



Ministry  
of Justice



Legal Aid  
Agency



# Legal Aid Statistics in England and Wales

January to March 2017

## 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

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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 2017 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 2017* release, published at [www.gov.uk/government/collections/legal-aid-statistics](http://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: [www.gov.uk/government/statistics/a-guide-to-legal-aidstatistics-in-england-and-wales](http://www.gov.uk/government/statistics/a-guide-to-legal-aidstatistics-in-england-and-wales)

The next edition of Legal Aid Statistics will be published on Thursday 28 September 2017

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](http://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 [www.gov.uk/government/collections/legal-aid-statistics](http://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](mailto:statistics@legalaid.gsi.gov.uk) or you can follow this link to complete our short user survey: <http://www.smartsurvey.co.uk/s/6U58M>

# Key findings

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## Criminal legal aid

1. **Crime lower** workloads continue to decline gradually, with the latest quarter down 4% compared to the same period in the previous year (see figure 4).
2. **Expenditure on crime lower** has however increased by 3% over this period (see figure 5). This reflects the impact of the suspension from April 2016 of the most recent cut to criminal legal aid fees.
3. In **crime higher, new orders** for legal representation in the Crown Court continue to decline broadly in line with the reduction in cases received in the Crown Court overall (see figure 9).
4. The volume of **cases completed within crime higher** fell 13% in the latest quarter compared to the same period of last year (see figure 11), while the **expenditure** associated with this work fell by 6% over the same period (see figure 12).

## Civil legal aid

5. In the latest quarter **legal help** new matter starts were 3% lower than in the same period of 2016 (see figure 13).
6. In **civil representation**, the number of certificates granted increased by 5% in the latest quarter compared to the same period of the previous year, driven by a continued increase in public family law proceedings (see figure 13).
7. There were 527 applications for **Exceptional Case Funding** received in the latest quarter, the highest since the scheme began in 2013 (see figure 27). 489 of these had been determined as at 31 May, of which 54% were granted.

## Annual chapters

8. This edition of Legal aid statistics includes additional sections that are updated only annually. These present figures for legal aid providers, appeals and representations against legal aid funding decisions, Central Funds, and client characteristics and some areas of criminal legal aid.
9. The numbers of **providers** receiving payments for completed legal aid work have been declining for several years in both criminal and civil categories, and this trend continued during 2016-17 (see figure 32).

# Analysis and commentary

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## Summary

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



## Legal aid overall

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The best way to understand trends in the legal aid system as a whole is to begin by looking at annual expenditure figures and then look at trends in workload and expenditure for each area of legal aid separately. It is difficult to summarise activity across the legal aid system meaningfully within a single workload number because of the diversity of services included, from relatively quick, lower-cost provision such as pre-charge advice in a police station to representation in a complex, high-cost court case.

Expenditure on legal aid must be measured differently for different purposes. A measure that is best for analysing the costs of different services, for example, may not be practical for managing budgets or payments. Figure 1 presents overall spending figures according to the most often used measures alongside one another:

- **Closed-case** expenditure is the measure used for spending figures throughout these legal aid statistics. It represents the total value of payments made to legal aid providers in relation to pieces of work that are completed in the period. Presenting expenditure on this basis means that it can be shown alongside the volumes of completed work to which it relates, and to the same fine level of detail. This measure does not take account of income received in the period or expenditure in relation to debt write-offs
- The government **budgeting** measure known as RDEL (Resource Departmental Expenditure Limits) is the main measure used by government to control current spending, both to set budgets for future years and report on how much has been spent. It represents the value of work carried out in the period better than the closed-case measure but cannot be broken down to such a fine level of detail. This measure does incorporate income and expenditure in relation to debt.
- Figure 1 shows this budgeting measure both in **nominal** and **real terms**. 'Nominal terms' means not adjusted for inflation; 'real terms' means adjusted for inflation to make the value of spending in previous years directly comparable with that for the latest (or other specified) year.

Other measures of expenditure exist, such as cash spending and Annually Managed Expenditure (AME), but they are less useful for analysing trends and costs across the legal aid system. All figures presented here exclude the cost of administering the legal aid system, for which figures are published in the Ministry of Justice Annual Report and Accounts.

Each series is presented as far back in time as it can be produced on a basis that is comparable with the most recent figures. Beyond this, measures of overall expenditure may not be directly comparable because the way legal aid is administered and public money is managed and accounted for have changed.

For more detailed figures on overall legal aid expenditure see Table 1.0 of the tables published alongside this report.

All three measures show a large reduction in legal aid expenditure from around 2010-11. These reductions are mostly due to changes to the scope of civil legal aid introduced by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act (from 2013-14), reductions in criminal legal aid workloads and reductions in fees payable to legal aid providers. The real-terms budgeting measure shows the sharpest fall over this period, while the closed-case measure shows a more gradual fall. This shows how this measure lags the

others because of the fact that it only reports expenditure on cases that have completed, or closed, in a given period.

**Figure 1:** Overall annual legal aid expenditure, by closed-case and budgeting (nominal and real-terms) measures (£m), 2005-06 to 2016-17

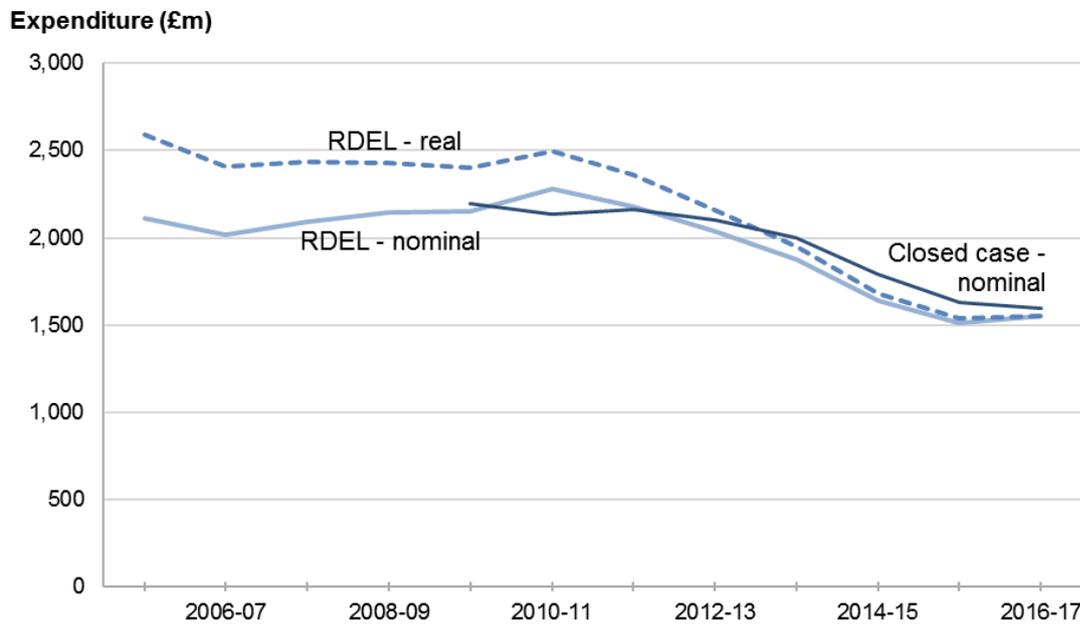
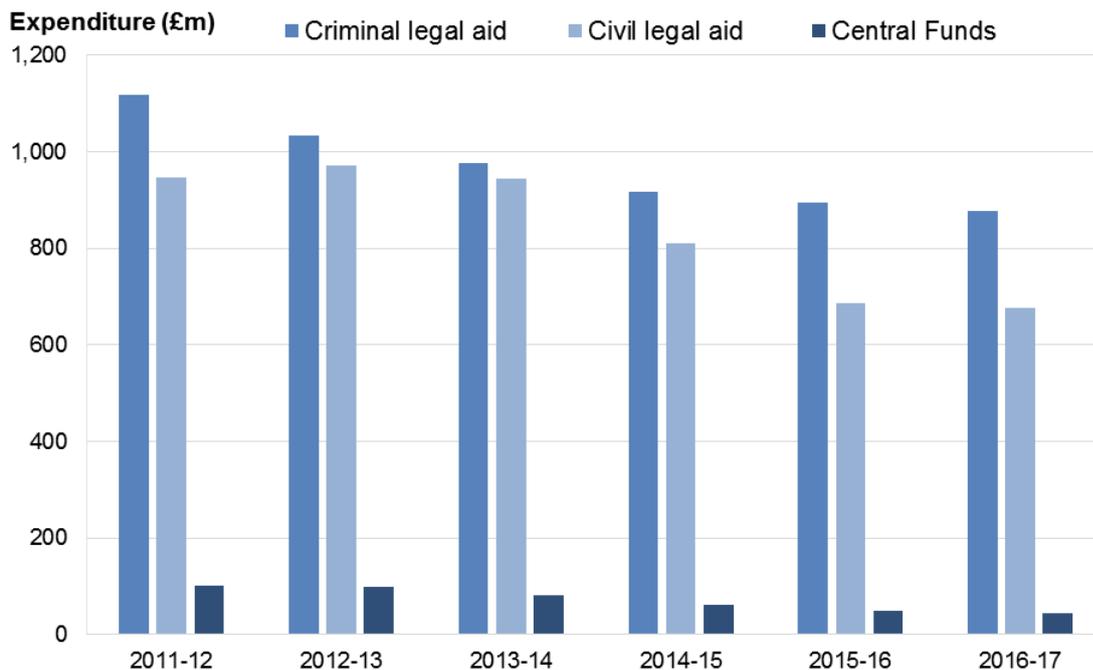


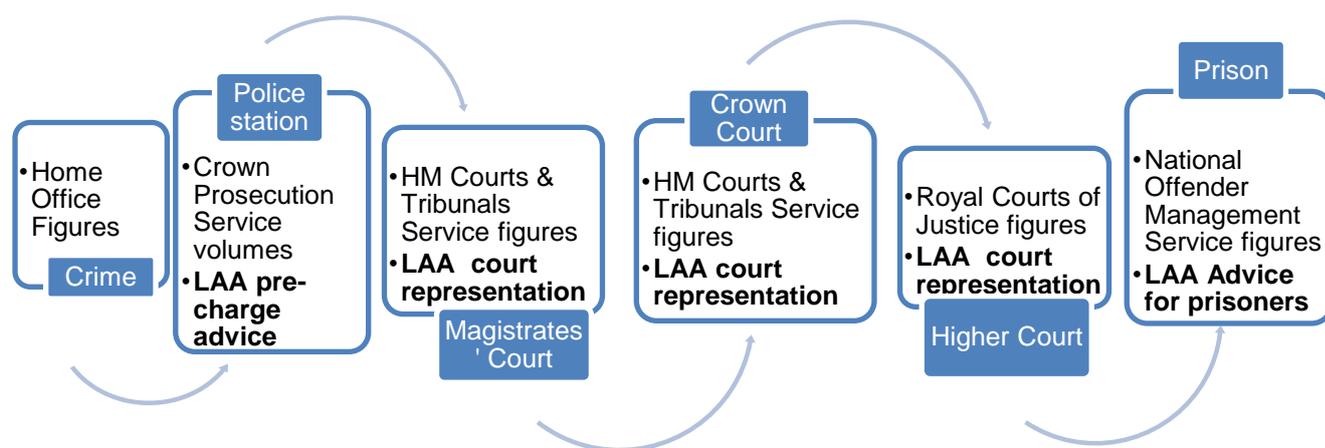
Figure 2 shows the first step in looking at legal aid trends in more detail, splitting the closed-case expenditure measure into criminal legal aid, civil legal aid (which includes family cases) and Central Funds. This shows that expenditure on civil legal aid has reduced substantially more than that on criminal legal aid since 2012-13, reflecting the reductions to the scope of civil legal aid introduced by the LASPO Act at around that time.

**Figure 2:** Annual expenditure on criminal and civil legal aid and Central Funds, closed-case measure (£m), 2011-12 to 2016-17



# 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.

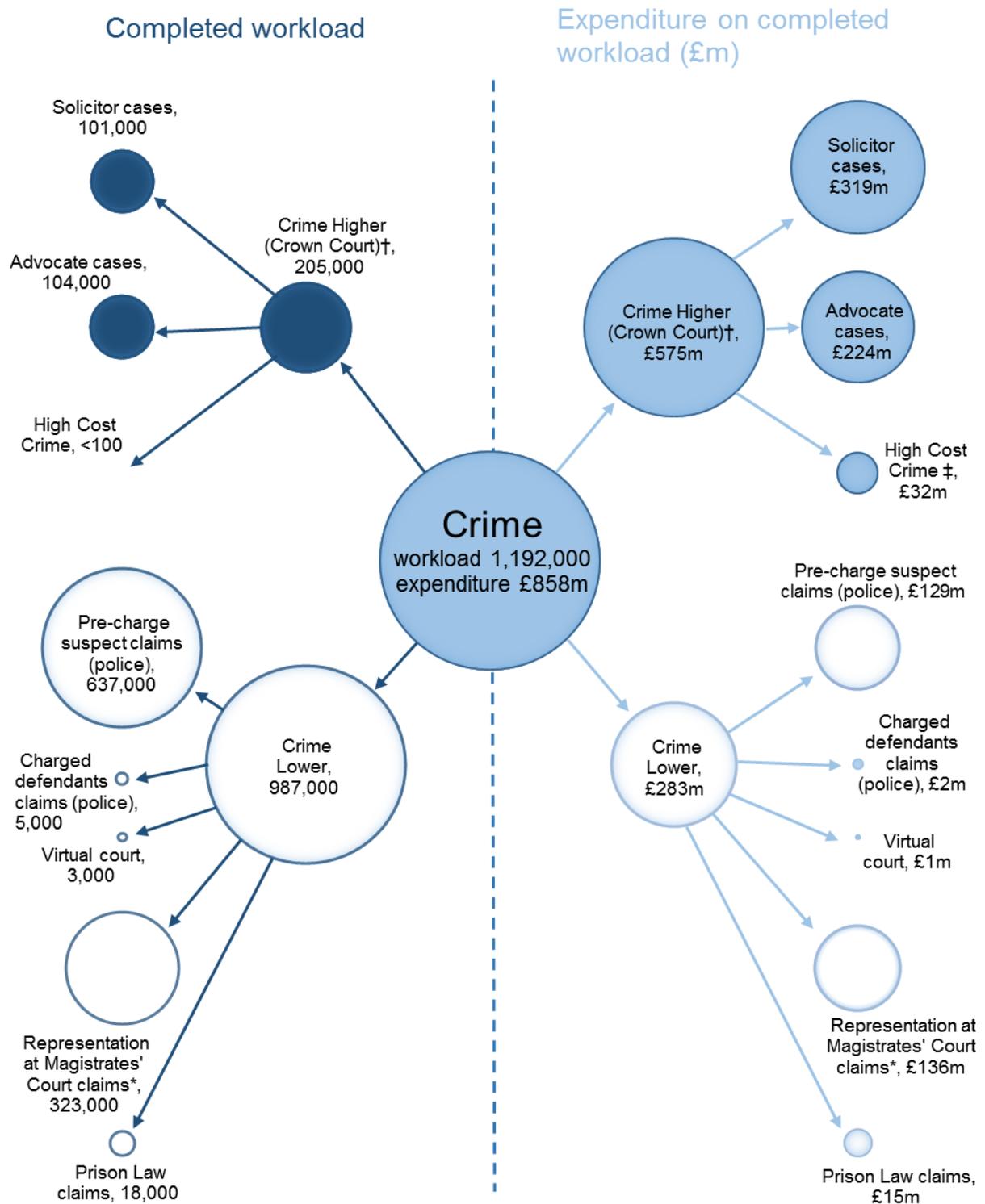
Figures are given in this report for each of the areas above and are categorised into Crime Lower and Crime Higher. Figure 3 below shows the relative size of each category and area both in terms of workload volumes and expenditure.

**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 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 representation at Magistrates' court, which fell by around 6,600 cases (8%).

**Figure 3:** Volumes and expenditure within criminal legal aid area, April 2016 to March 2017



\* includes court duty solicitor sessions

† This total does not include the higher courts. Note these crime higher figures include both AGFS and LGFS claim volumes, so this total is not indicative of the number of individuals represented.

‡ 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 2017

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

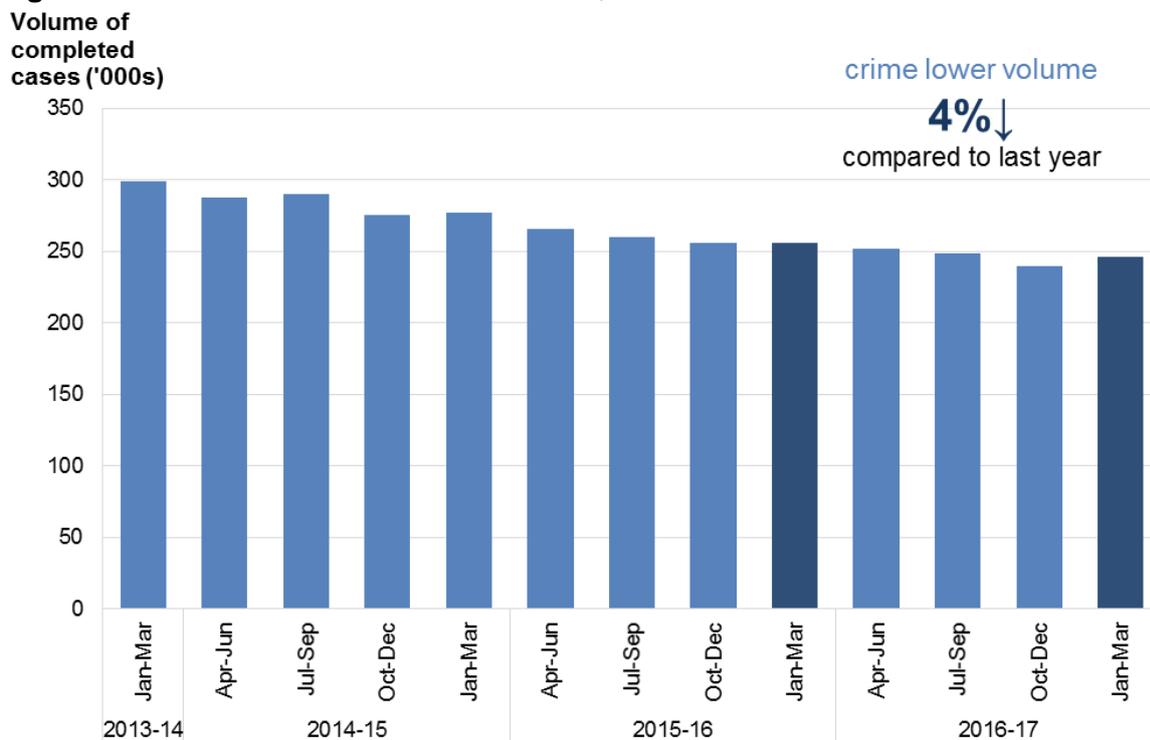
## Crime lower

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 4% fall compared to the same period in the previous year (see figure 4).

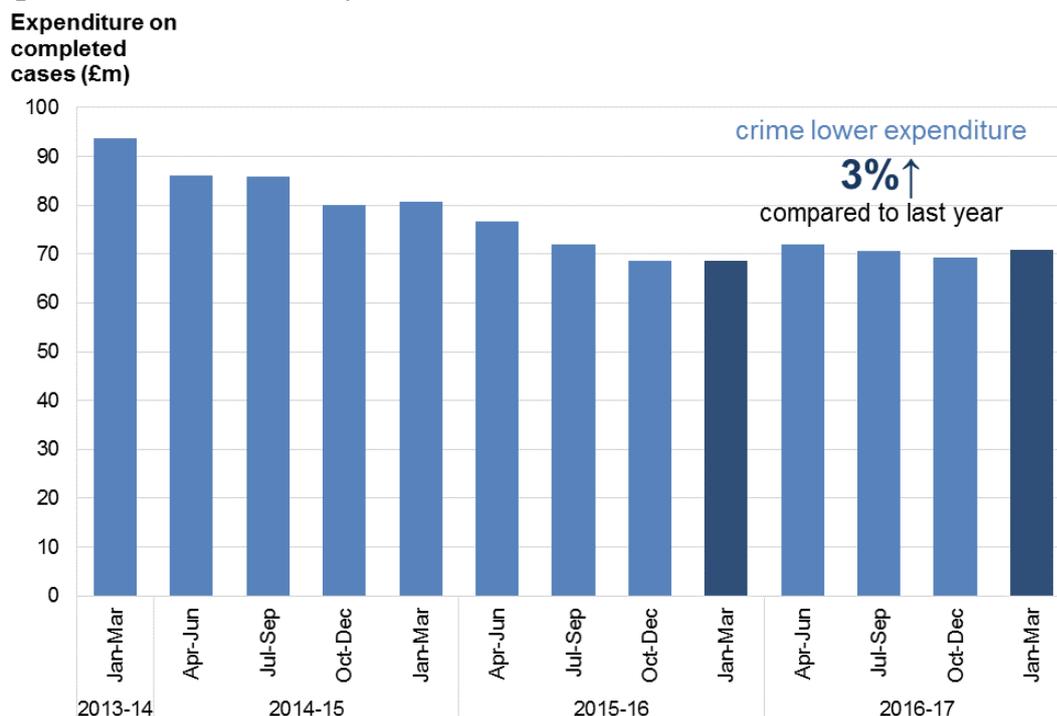
Prior to April 2016, expenditure on crime lower had been declining more than workloads over recent periods, reflecting the impact of the two successive reductions to the fees paid for most crime lower legal aid work which were introduced in March 2014 and July 2015.

From April 2016 however, the second of these reductions was suspended and the impact of this can be seen in the trend, with expenditure in the January to March quarter up 3% compared to the same period of the previous year despite the fall in volumes (see figure 5).

**Figure 4:** Number of cases within crime lower, Jan-Mar 2014 to Jan-Mar 2017



**Figure 5:** The value of completed crime lower cases, Jan-Mar 2014 to Jan-Mar 2017



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

## Pre-charge suspects

(Table 2.1 and 2.2)

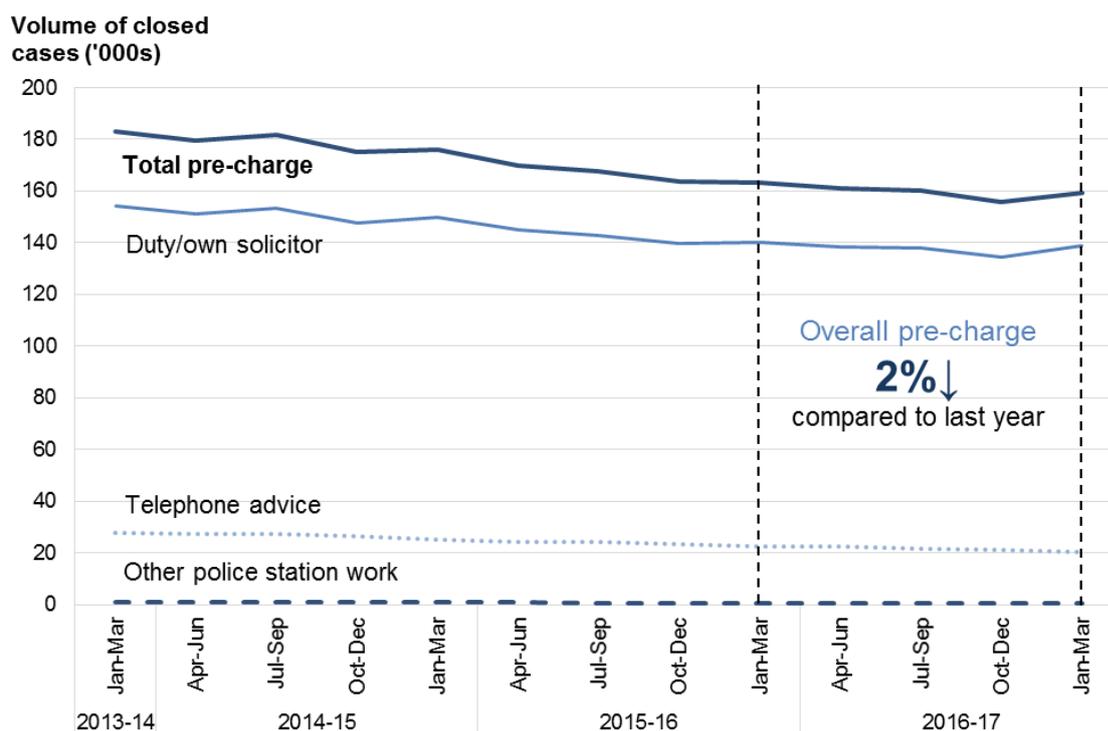
Anyone in England and Wales who is interviewed by the police or attends a police station can receive advice funded by legal aid either on the telephone or by a solicitor in attendance with the suspect. The LAA has limited control over the volume of police station claims. Changes to police numbers and 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 2017 but less than half of crime lower expenditure. Pre-charge legal aid workload between January and March 2017 fell by 2% compared to the previous year (see figure 6). Over the last three 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 Wales<sup>1</sup>.

The majority of the pre-charge workload (87% in January to March 2017) consists of suspects receiving legal help with a solicitor in attendance at the police station. A rising, but small, area of work includes virtual courts with workload growing by 20% compared to the same quarter last year with spend increasing by 15% however as a total of all crime lower spend virtual courts equate to less than half a percent.

<sup>1</sup>[www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2015](http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2015)

**Figure 6:** Workload with pre-charge suspects, Jan-Mar 2014 to Jan-Mar 2017



## Magistrates' court

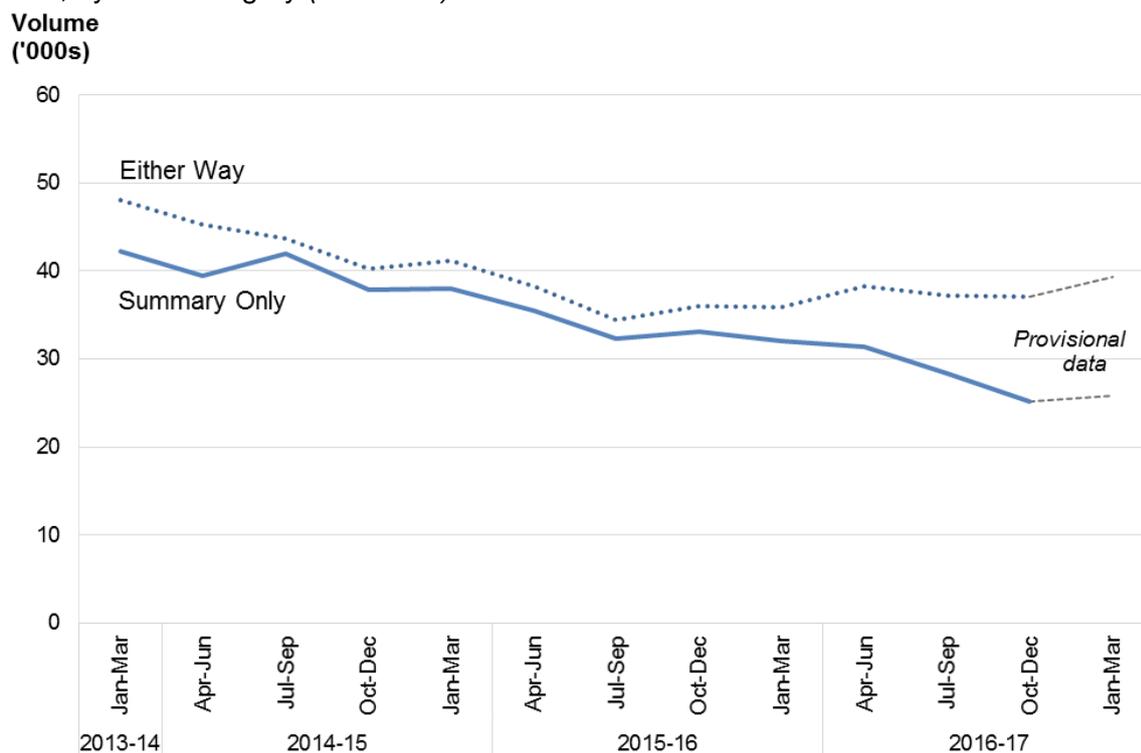
(Table 2.1, 2.2 and 3.1)

Legally-aided representation in the magistrates' court comprised around one-third of the crime lower workload between January and March 2017 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 4% in this quarter when compared to the same quarter of the previous year. This continues the downward trend of the last 3 years. The overall number of receipts in the magistrates' court<sup>2</sup> (including those not involving legal aid) was 5% down over the same period. The proportion of legal aid applications that are granted has changed very little over recent years, at around 95% (table 3.1). The IOJ 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. Figure 7 shows the number of representation orders granted in the period compared by case type.

<sup>2</sup> [www.gov.uk/government/collections/criminal-court-statistics](http://www.gov.uk/government/collections/criminal-court-statistics)

**Figure 7:** Representation orders granted in the Magistrates' Court, Jan-Mar 2014 to Jan-Mar 2017, by case category (*Table 3.1*)



**Note:** This graph excludes a small number of unknowns, which can be found in *Table 3.1*

## Prison Law

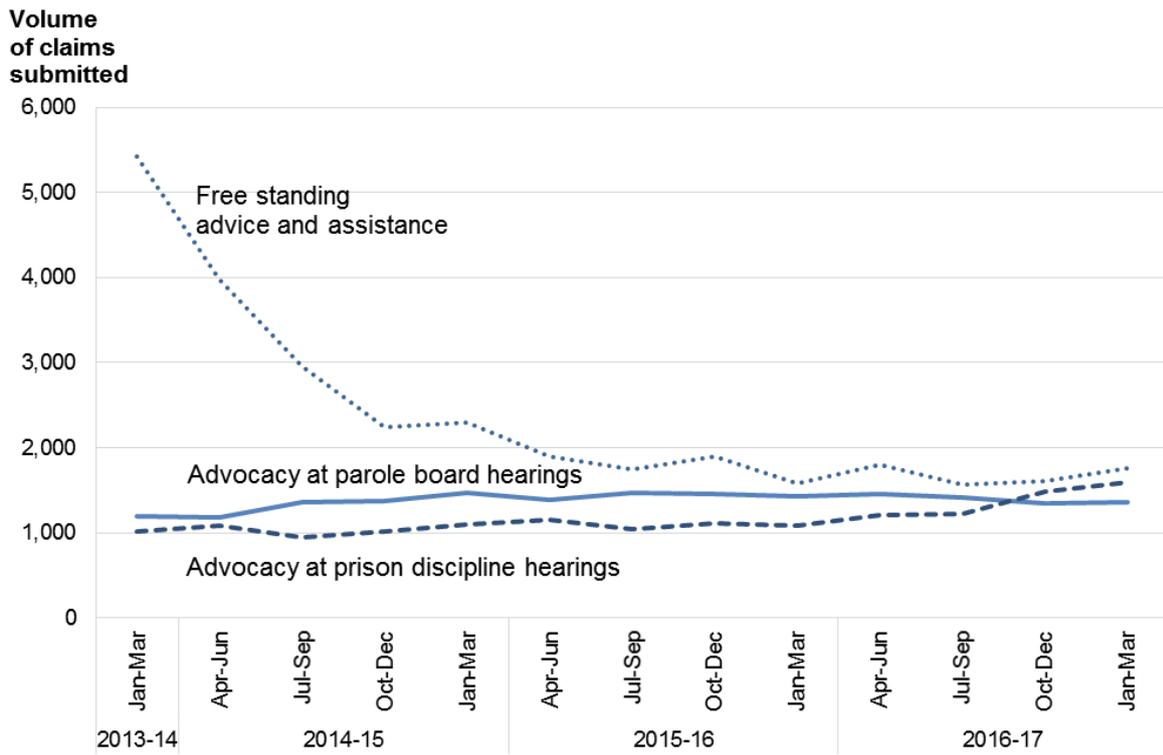
(*Table 2.1 and 2.2*)

Prison law made up less than 2% of the crime lower workload between January and March 2017, but over 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.

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 the decline (see figure 8).

More recently workload has stopped declining, and in fact increased by 15% in January to March 2017 compared with the same period in the previous year, due mainly to an increase in advocacy at prison disciplinary hearings. Expenditure on prison law increased 6% over the same period.

**Figure 8:** Volume of workload within prison law, Jan-Mar 2014 to Jan-Mar 2017



## 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 7% in this quarter when compared to the previous year, continuing a decline that began in 2014 (see figure 8). This fall was driven by an 18% reduction in orders for either-way cases, with all other categories instead increasing somewhat over this period (see figure 10).

The trend in orders over the last 3 years has closely mirrored a reduction in cases received in the Crown Court overall<sup>3</sup> (see figure 9). 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).

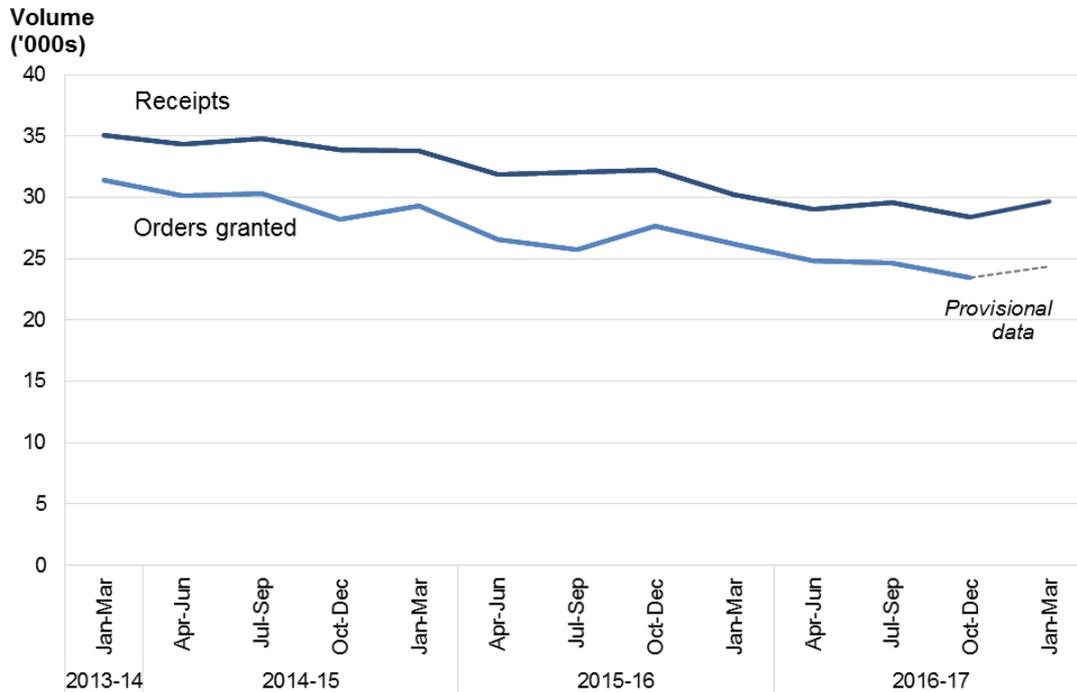
Figures for the most recent 2 to 3 quarters should be considered provisional, and the most recent quarter in particular will be subject to upward revisions in later releases. This is because orders for legally-aided representation in the criminal courts are generally granted at the magistrates' court initially, even for cases which subsequently move up to the Crown Court, and for some of these cases it takes time for the legal aid data to be updated to reflect the transfer to the Crown Court.

For more information on data quality and revisions see 'A User Guide to Legal Aid Statistics'.

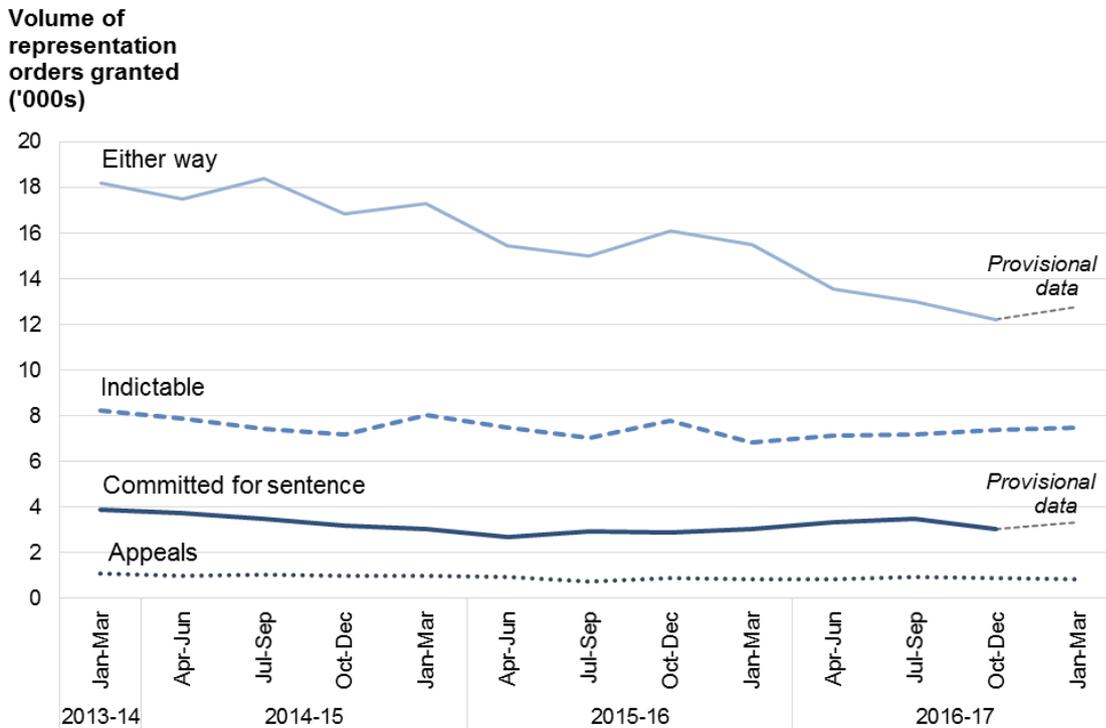
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<sup>3</sup> [www.gov.uk/government/collections/criminal-court-statistics](http://www.gov.uk/government/collections/criminal-court-statistics)

**Figure 9:** Representation orders granted and receipts in the Crown Court, Jan-Mar 2014 to Jan-Mar 2017



**Figure 10:** Representation orders granted in the Crown Court, Jan-Mar 2014 to Jan-Mar 2017, by case category (Table 3.2)

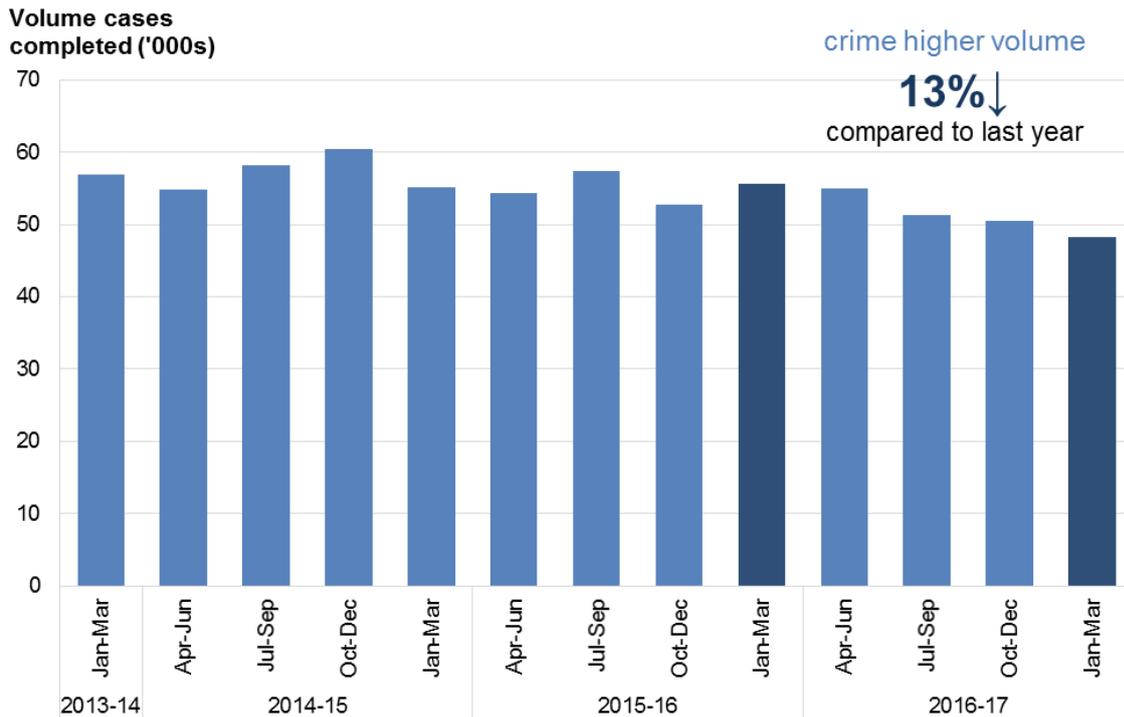


Volumes of cases completed in the crime higher category have also declined over recent years, though more gradually than new orders. Completed work volumes were 13% lower in January to March 2017 than in the same period of the previous year (see figure 11).

These volumes relate only indirectly to current trends in crime and new orders for representation; they are also driven by the number of sitting days and cases awaiting trial in Crown Courts, which are in turn managed in response to workloads and the volume of outstanding cases within the criminal justice system.

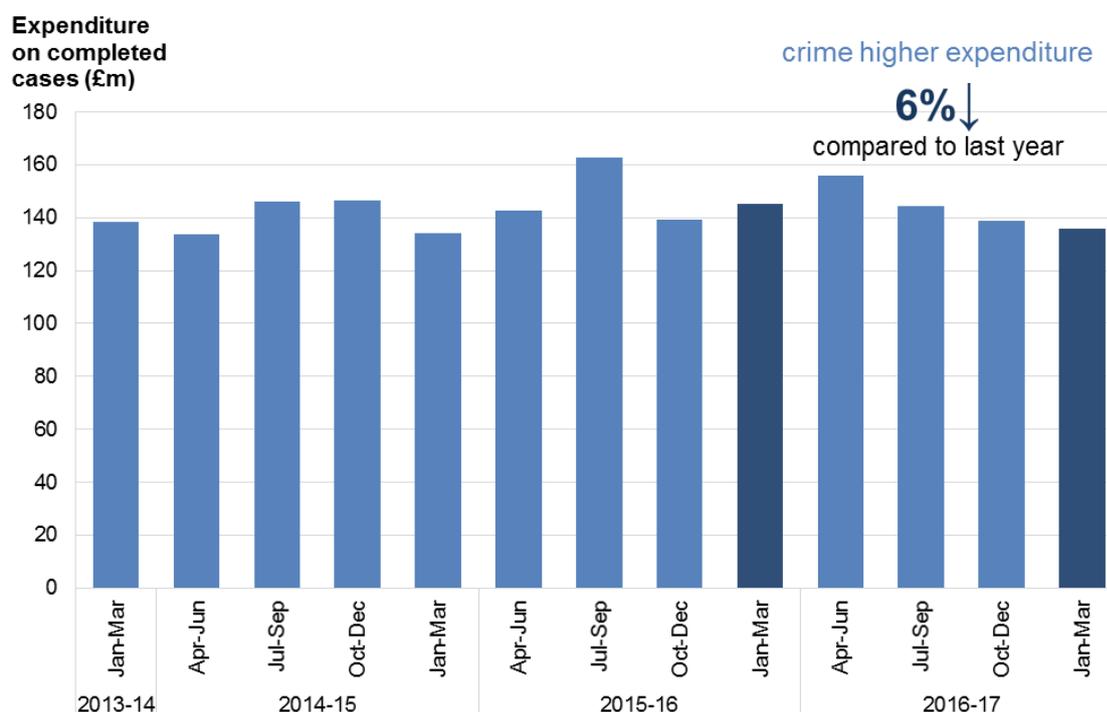
The value of payments for completed cases (figure 12) has decreased by less than volumes over the last year, and was 6% lower in January to March 2017 than in the same period of the previous year.

**Figure 11:** Number of cases completed within crime higher (Tables 4.2 – 4.4), Jan-Mar 2014 to Jan-Mar 2017



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

**Figure 12:** The value of completed crime higher cases (*Table 4.2 – 4.4*), Jan-Mar 2014 to Jan-Mar 2017



**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.

Expenditure on VHCCs has reduced by more than two-thirds over the last decade 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.

The total of £31.7 million for the 12 months ending March 2017 was however an increase of 18% compared to the previous year, and is related to an increase in the conclusion of contracts that were opened under fixed fee offers.

VHCCs currently represent around 8% of the overall cost of legal aid in the Crown Court.

## **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, for example 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 2016/17 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 2016 to March 2017 there were 3,022 claims from the Court of Appeal, with a value of around £2.6m. For the Senior courts cost office, there were 1,061 claims in the 12 months from April 2016 to March 2017, with associated expenditure of just over £3.5m. Expenditure in the Supreme Court for the 12 month period from April 16 to March 17 was just over £0.5m. Expenditure in the Supreme Court relates to a very small number of cases.

# Central Funds

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This area 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 2016-17 the total expenditure for Central Funds was just over £44m. This is 10% 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:

- A large category of expenditure (£10.3m in 2016-17) 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 (£14.7m in 2016-17) 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 38 of the Youth Justice and Criminal Evidence Act 1999.
- The costs of **interpreters and translators** in court comprise another area of Central Funds expenditure (£11m in 2016-17).
- The remainder of Central Funds expenditure goes to meet the costs of court **intermediaries** (£5.8m in 2016-17) and successful **private prosecutions** (£1.8m in 2016-17) and towards meeting some of the reasonable **costs of attending magistrates' court** for witnesses, experts and defendants (£0.8m in 2016-17).

# 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.

In the last quarter **legal help** new matter starts were 3% lower than in the same period of 2016. The implementation of the LASPO Act in April 2013 resulted in large reductions in legal help workload, with the overall trend having then levelled out at around one-third of pre-LASPO levels (see figure 12).

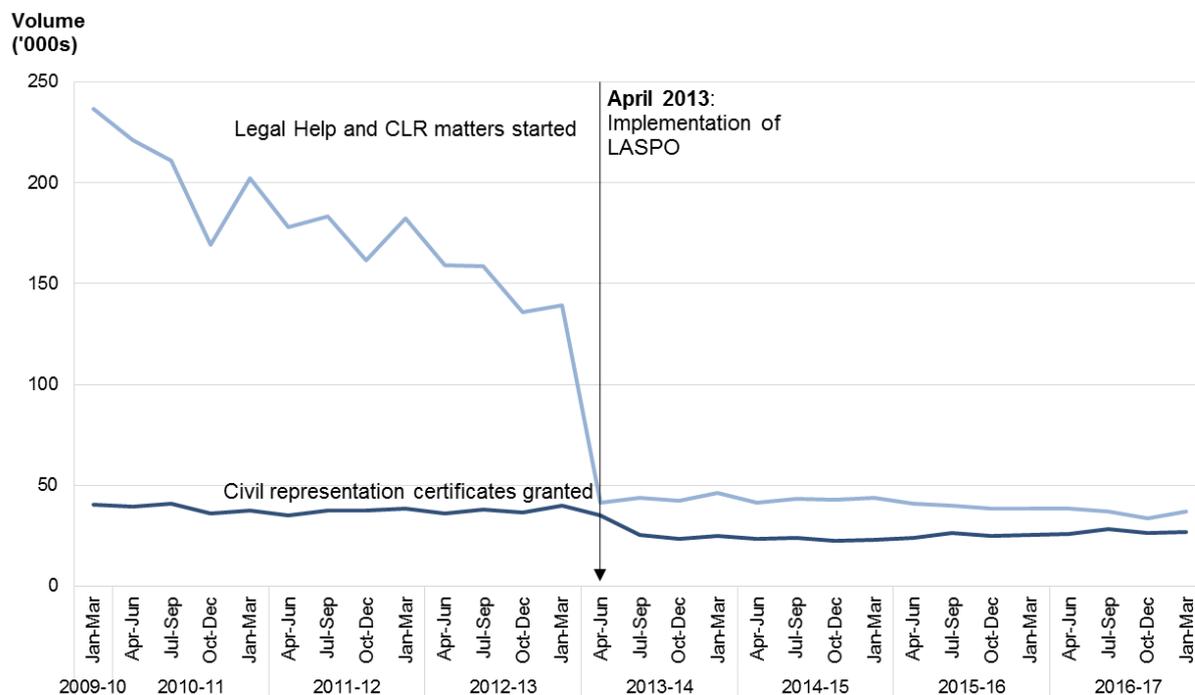
Unlike for civil representation, the decision to offer legal help or controlled legal representation to a client is generally devolved by the LAA to legal aid providers, who must apply means and merits tests to each potential client. LAA administrative systems do not therefore hold information on applications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

The number of **civil representation** certificates granted in the last quarter was up 5% compared to the same period of the previous year. Workloads fell by a smaller proportion than legal help following the implementation of the LASPO Act, before having levelled out at around two-thirds of pre-LASPO levels (see figure 13).

We show grants in two ways. Grants are shown against the period in which the decision was made and recorded (see table 6.2 and 6.9) – these are referred to as ‘decision-based timing’. 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 and 6.8). 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 93% of all applications received over the last 12 months initially granted a certificate compared with around 82% 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 13:** Longer term trends in civil legal, legal help/controlled legal representation and civil representation, Jan-Mar 2010 to Jan-Mar 2017.

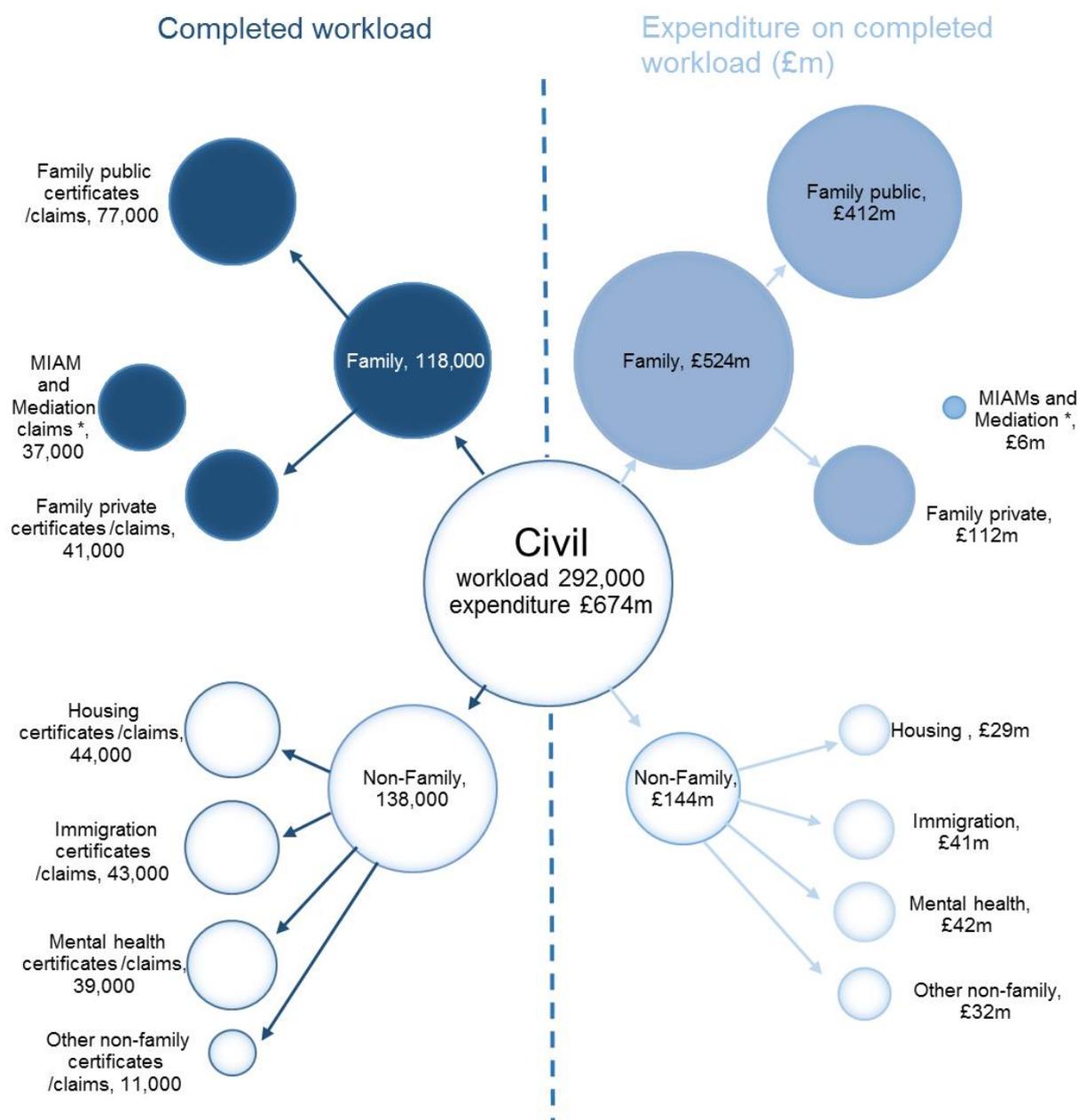


### Civil legal aid by category of law (Tables 5.1 - 6.9)

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. Descriptions of the main categories are given under ‘civil’ in the glossary of 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 legal help, controlled legal representation 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, Apr 2016 to Mar 2017



\* MIAM and Mediation figures are not included in the family total  
 Figures are for the 12 months to March 2017

**Notes:** These figures are a combination of legal help/controlled legal representation matters completed and civil representation certificates completed. They exclude housing possession court duty scheme, telephone operator service and civil representation where the cost is not borne by the LAA because the opponent has been ordered by the judge to pay the claimant's costs. Figures have been rounded so may not sum to totals.

## 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.

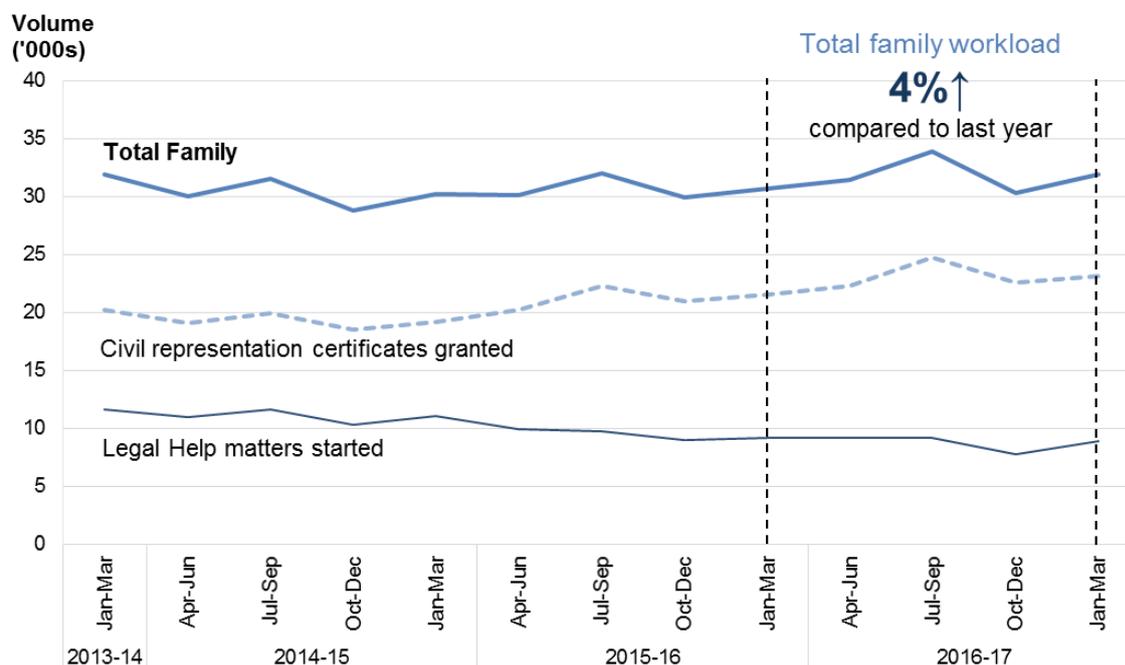
Public family law is one of the most important components of legal aid, accounting for more than half of civil legal aid expenditure and more than a quarter of all legal aid expenditure. Public family cases may deal with issuing Care and Supervision Orders to protect vulnerable children and are primarily 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, resulting in a large decrease in family **legal help** workload. This now appears to have stabilised, although new matter starts in January to March 2017 were 3% lower than the same quarter of 2016 (figure 15).

**Civil representation** fell less sharply following LASPO, and the trend had then levelled out, but in January to March 2017 the number of certificates granted was up by 5% compared to the same period of the previous year. This increase was largely due to public family law, which makes up around three quarters of civil family workload. Although the number of certificates granted in this category was down 9% from a peak in July to September 2016, it was 6% higher than the same period of the previous year (table 6.2).

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 6% more certificates granted in Special Children Act and other public law Children Act proceedings in January to March 2017 than in the same period of the previous year (table 6.2). Legal help matters completed in family public law decreased by 4% over this period (table 5.2). Public family workloads in civil representation and legal help are higher now than before the LASPO Act was introduced.

**Figure 15:** Family workload: legal help and civil representation, Jan-Mar 2014 to Jan-Mar 2017



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

### Applications for civil representation in private family law supported by evidence of domestic 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.

6.8 and 6.9 of the tables published alongside this report provide more 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.

Similar to the figures on civil representation overall, numbers of grants for this type of application are presented both on the basis of decision-based timing (see table 6.9) and application-based timing (see table 6.8). See the introduction to the Civil legal aid section above for more information.

In January to March 2017, applications were up 10% compared to the same period of the previous year but down 16% from the peak in April to June 2016. The number granted (on decision-based timing) was up 18% compared to the same period of 2016 (see figure 16).

The proportion of applications granted remained steady at around 70% from the inception of this type of application until the end of 2015, but has increased to 80% for the last 12 months (see table 6.8).

Between 1 April 2013 and 31 March 2017 the Legal Aid Agency received nearly 33,000 applications. During this same period just under 24,000 certificates were granted.

**Figure 16:** Applications, and certificates granted (decision-based timing) for civil representation in private family law supported by evidence of domestic abuse, Jan-Mar 2014 to Jan-Mar 2017.

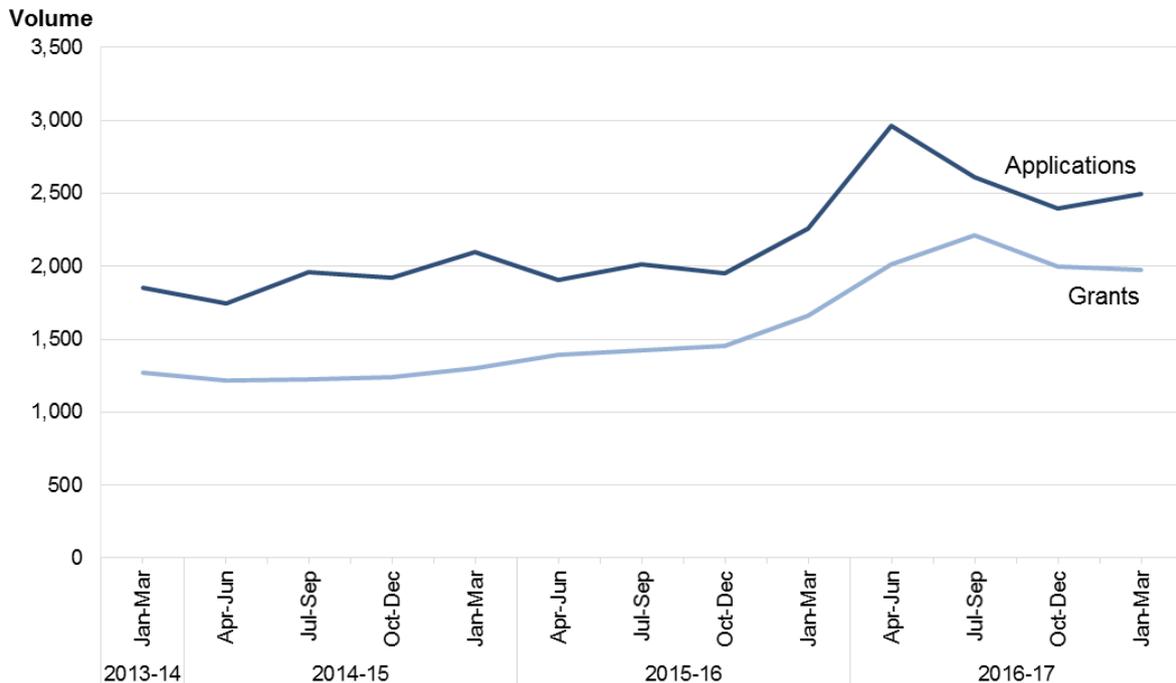


Table 6.10 shows how much each category of evidence of domestic violence or child abuse is being used in these applications. It shows firstly how many pieces of each type of evidence were submitted with applications and, beneath, how many applications submitted each evidence type.

Protective injunctions were the most frequently-used evidence of domestic violence in January to March 2017, provided with 861 applications. A letter from social services was the most frequently-used evidence of child abuse, provided with 315 applications.

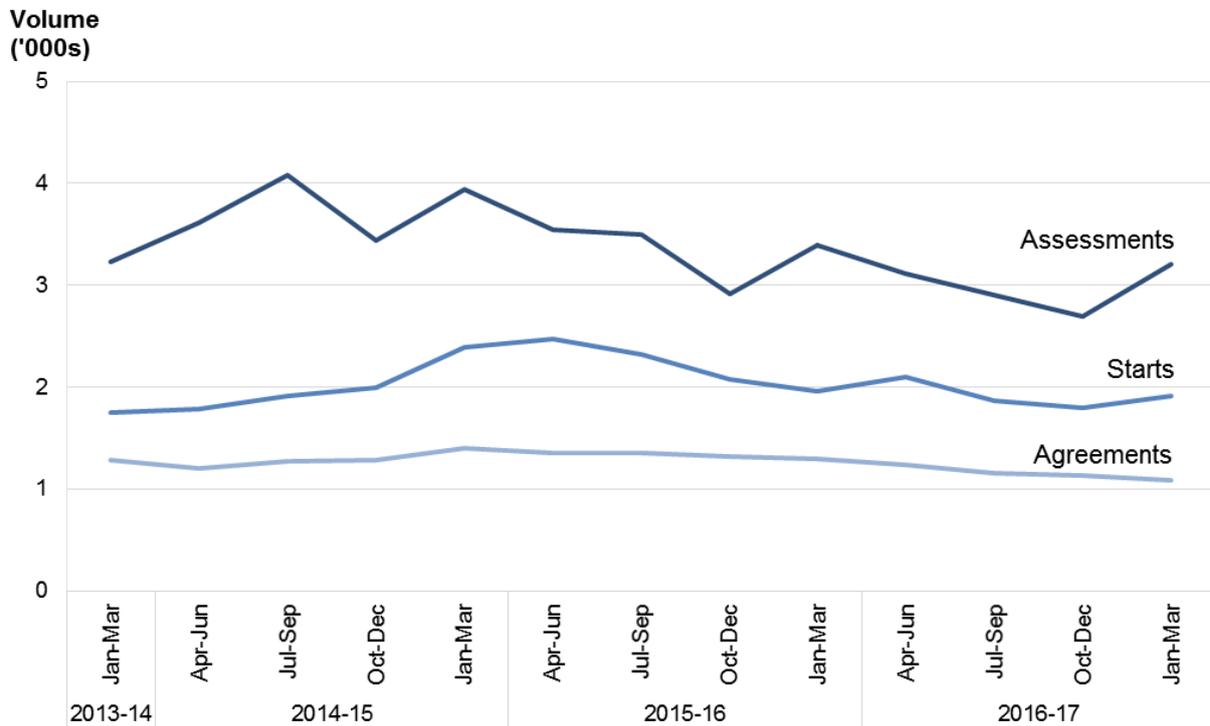
### Family mediation

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.

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 MIAM therefore takes place before the mediation sessions and must be undertaken for any individual wanting legal aid for this area of work.

LASPO made no changes to the scope of legal aid for facilitating mediation; it remained available after the reforms, subject to eligibility testing. Legal aid was also retained for facilitating MIAMs. However, the number of MIAMs fell sharply after the introduction of LASPO in April 2013, and numbers have fluctuated since then. They were down by 5% in the last quarter compared to the previous year (see figure 17) and currently stand at around half of pre-LASPO levels.

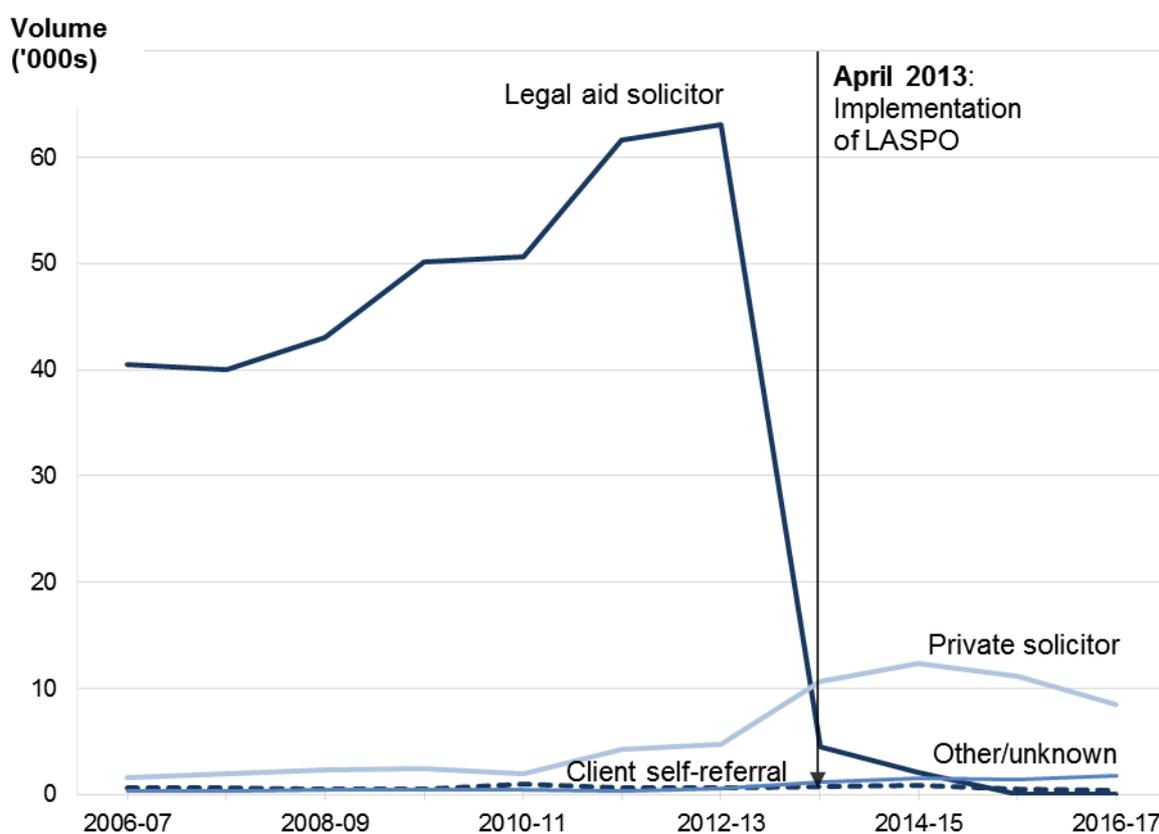
**Figure 17:** Family mediation assessments, starts and agreements Jan-Mar 2014 to Jan-Mar 2017



Prior to LASPO, clients (whether the applicant or the respondent) could not receive a legal aid certificate to cover the cost of their representation at court unless they had first considered mediation (subject to certain exceptions, such as being a domestic violence victim). The scope changes reduced the opportunities for contact between clients and law firms. This therefore reduced the potential for clients to be told about mediation and to be referred to it and is likely to have contributed to the decline in mediation take-up following the scope changes.

Before LASPO, over 80% of referrals to publicly funded MIAMs were made by solicitors holding a legal aid contract. Following LASPO this dropped to less than 10%. Other sources of referral have increased, but not by enough to compensate for the loss in legal aid solicitor referrals (see figure 18).

**Figure 18:** Family mediation assessments, by referral route, 2006-07 to 2016-17



Parties can attend mediation assessment meetings alone, separately or together. The majority of couples attend assessment meetings separately (see table 7.1).

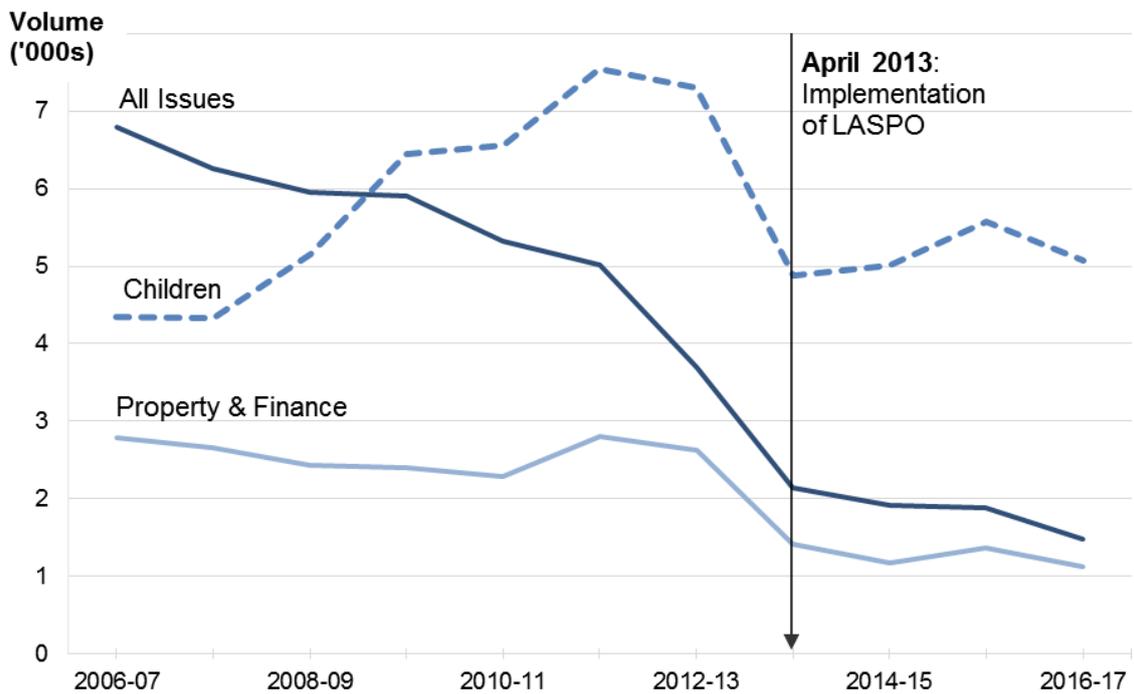
It is not possible from the data held by the LAA to track a family’s progress through the various stages of mediation. While the number of mediations reaching each stage within a time period can be reported, it cannot be determined from a given set of assessments precisely what proportion of them led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

The number of mediation starts fell by a similar proportion to assessments following LASPO. After recovering somewhat, they have now fallen back to just over half 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 66% of all mediation starts in the last year (this information is taken from the more detailed data published alongside this bulletin).

Since 2006-07 the number of starts for ‘all issues’ mediation has been falling, from around half of all starts to only 19% in 2016-17. The children category fell by a third in the year LASPO was introduced, but has now stabilised (see Figure 19).

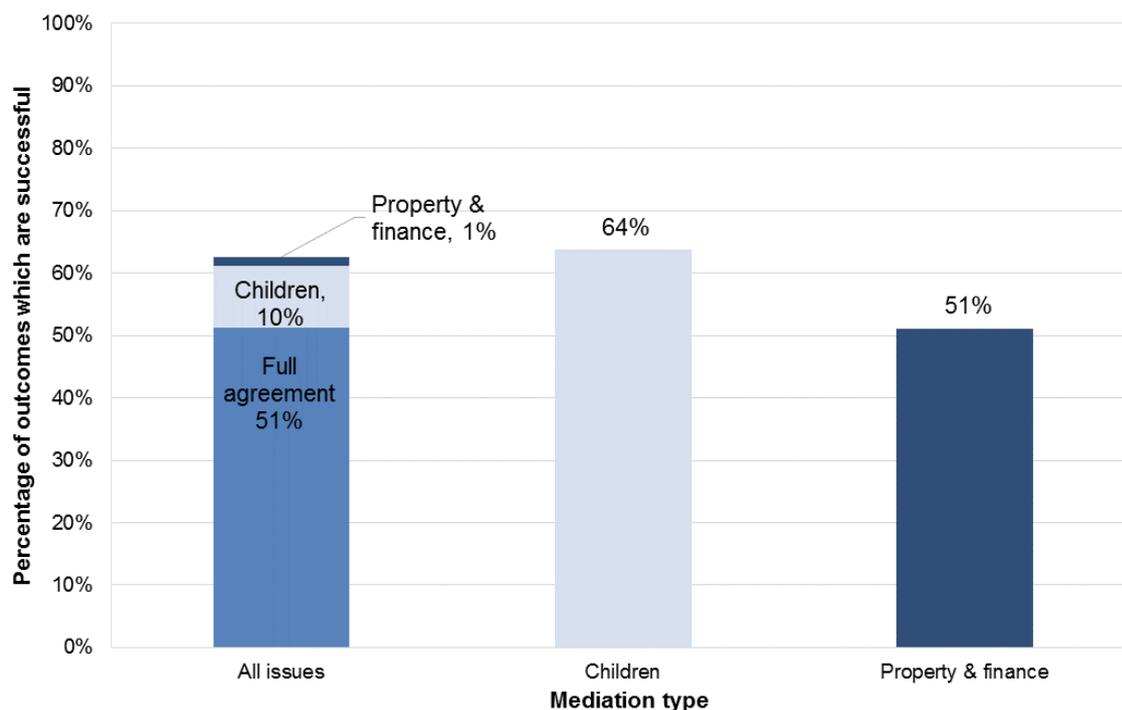
**Figure 19:** Family mediation starts, by type of mediation, 2006-07 to 2016-17



Mediations can either break down or result in an agreement. Like other areas of mediation, the overall number of agreements fell following LASPO. They have since stabilised at just over half of pre-LASPO levels (see figure 17).

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 61% of all mediation outcomes involved successful agreements. The rate of success varied between different categories of mediation (see figure 20).

**Figure 20:** Family mediation outcomes, by type of mediation, April 2016 to March 2017



## Non-family

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

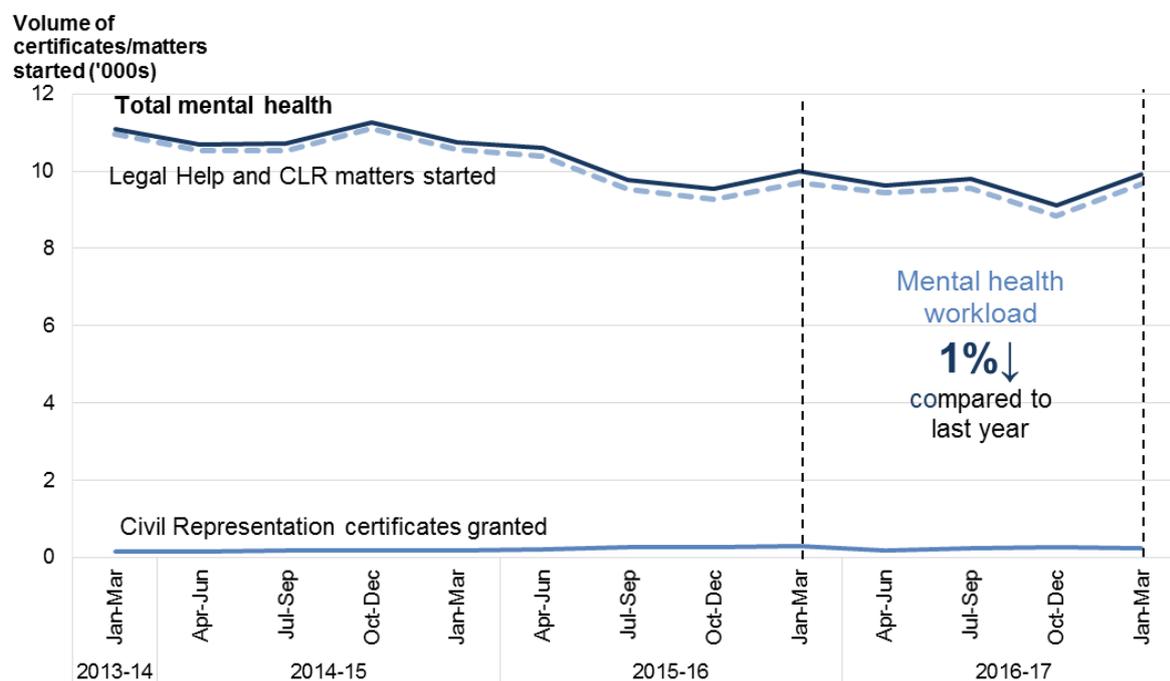
## Mental Health

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 [www.gov.uk/mental-health-tribunal/overview](http://www.gov.uk/mental-health-tribunal/overview)

Mental health workload fell 1% when comparing the latest quarter to the previous year (see figure 21).

**Figure 21:** Workload in mental health, Jan-Mar 2014 to Jan-Mar 2017



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

## Immigration

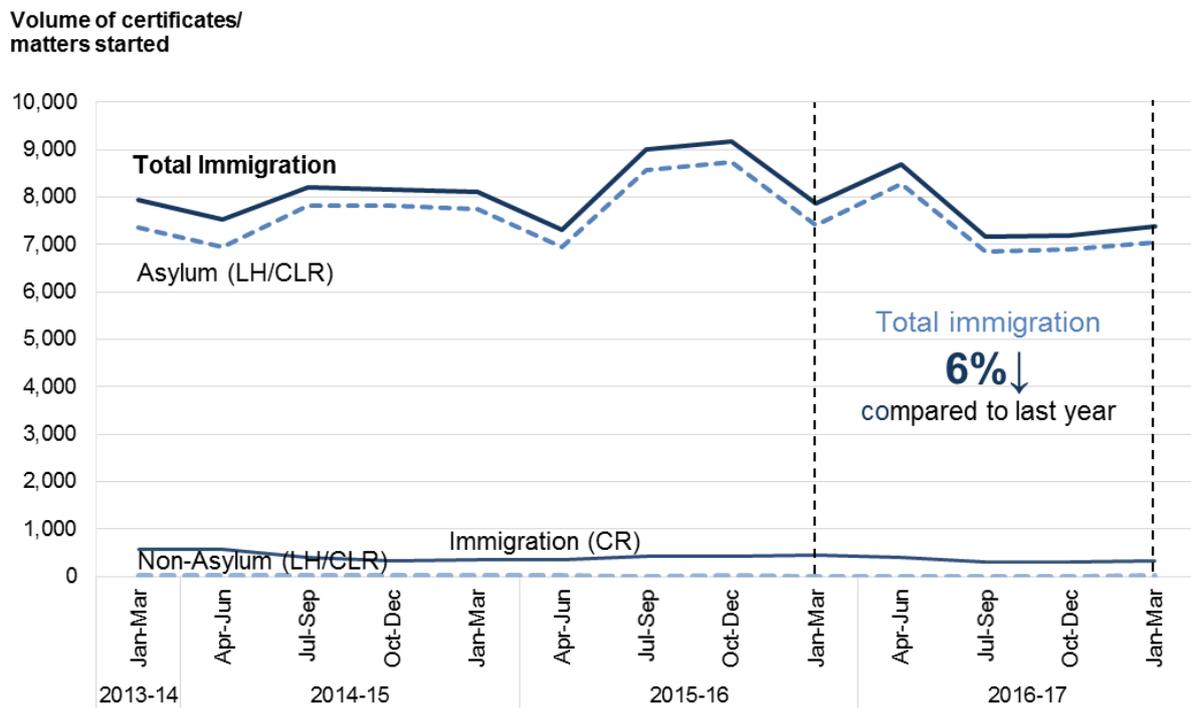
The LASPO Act, which came into effect on 1 April 2013, made changes to the scope of legal aid for immigration law, but some areas remained in scope. These include asylum, immigration-detention, victims of trafficking or domestic violence, and judicial review. Although a distinct level of funding, controlled 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 5% lower in the January to March 2017 quarter than in the same quarter of the previous year (see figure 22).

**Figure 22:** Workload in immigration, Jan-Mar 2014 to Jan-Mar 2017



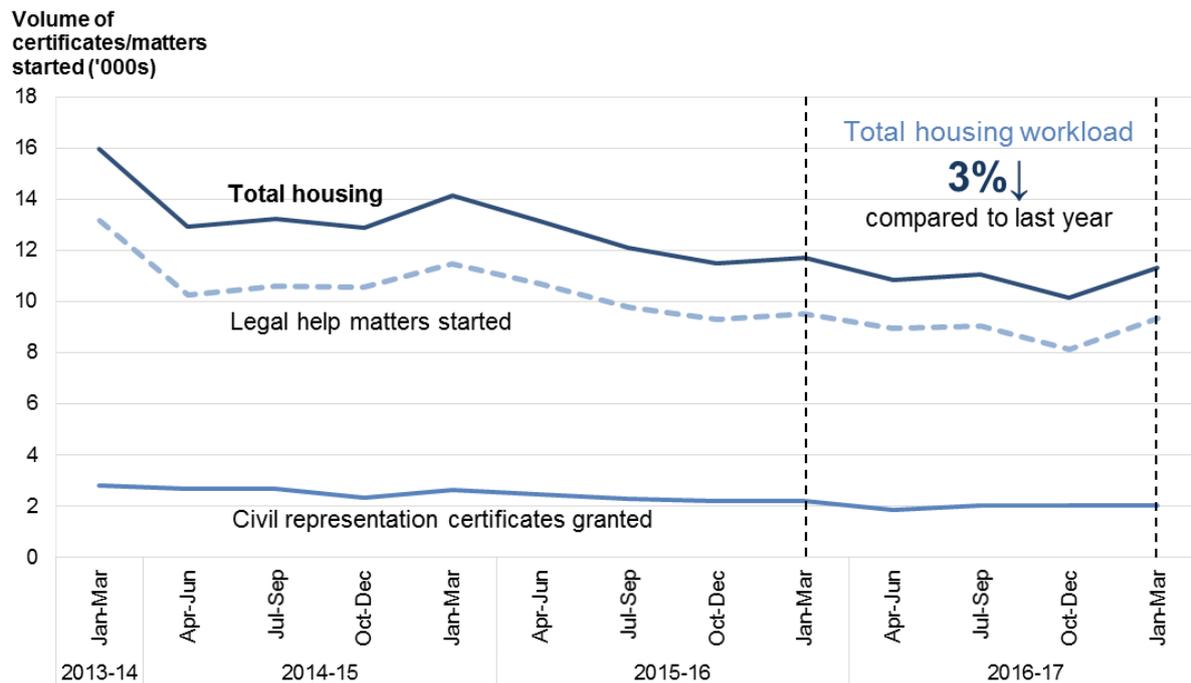
**Note:** workload has been calculated by adding legal help / controlled legal representation matters started and civil representation certificated granted.

## 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 work halved between July to September 2012 and July to September 2013. The trend then fluctuated for around 18 months but since 2014 it has been falling. In January to March 2017 there was a 3% decrease compared to the same quarter the previous year (see figure 23). Workload figures in this category of law are driven by legal help, which comprised over 80% of overall housing legal aid volume in the latest quarter.

**Figure 23:** Workload in housing law, Jan-Mar 2014 to Jan-Mar 2017



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

### Other non-family

Figure 24 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 Act.

**Figure 24:** Non-family workload: legal help and civil representation, Jan-Mar 2016 to Jan-Mar 2017

Category	Jan-Mar 2016	Apr-Jun 2016	Jul-Sep 2016	Oct-Dec 2016	Jan-Mar 2017
Actions against the police etc.	779	798	735	623	712
Clinical negligence	89	100	97	66	51
Community care	900	882	954	917	884
Debt	119	114	109	116	117
Discrimination	348	436	270	229	260
Education	476	507	318	352	464
Employment	2	-	-	-	1
Miscellaneous	207	140	168	167	197
Personal injury	1	-	-	-	1
Public law	607	715	659	599	594
Welfare benefits	81	107	118	117	112
<b>Other Non-family</b>	<b>3,609</b>	<b>3,799</b>	<b>3,430</b>	<b>3,186</b>	<b>3,393</b>

**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

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. The specialist provider then assesses 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).

The specialist advice service provides advice for debt, discrimination, education, family and housing matters. People seeking legally-aided advice in debt, discrimination or education must do so via the telephone gateway service initially (unless they meet certain specific exemptions).

Figure 25 below shows the number of specialist provider completed matters, alongside other legal help face to face completed matters. In the period from April 2016 to March 2017, 27% of completed matters in these categories of law were handled by the specialist advice service.

**Figure 25:** Specialist telephone advice and other legal help completed matters, April 2016 to March 2017

	Specialist telephone providers	Other Legal Help	Total
Debt	412	88	500
Discrimination	1,414	-	1,414
Education	1,522	17	1,539
Family	3,914	31,229	35,143
Housing	13,438	23,522	36,960

Specialist telephone cases which resulted in a matter being started are included within the overall legal help figures in Tables 5.1 – 5.3.

### Judicial reviews

Legal aid for judicial reviews takes the form of civil representation and can relate to any category 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, around 3,000 a year relate to judicial review. The number granted in January to March 2017 was 23% lower than in the same quarter in 2016. Over one third (38%) of judicial reviews were for immigration cases and 30% for public law (see figure 26).

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 to be a judicial review).

**Figure 26:** Judicial review applications granted by category, Jan-Mar 2016 to Jan-Mar 2017

Category	Jan-Mar 2016	Apr-Jun 2016	Jul-Sep 2016	Oct-Dec 2016	Jan-Mar 2017
Actions against the police etc.	1	4	1	6	7
Community care	152	102	118	117	111
Education	3	5	1	8	9
Housing	135	93	80	100	99
Immigration	421	347	276	270	284
Mental health	3	3	2	1	3
Miscellaneous	13	6	12	10	17
Other public law Children Act proceedings	1	0	0	0	3
Public law	248	275	203	211	224
Welfare Benefits	1	2	0	0	0
<b>Judicial Review total</b>	<b>978</b>	<b>837</b>	<b>693</b>	<b>723</b>	<b>757</b>

### Court of Protection proceedings

This edition includes an ad hoc table of figures (table 6.11) on legal representation in the Court of Protection as funded under the Mental Health and Community Care categories of law. This information is being published to inform a case listed for hearing in the Court of Appeal on the 3-4 July 2017 that concerns whether certain types of proceedings can be

brought under section 21A of the Mental Capacity Act 2005. This information may be required as background material in those proceedings.

The statistics are broken down into the following three sub-categories:

- **Section 21A applications:** Challenges to a deprivation of liberty authorisation under section 21A of the Mental Capacity Act 2005
- **Medical treatment issues:** Healthcare and welfare proceedings in the Court of Protection in relation to medical treatment issues
- **Other Court of Protection:** Other Court of Protection proceedings (including deprivation of liberty matters not dealt with under section 21A.)

## 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 [www.gov.uk/work-out-who-qualifies-for-civil-legal-aid](http://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 [www.gov.uk/legal-aid-apply-for-exceptional-case-funding](http://www.gov.uk/legal-aid-apply-for-exceptional-case-funding)

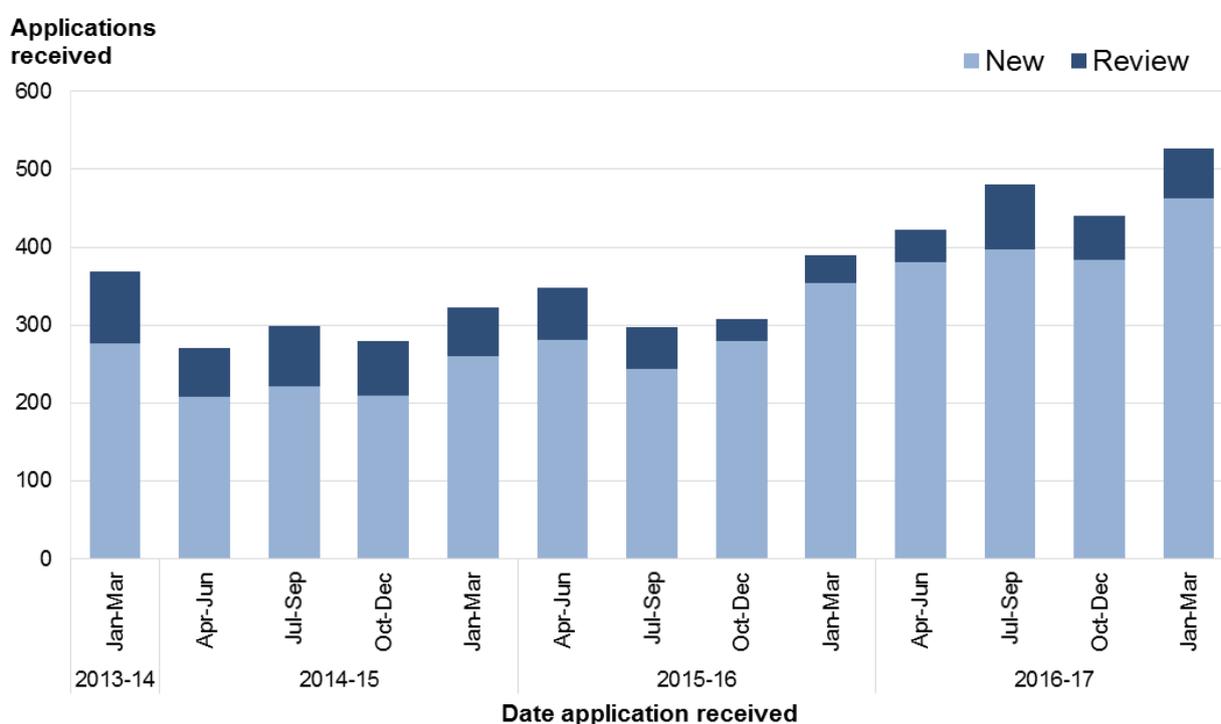
## Applications

There were 527 applications for ECF received between January and March 2017, a rise of 35% compared to the same period in 2016, and the highest since the scheme began. 463 (88%) of these were new applications (see Figure 27).

The remaining 64 applications were re-submitted for review; this is where a case has previously been rejected or refused ECF funding and then resubmitted by the client for reconsideration. These 64 applications also include reviews of refused amendments; amendments are not included in the number of new applications as doing so would double-count the granting of the initial application.

In previous bulletins we have published figures on the number of working days, however, due to data quality concerns we have removed these figures from the bulletin. One of the key issues affecting this decision is the way in which we monitor those applications that are put on hold while further information is requested, in particular in those cases where the application is put on hold more than once.

**Figure 27:** Volume of ECF applications received, new or review, Jan-Mar 2014 to Jan-Mar 2017.



This quarter, 78 ECF applications (15%) were made directly by the client. The increase in direct client applications may be due to the ECF application form being simplified in response to a judicial review (mentioned later in this chapter).

## Determinations

Applications that are not withdrawn by the client can receive three different determinations: rejected, refused or granted. For an application to be granted it must meet the three criteria detailed at the beginning of the chapter. Rejected applications do not progress to being assessed against the means and merits criteria. This will be because they are either:

- in scope (eligible) for legal aid,
- an incomplete/premature application, or

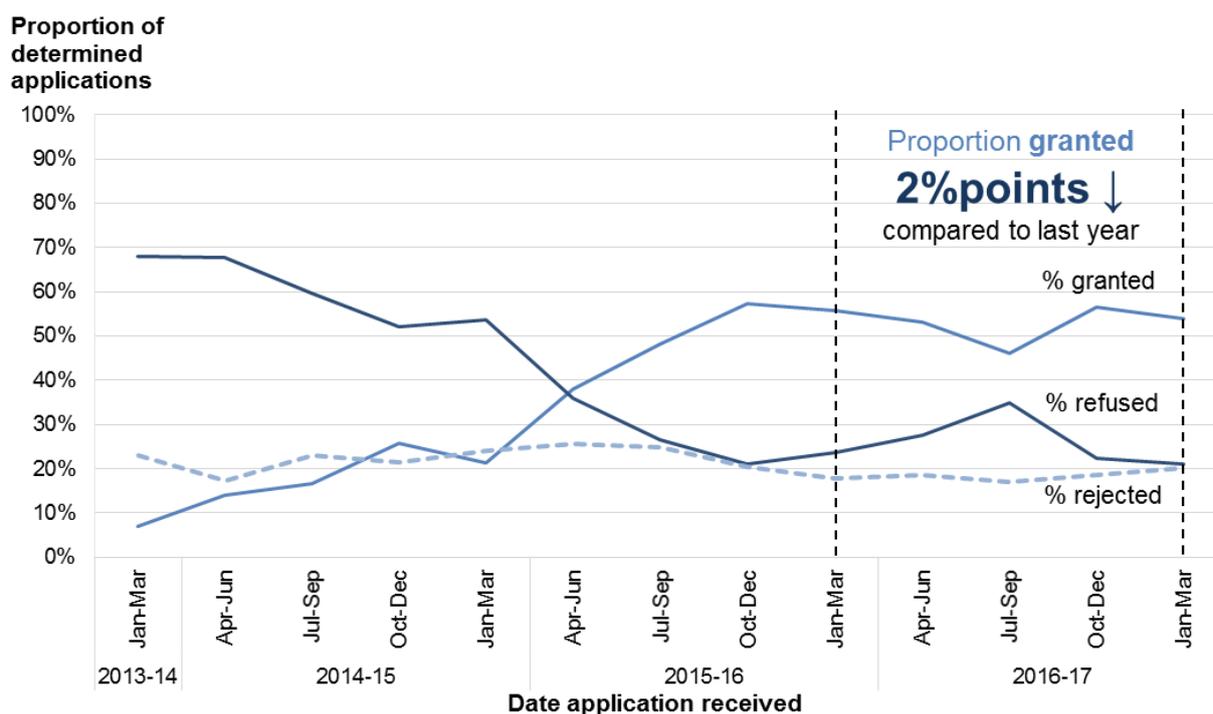
- “other” which encompasses issues such as the timeliness of submission and eligibility for review

Figures on these refusal and rejection reasons can be found in the more detailed data file.

Of the 527 ECF applications received between January and March 2017, 489 (93%) had been determined by the LAA as of 31 May 2017. Of these, 54% (264) were granted, 21% (103) were refused and 20% (98) rejected (see figure 28).

38 applications were awaiting assessment as at 31 May 2017, and a further 16 applications from earlier quarters also still await a determination.

**Figure 28:** ECF determinations by outcome, Jan-Mar 2014 to Jan-Mar 2017.



### 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. As a result, applications with a ‘poor’ or ‘borderline’ prospect of success had to be considered for funding.

This judgement was appealed at the Court of Appeal in March 2016. In May 2016, the court found that the LAA regulations were lawful, contrary to the initial judgement. Consequently, from this date, applications with a ‘poor’ or ‘borderline’ prospect of success no longer need to

be considered for funding. However, the volume of applications assessed to have a poor or borderline prospects of success is generally small so this may have little impact.

### Applications and determinations by category of law

Of the ECF applications received between January and March 2017, immigration (54%), inquest (17%), and family (15%) remained the most requested categories of law (table 8.2).

The impact of the first court judgement discussed above can be seen in the figures; the proportion of immigration applications being granted has increased sharply since around Apr-Jun 2015.

**Figure 29:** ECF determinations by category of law, Jan - Mar 2017.

Category of law	Awaiting	Granted	Refused	Rejected	Withdrawn	Part-grant	Total
Debt/Consumer/Contract	0	0	0	1	0	0	1
Discrimination	0	0	2	1	0	0	3
Family	1	20	32	20	4	4	81
Housing/Land Law	2	4	3	3	2	0	14
Immigration	6	196	23	47	11	0	283
Inquest	22	36	26	4	2	0	90
Other	6	4	14	20	1	0	45
PI/Clinical Negligence	1	0	0	0	0	0	1
Welfare Benefits	0	4	3	2	0	0	9
<b>Grand Total</b>	<b>38</b>	<b>264</b>	<b>103</b>	<b>98</b>	<b>20</b>	<b>4</b>	<b>527</b>

# Appeals and representations

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## 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.

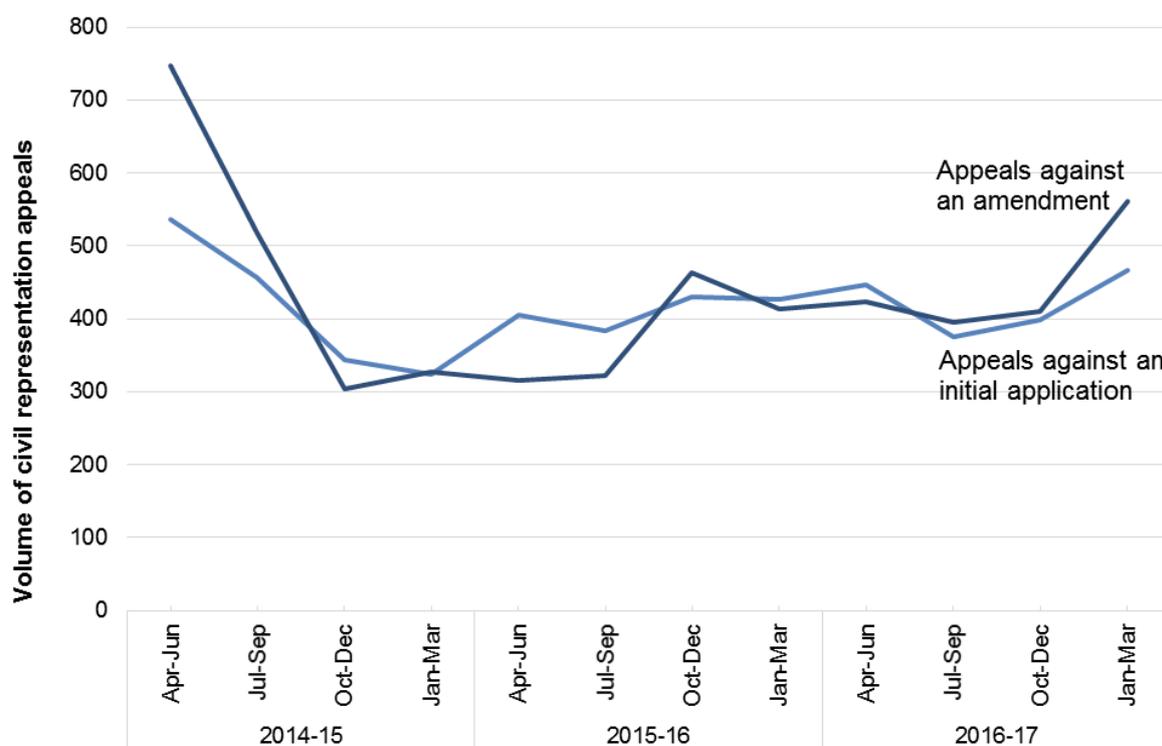
Following the introduction of the LASPO Act, which caused civil representation volumes in general to drop from 2013-14 (Figure 13), numbers of appeals also fell sharply (Figure 30). Since then, civil representation appeals have increased, as have civil representation grants. There were 10% more total civil representation legal appeals in 2016-17 than in 2015-16.

Appeals against initial applications appear to have been more stable recently than appeals against amendments, increasing by 2% this year compared with 18% for amendments. Non-family initial application appeals have increased more than family appeals recently, driven by the immigration category (Table 10.1).

51% of all appeals against initial civil representation application decisions were granted, at least in part, in 2016-17, up from 29% in 2015-16. Appeals against non-family initial applications have risen more than family appeals, up from 10% last year to 42% this year. This has been driven partially by the rise in immigration appeals received and granted; the proportion granted has increased from 1 in 5 in 2015-16 to almost half in 2016-17. For amendments, the proportion of appeals granted was 56% for family and 59% for non-family.

The most common type of legal appeal for both initial applications and amendments in 2016-17 was for Private Law Children Act proceedings. In this category 53% of initial application appeals and 56% of amendment appeals were granted.

**Figure 30:** Volumes of legal appeals against decisions on civil representation initial applications and appeals, Apr-Jun 2014 to Jan-Mar 2017.



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

### 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.

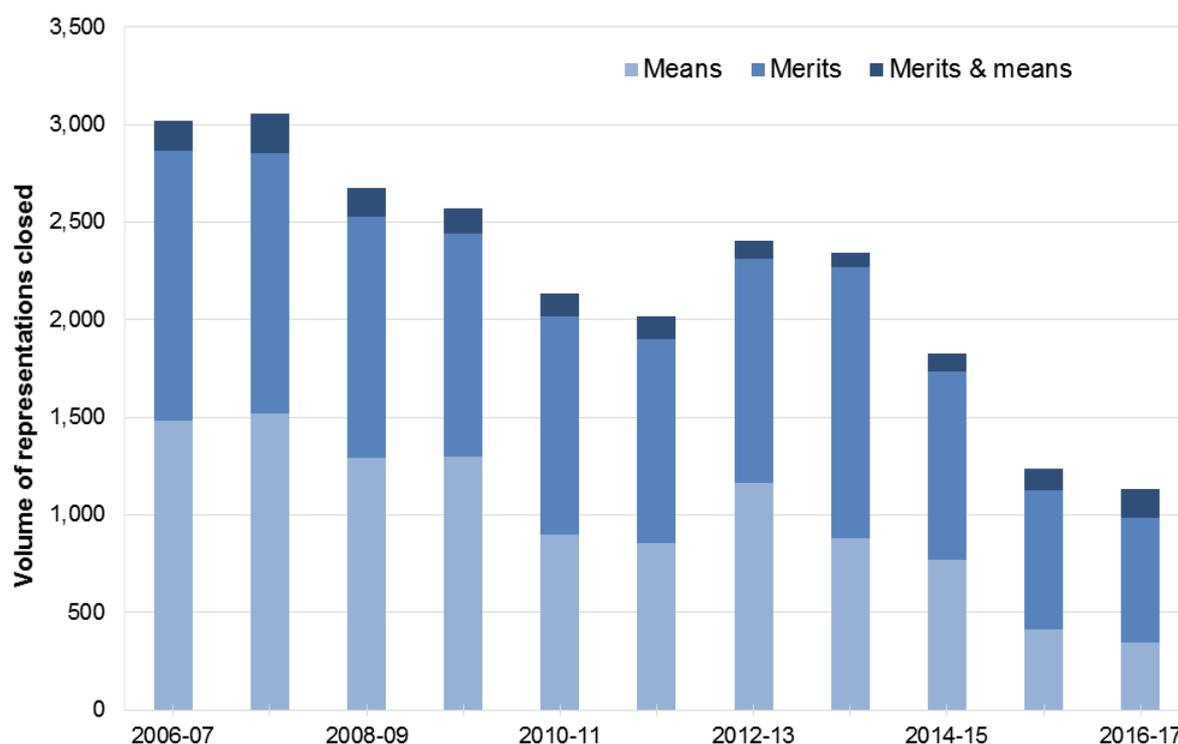
Representations may be made concerning the legal merits of the case, the financial means of the applicant, or both. Detailed figures are presented in Table 10.2, with further detail published in CSV and ODS format alongside this bulletin.

The representations process may be lengthier than the appeals process, as some cases require the collation of 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 2016-17 was 9% lower than in 2015-16 (Figure 31). The total volume of representations has generally been falling since 2006-07.

This year 30% of the closed representations concerned the financial means of the applicant, 57% were regarding the legal merits of the case and the remaining 13% were for both. This is a slight increase for the both category, and a corresponding drop for representations on means only, compared with previous years.

**Figure 31:** Volume of representations closed out in the given financial year, by type, 2006-07 to 2016-17.



# Legal aid providers

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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, [find-legal-advice.justice.gov.uk/](https://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.

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.

Alongside overall expenditure 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.

All information provided should be used with care as data are from a variety of sources held by the LAA and combined to produce these statistics. For more information on data sources, quality and usage please see the the User Guide to Legal Aid Statistics.

Further important points to note when using these figures include;

- 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

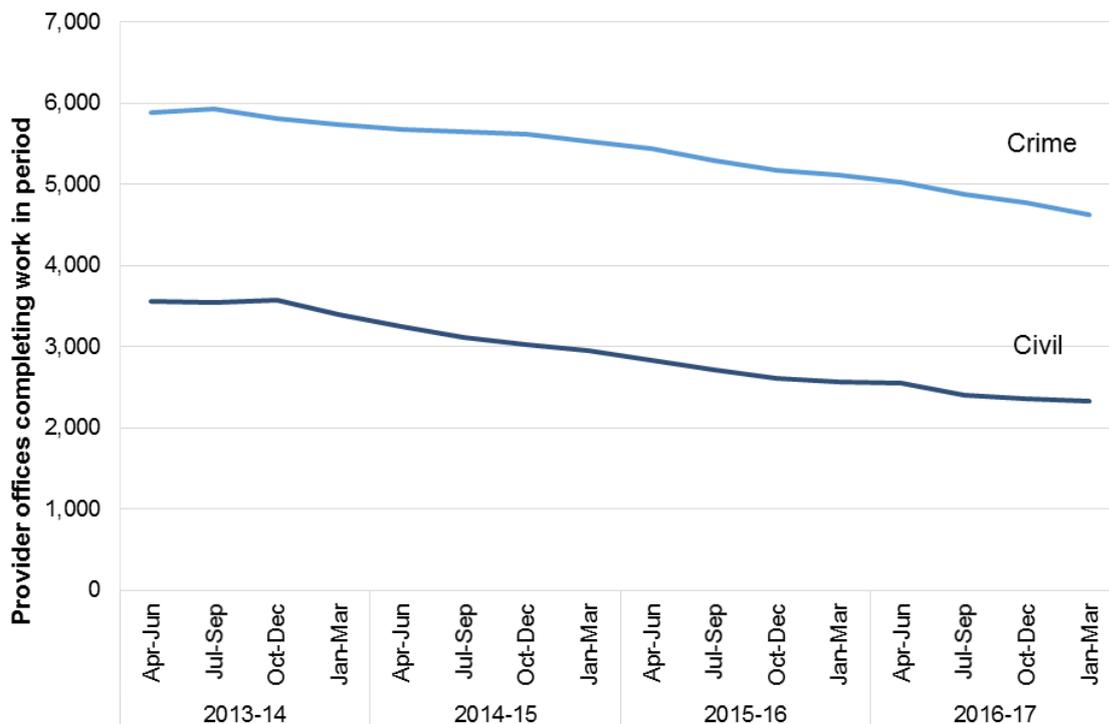
full-time on legal aid funded work, may combine it with other work not covered by these statistics, such as private work, or otherwise work part-time. The figures exclude payments to the named firm in some instances where the claim included work undertaken by others on their behalf.

- 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 32 shows the number of provider offices who have received claim expenditure from the LAA for work done between April to June 2013 and January to March 2017. It shows a gradual fall in the number of provider offices for both crime and civil work. Comparing the latest quarter to the same period of the previous year, the fall has been similar for crime work (down 10%) and civil work (down 9%).

**Figure 32:** Civil and crime provider offices Apr-Jun 2013 to Jan-Mar 2017.



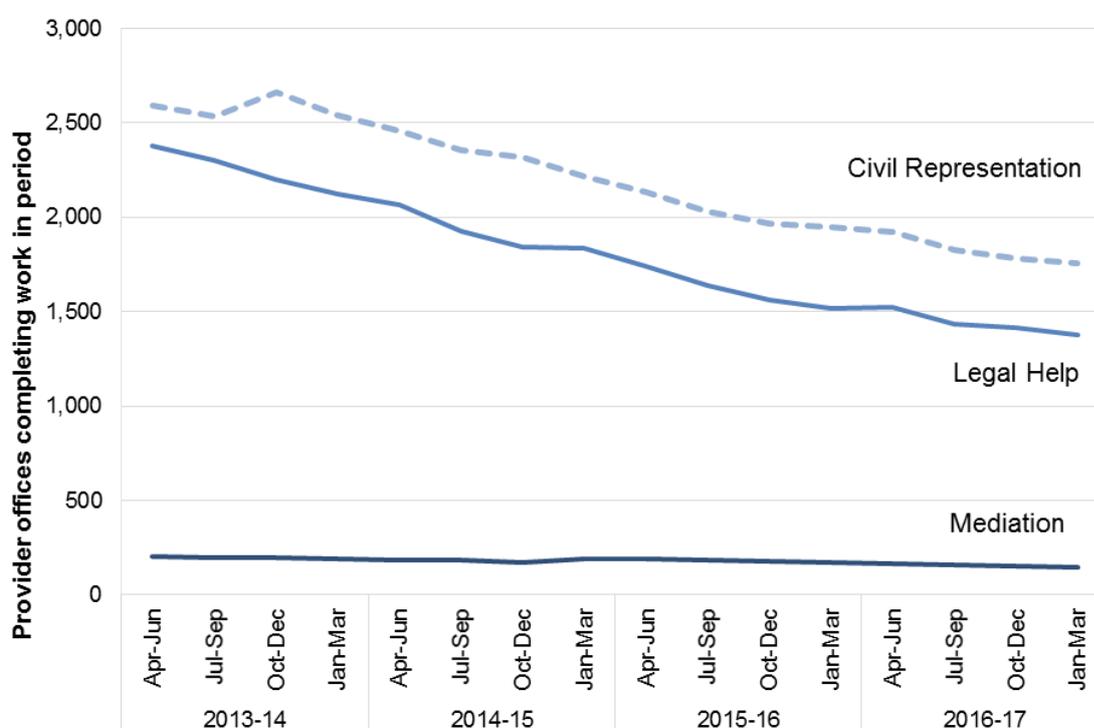
## Civil providers

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 33 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 increased over the two years following the LASPO Act but has declined in the last financial year.

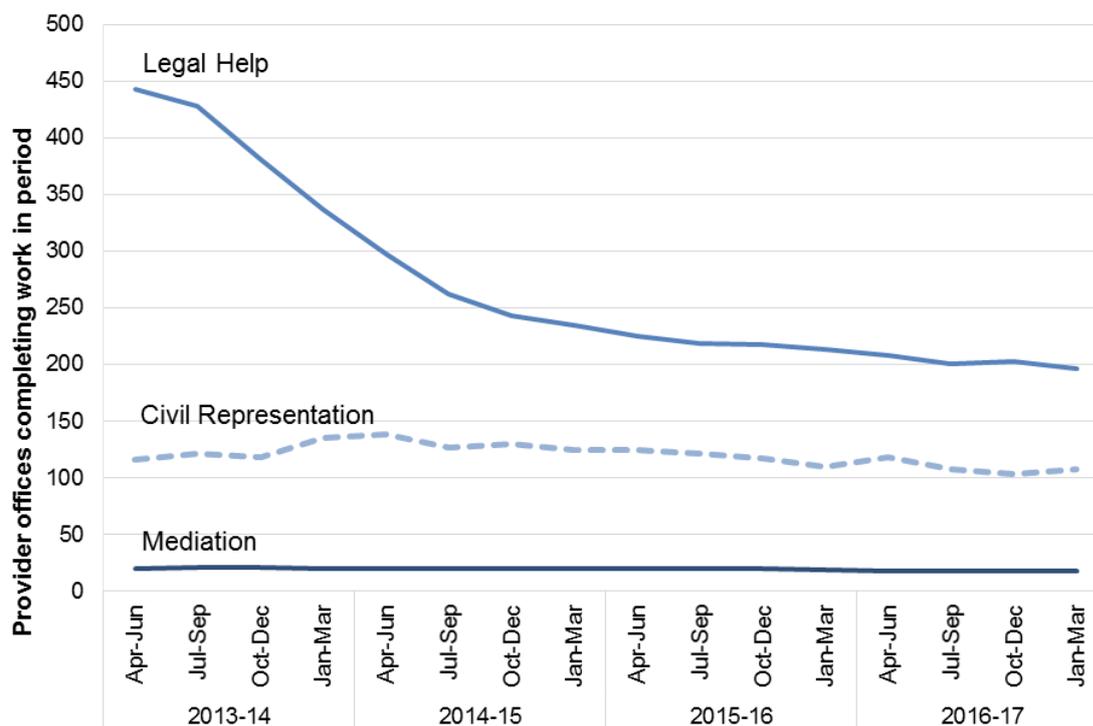
These trends in provider numbers broadly reflect the trends in workload shown in the civil legal aid chapter of this bulletin.

**Figure 33:** Number of Solicitor firm provider offices by category of civil legal aid work, Apr-Jun 2013 to Jan-Mar 2017.



The number of Not-for-Profit providers working in legal help has followed a similar downward trend over the last four years. In contrast, the number providing civil representation work increased slightly in the year following the introduction of the LASPO Act but has declined in the last three financial years (Figure 34).

**Figure 34:** Number of Not-for-Profit provider offices by category of civil legal aid work, Apr-Jun 2013 to Jan-Mar 2017.

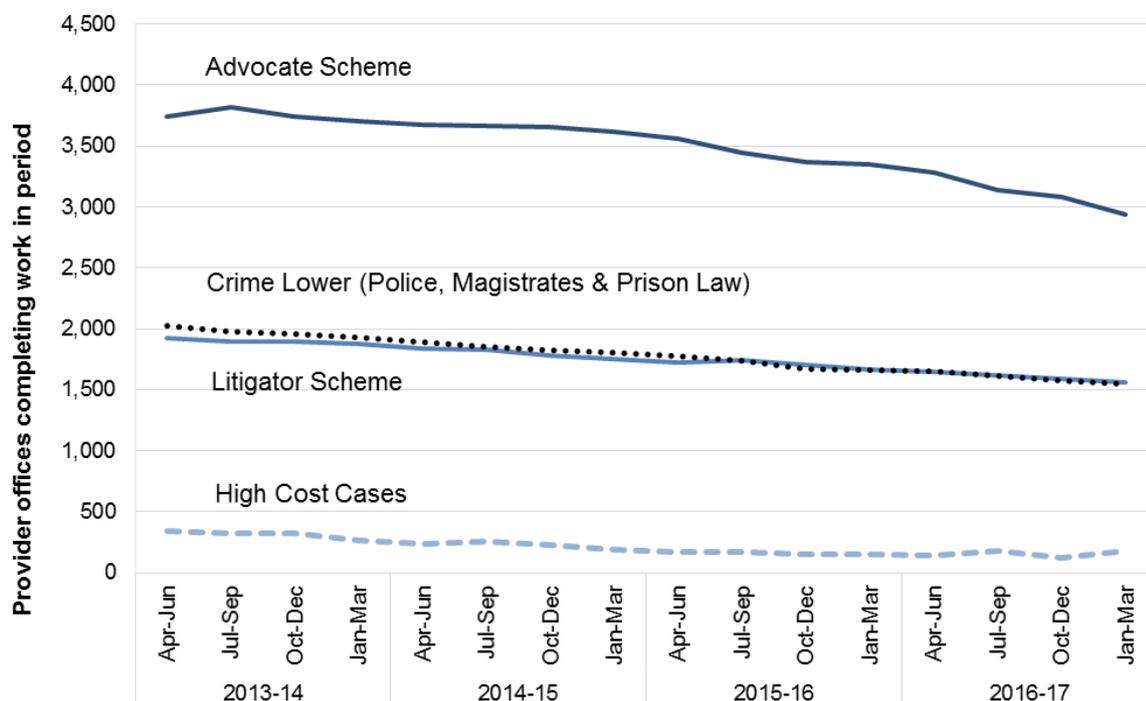


## Crime providers

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 2013 and January to March 2017. This has been fairly similar across all criminal legal aid schemes (see Figure 35)

**Figure 35:** Number of provider offices by category of criminal legal aid work, Apr-Jun 2013 to Jan-Mar 2017.



## Providers by region

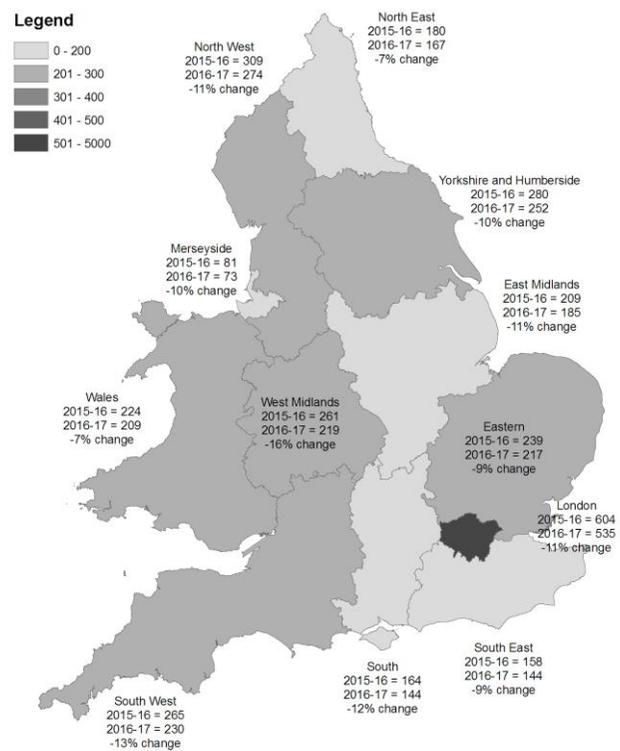
All figures provided in the publication on the geographic breakdown of legal aid are based on the provider office location and not the location of the client. A provider may serve clients from other geographic areas as well as that in which the office is located.

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.

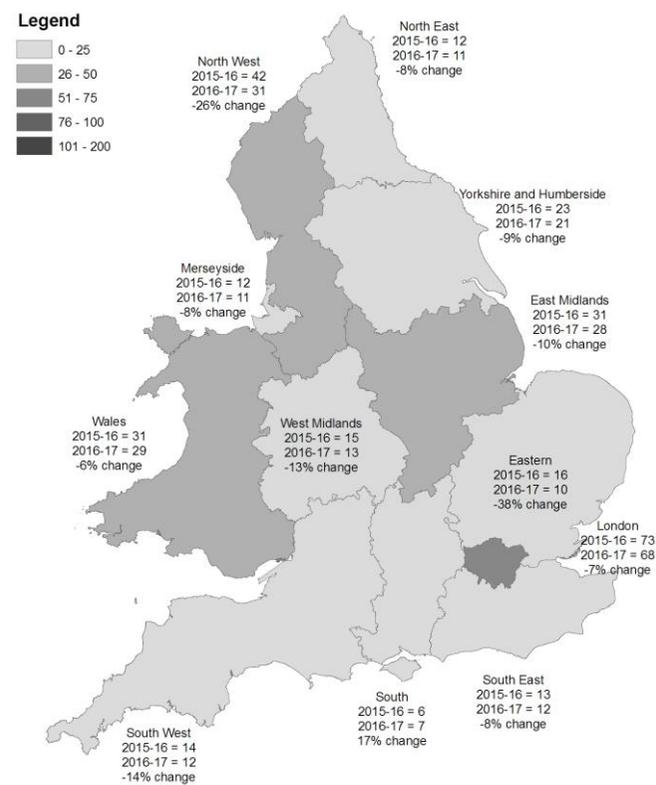
The four maps below (figures 36 – 39) show the number of civil providers split between solicitor firm and Not-for-Profit organisation and the number of litigator and advocate crime providers for the latest financial year, together with the change since the previous year.

Figures 36 – 39 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.

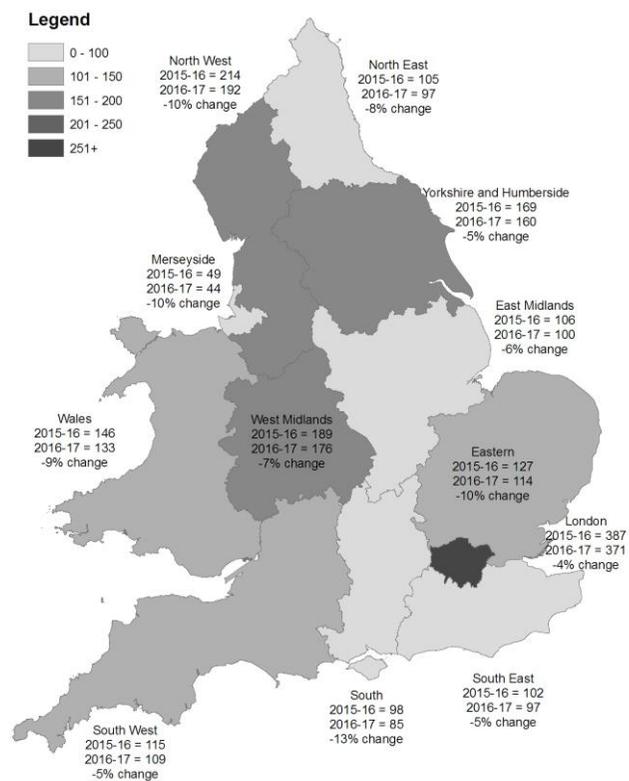
**Figure 36:** Number of solicitor firms in England and Wales who received payment for civil work completed during 2016-17



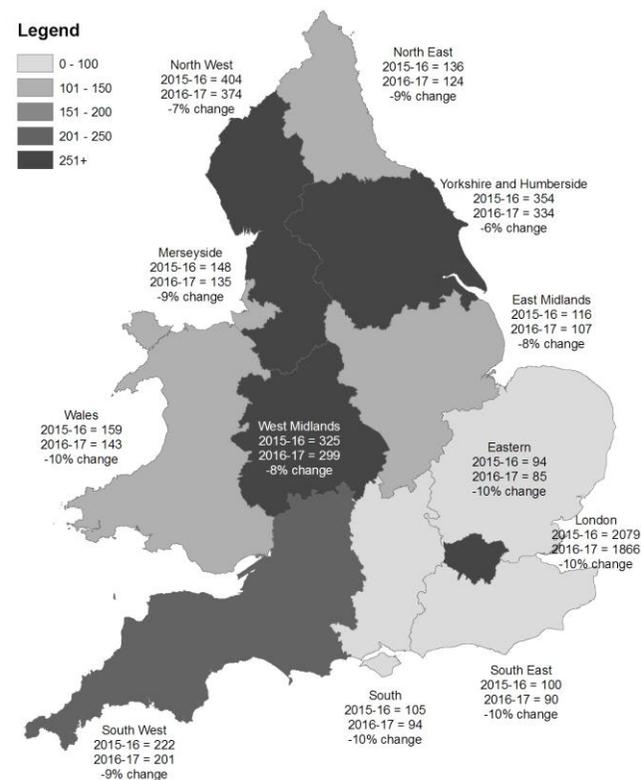
**Figure 37:** Number of Not-for-Profit organisations in England and Wales receiving payment for civil work completed during 2016-17



**Figure 38:** Number of litigators in England and Wales who received payment for criminal work completed during 2016-17



**Figure 39:** Number of advocates in England and Wales who received payment for criminal work completed during 2016-17



## Client characteristics

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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 Statistics<sup>4</sup>.

Data are provided against the date the case was closed for all areas except for representation at both Magistrates' Court and Crown Court, which use the date the legal funding was granted. This means that figures on the sex of crime lower clients are based on closed case for all non-Magistrates' Court work and application grant date for Magistrates' Court clients.

Mediation characteristics are for those clients who received full mediation only, not Mediation Information and Assessment Meetings (MIAMs).

This year we have released each diversity variable with more detail on the category for each legal aid scheme.

Figures on client characteristics for the categories within each scheme are now available in the more detailed data file published in CSV and ODS format alongside this bulletin.

The unknown category in each area includes figures where the category of protected characteristic for ethnicity and disability has been suppressed to protect the personal information of legal aid clients. This method has been chosen to preserve overall volumes and increase the usability of the data.

More detail on disclosure control, methodology and data quality can be found in the User guide to legal aid statistics.

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<sup>4</sup> 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>

## Sex

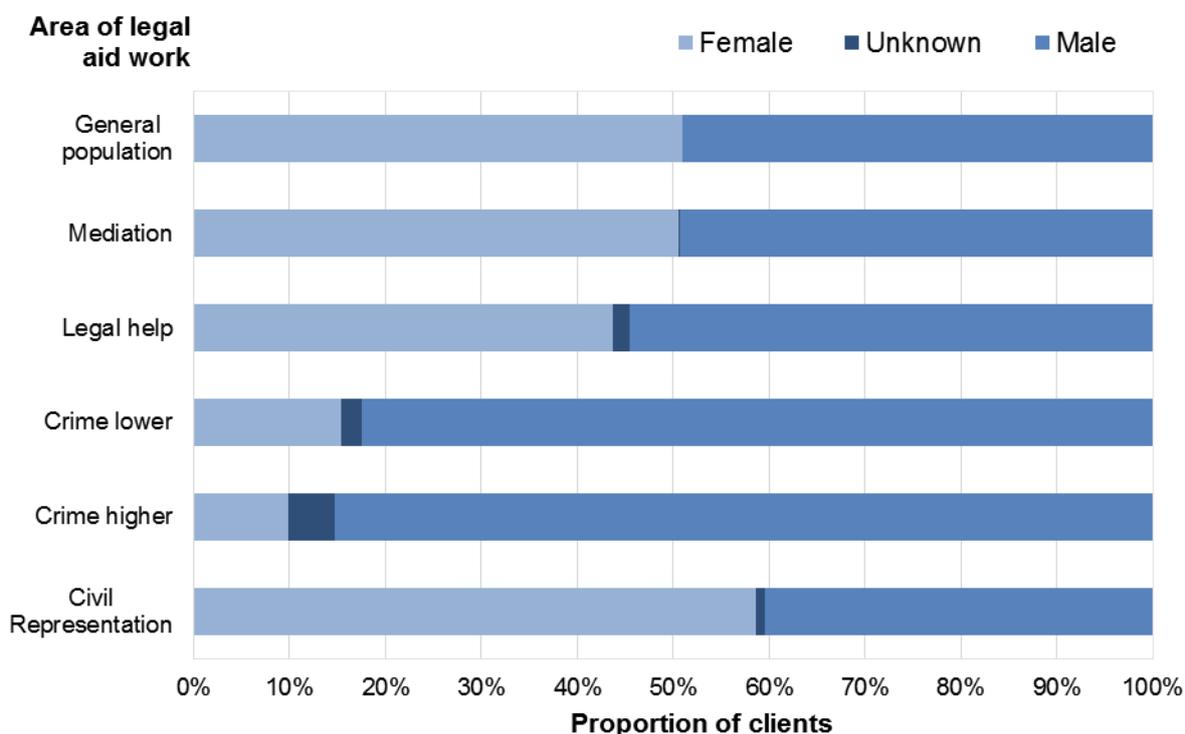
The profile of criminal legal aid clients in 2016-17 differs from the national profile with a much greater proportion of male clients (Figure 40). This reflects the picture across the criminal justice system as a whole<sup>5</sup> and has been consistent throughout all years for which we have data. The only real change over time is that the proportion of unknowns in the Crown Court and Magistrates' Court data has decreased from 14% to 5% currently.

In 2016-17, within Crime Higher, 16% of legally aided appeal cases involved females whereas only 9% of those represented in the Crown court for indictable offences were female. In Crime Lower (closed case measure), only 3% of legally aided prison law cases involved females, but 16% pre-charge defendants were female.

The profile of civil legal aid clients in 2016-17 broadly matches the general population, and particularly closely for mediation. Civil representation clients have a slightly greater proportion of female clients (59%) and Legal Help slightly fewer (44%). The proportion of proportion of legal help clients who are female has been decreasing since 2012-13 (down 10 percentage points).

For the biggest categories of civil legal aid, the split between male and females is often quite different from the general population average. In 2016-17 in legal help, 75% immigration clients were male, compared to 27% family. In civil representation, 70% immigration clients were male. Within family, 7% domestic violence clients were male.

**Figure 40:** Proportion of legal aid clients in 2016-17 by gender



<sup>5</sup> MOJ, Criminal Justice statistics quarterly: [www.gov.uk/government/organisations/ministry-of-justice/series/criminal-justice-statistics](http://www.gov.uk/government/organisations/ministry-of-justice/series/criminal-justice-statistics)

## Disability

Figure 41 shows the proportion of legal aid clients who reported that they 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.

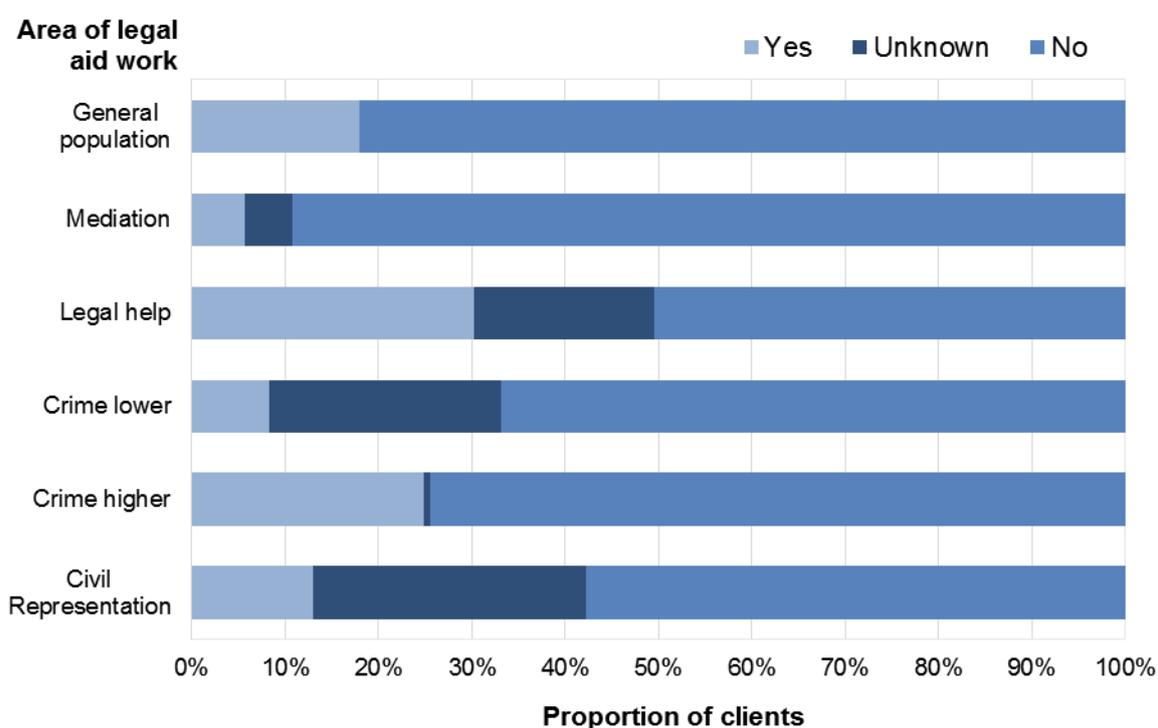
Crime Higher has the lowest proportion of unknowns, although no detail about the type of disability is recorded, as with crime lower. A higher proportion of legally aided Crown Court defendants have a disability (25%) than the general population (18%).

Despite the unknowns, the figures show that a higher proportion of legal help clients have disabilities than the general population. This may be partly because mental health controlled legal representation work is included within legal help. In 2016-17, 63% of legally aided mental health clients self-reported a mental health condition, making up 23% of the total number of legal help clients this year.

Disability profile information was not available for mediation prior to Jan-Mar 2015, when reporting moved onto a new system. Since then we can see that the proportion of legally aided mediation clients with a disability is lower than the general population average. The most common reported disability was a mental health condition, reported by 2% in 2016-17.

The overall picture of client disability status changed little between 2015-16 and 2016-17, although the proportion of unknowns in civil representation has decreased from 34% to 29%.

**Figure 41:** Proportion of legal aid clients in 2016-17 by disability status



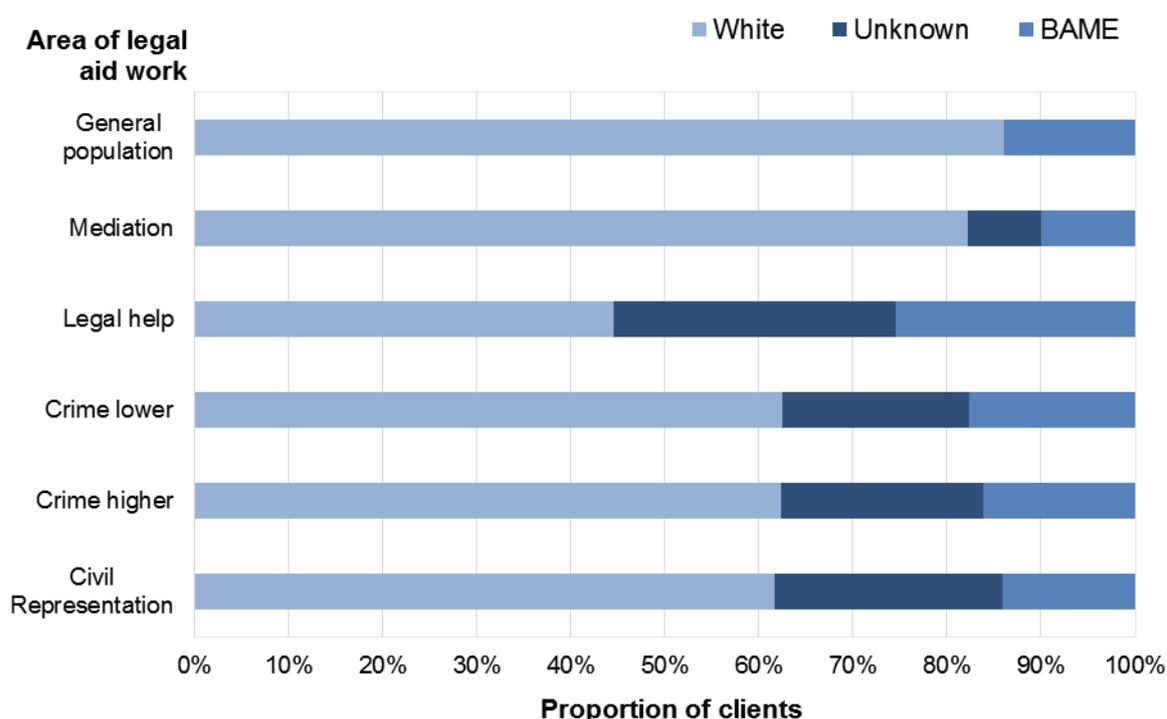
## Ethnicity

Figure 42 compares the proportion of legal aid clients who are from black, Asian or 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. Note that more detailed ethnicity information is available in the underlying data file for all areas of legal aid, split by the most widely-used categories<sup>6</sup>.

Figure 42 shows that the proportion of full mediation clients who are of black, Asian or minority ethnicity roughly corresponds with the general population, while the proportion among legal help clients is larger than in the general population. This may partly reflect the fact that immigration controlled legal representation (CLR) work is included within legal help; in 2016-17 only 4% of immigration legal help and CLR clients reported a White ethnicity, compared to an average of 44% for legal help and CLR. However, while the proportions of immigration clients reporting an Asian or black ethnicity were both around double their category averages, immigration has the highest proportion where the ethnicity is unknown, at half of all immigration clients (the average for legal help and CLR is 30% unknown).

The proportion of legal help clients self-reporting their ethnicity has continued to fall, down from 84% in 2012-13 to 70% in 2016-17, but generally the ethnicity profile of legal aid clients in 2016-17 is little changed compared with 2015-16.

**Figure 42:** Proportion of legal aid clients in 2016-17 by broad ethnic group



<sup>6</sup> Office for National Statistics, accessed June 2017  
[www.ons.gov.uk/methodology/classificationsandstandards/measuringequality/ethnicgroupnationalidentityandreligion](http://www.ons.gov.uk/methodology/classificationsandstandards/measuringequality/ethnicgroupnationalidentityandreligion)

## Age

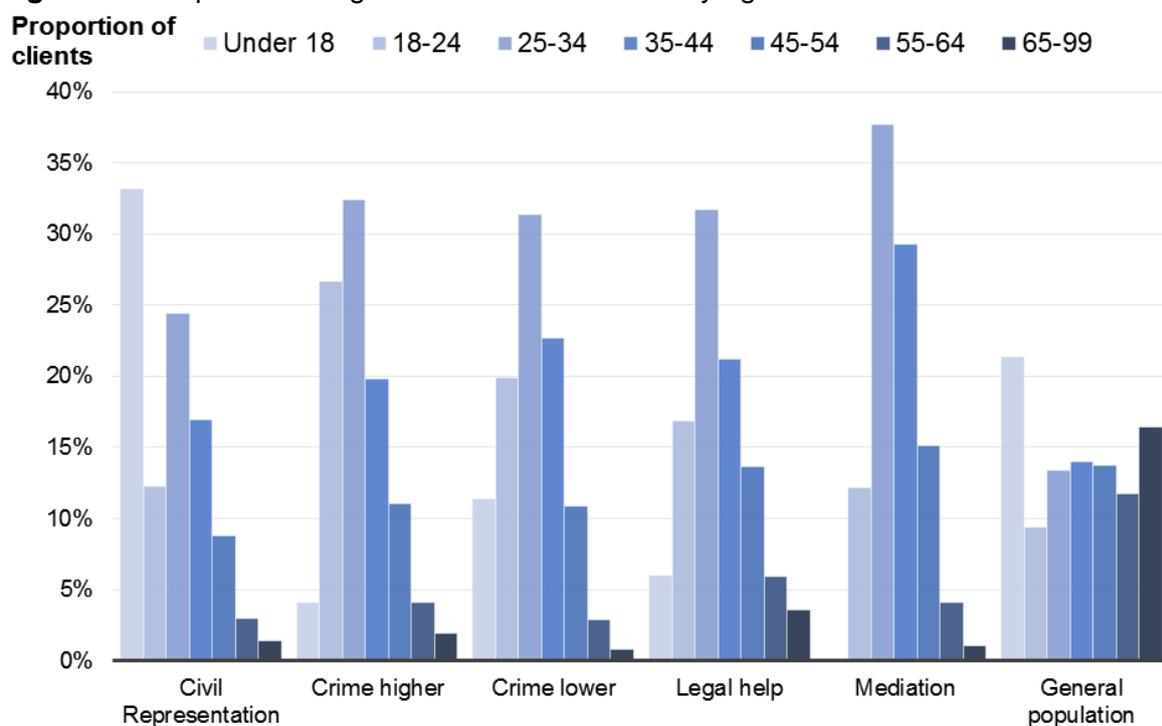
Due to the relatively small proportion of unknowns for age, these have not been included for this graph, but are available in the underlying client diversity data file. Mediation clients under 18 were reclassified into unknown as these are thought to be errors given the nature of the category. Please 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 (Figure 43). Within this, public law children act proceedings and special children act proceedings both have a high proportions of clients under 18; 59% and 46% respectively in 2016-17. At the other end of the scale, 40% of legally aided mental health civil representation clients have a reported age between 65-99. No other category has as many clients in this highest bracket. The age profile of clients is different for legal help, where immigration and community care have some of the highest proportions of clients under 18. Only 9% of mental health clients reported as 65-99, although this is double the category average.

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 every area of legal aid except civil representation.

The overall age profile of clients in 2016-17 is very similar to that in 2015-16. The largest change recently has been an increase in the proportion of under 18 year olds in civil representation, up from 16% in 2008-09 to 33% in 2016-17.

**Figure 43:** Proportion of legal aid clients in 2016-17 by age band



**Notes:** Age data for crime lower is taken from a different computer system and only includes Magistrates' Court work, not prison law or police station attendance work. Ages of 100 or above have been recategorised into unknown. Age profile information was not available for mediation prior to Jan-Mar 2015, when reporting moved onto a new system.

## Annex A - Contact points for further information

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

**Mark Mudie**

Tel: 0203 334 5422

Email: [mark.mudie@justice.gsi.gov.uk](mailto:mark.mudie@justice.gsi.gov.uk)

Other enquiries about these statistics should be directed to:

**Richard Field**, Head of Statistics

Legal Aid Agency

7th Floor, 102 Petty France

London SW1H 9AJ

Tel: 07469 579 287

[statistics@legalaid.gsi.gov.uk](mailto:statistics@legalaid.gsi.gov.uk)

General information about the official statistics system of the UK is available from [www.statistics.gov.uk](http://www.statistics.gov.uk)

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