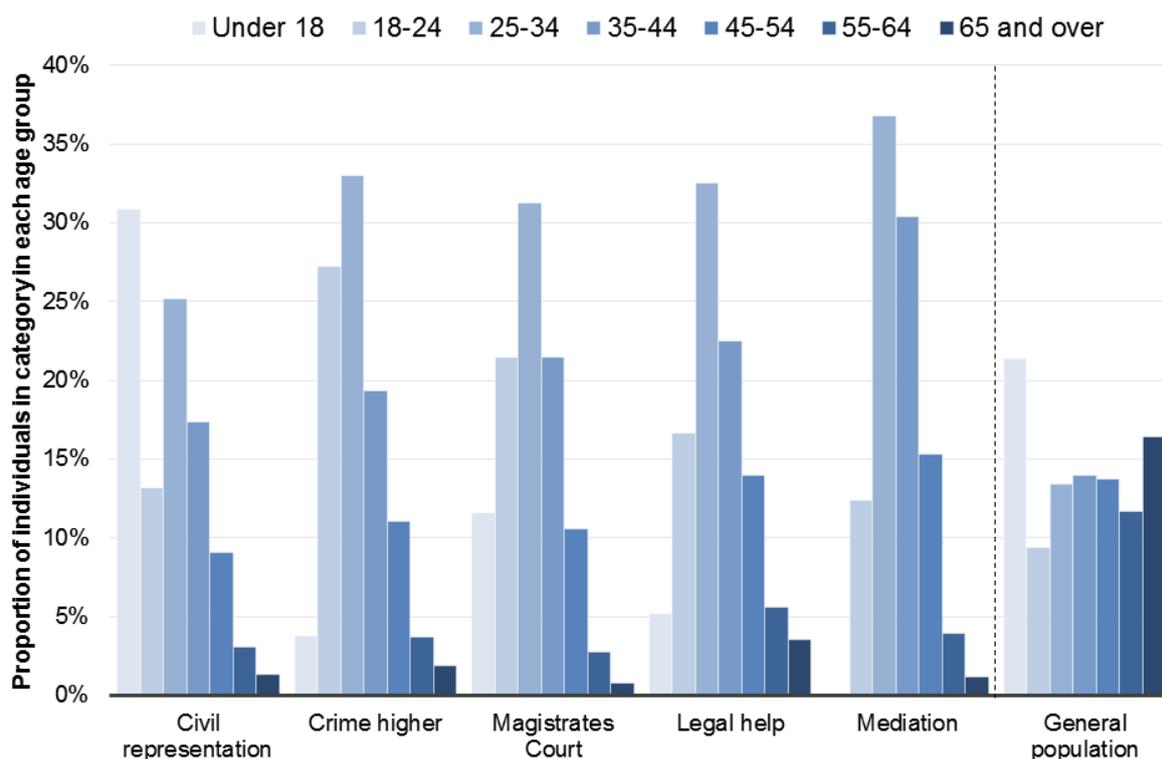
Please see the user guide for more detail about unknowns and the age classifications.

Civil representation has greatest relative proportion of clients under the age of 18, reflecting the relative importance of family law (Figure 41). All other areas have a much smaller than average proportion of under 18 year-olds, however a much greater proportion of clients of criminal legal aid are from young adult age groups (aged 18-24 and 25-34) than in the general population which reflects the pattern across the criminal justice system as a whole

Across all areas of legal aid, there is a much smaller proportion of over 55 year olds than the general population, and a much higher proportion of 35 to 54 years olds. 25-34 years olds form the largest proportion of clients in crime higher, magistrates' court, legal help and mediation, but not civil representation.

The overall age profile of clients in 2015-16 is very similar to that in 2014-15. Since 2012-13, the largest change has been an increase in the proportion of under 18 year old in civil representation, from 21% in 2012-13 to 31% in 2015-16.

Figure 41: Proportion of legal aid clients in 2015-16 by age band



Notes: Age data for crime lower is taken from a different computer system to the other characteristics and only includes magistrates' court work, not prison law or police station attendance work.

In all areas except civil representation, the category "65 and over" represents ages 65-99, and those 100 or above have been put into unknown.

Age profile information was not available for mediation prior to Jan-Mar 2015, when reporting moved onto a new system, so in the underlying data there are only five quarters worth of information as opposed to the full four years for other areas.

Annex A - Contact points for further information

Press enquiries on the contents of this bulletin should be directed to the Ministry of Justice press office:

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