



Ministry  
of Justice



Legal Aid  
Agency

# Legal Aid Statistics in England and Wales

July to September 2014

**Ministry of Justice  
Statistics bulletin**

Published 18 December 2014

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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 July to September 2014 and also provides the latest statement of all figures for previous periods and longer term trends.

The statistical release consists of a set of documents:

- This main bulletin, which provides key figures, graphs, explanation and commentary
- A set of main tables, provided as spreadsheets, which give more detailed figures and full time-series for each area
- A more detailed set of underlying data, provided in the form of a CSV (comma separated variables) file to facilitate detailed analysis using pivot tables, and re-use of the data using a variety of software packages. Guidance on how to use this underlying data is also provided alongside it.

Activity in the legal aid system can be expressed in terms of workload and expenditure. See the section below on measuring activity in the legal aid system for more detail on how each is measured in these statistics.

The background at Annex A contains further information on Legal Aid and recent changes.

The glossary at Annex B contains further explanation of the terminology used in this statistical release.

The explanatory notes at Annex C include information on the uses of these statistics.

We encourage feedback from users on the format and content of the Legal Aid Statistics, and we can be contacted via the contact details shown in Annex D at the end of this bulletin.

The next edition of Legal Aid Statistics will be published on Thursday 26 March 2015.

## Measuring activity in the legal aid system

### Workload

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

Additionally the basis on which volumes are measured varies between different types of legal aid due to the data available: crime lower volumes are based on claim volumes, which relate to the end of activity on a case, whereas for other legal aid areas volumes are based on case starts - the beginning of activity on a case. While less important in the long term, such timing differences can affect the measurement of workload volumes within a given period because of the duration of legal aid cases.

It is therefore difficult to summarise workload for the system overall within a single number and users are advised to look at trends in workloads for each area of legal aid separately.

### Expenditure

Annual editions of Legal Aid Statistics have been published alongside the Agency's Annual Report and Accounts, enabling them to report expenditure on an accruals accounting basis (meaning that they report

the value of the work done in the period), aligned with the accounts for the full financial year. This is not possible with a quarterly publication.

Therefore this bulletin instead presents expenditure in terms of the total value of payments made to legal aid providers in relation to the cases that are completed in the period. This should not be confused with expenditure as shown in the Annual Report and Accounts. There are important differences between these two measures of value which mean that they are not directly comparable and the figures shown in this bulletin are not indicative of the expenditure that will be reported in the Agency's Annual Report and Accounts at the end of the financial year.

In addition to timing, another important difference is that the figures in this bulletin do not include income received in the period (for example, the Agency's income in 2013-14 was £210m out of total net expenditure of £1,709m).

## **We want to hear from our users**

We are holding a consultation to learn more about our users, their needs and views in relation to Legal Aid Statistics in England and Wales. If you have comments or suggestions, please [read our short consultation paper and take part](#).

The consultation will run from 18 December 2014 until 19 February 2015.

Enquiries and responses should be directed to the contact details below. Please put 'Consultation Response' in the title of any emails:

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# Key Findings

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## **Criminal legal aid**

1. The number of claims for legal aid in the crime higher category has been gradually falling since a peak in January to March 2012. In the last quarter there was a 1% fall compared to the same period the previous year.
2. There has been a general decline in crime lower workload in recent years, with workload in July to September 2014 5% down compared to the previous year.

## **Civil legal aid**

3. The implementation of the LASPO Act in April 2013 resulted in large reductions in legal help workload and expenditure. However, since this initial fall trends have begun to stabilise. In the last quarter there was a 4% fall in workload compared to the same period in 2013.
4. In civil representation the reductions following implementation have been more gradual. Numbers of certificates granted for civil representation have stabilised over the last few quarters with the latest quarter 7% lower than corresponding quarter in 2013.
5. The number of mediation assessments fell following LASPO, however in the last year there has been an increase, with a 20% rise in the latest quarter compared to the same period in 2013.

## **Exceptional Case Funding**

6. Of the 300 ECF applications received between July and September 2014, 291 were determined and 44 of these (15%) determinations were grants. This represents a 1 point increase in the percentage of applications granted compared with the previous quarter.

## **Criminal Barrister Payments**

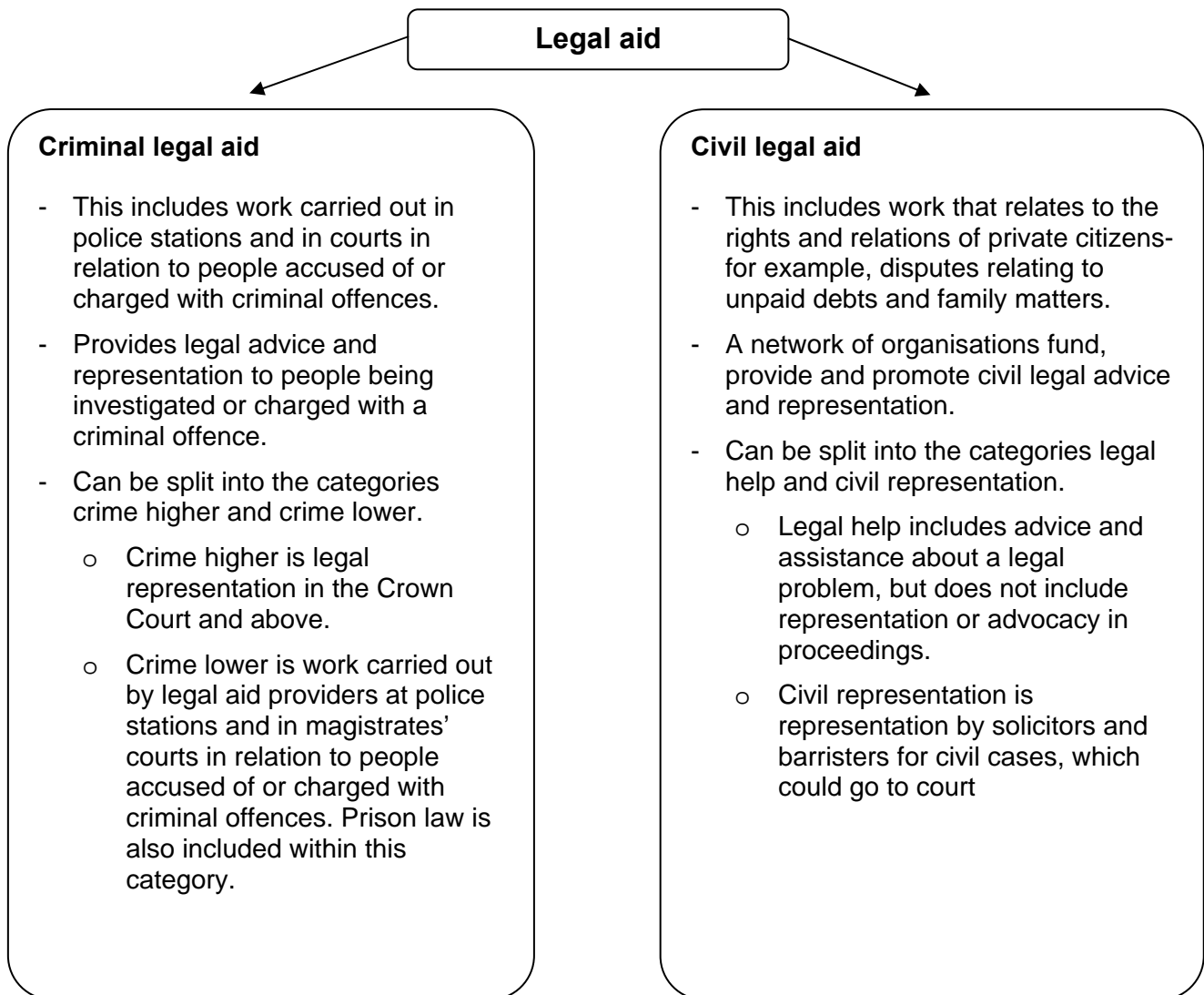
7. The annual release of payments shows that the mean average payment per barrister fell from £72,300 in 2012-13 to £70,200 in 2013-14.

# Analysis and commentary

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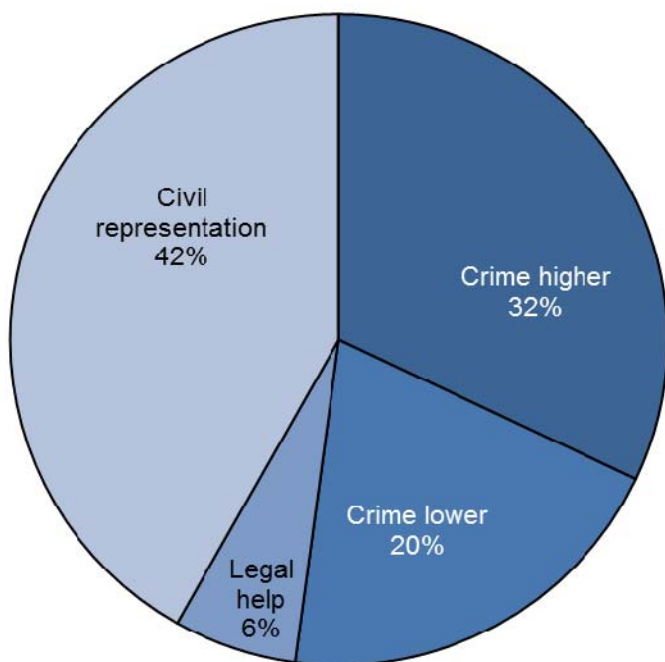
## Summary

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



The value of cases completed between July and September 2014 was just over £424 million<sup>1</sup>, this is an 11% reduction on the same period in 2013. The split in payments is fairly even between criminal legal aid (52%) and civil legal aid (48%). However, civil representation makes up 42% of the value of payments made for cases completed in this period (see figure 1).

**Figure 1:** Value of payments made for cases completed in Jul-Sep 2014, by legal aid scheme

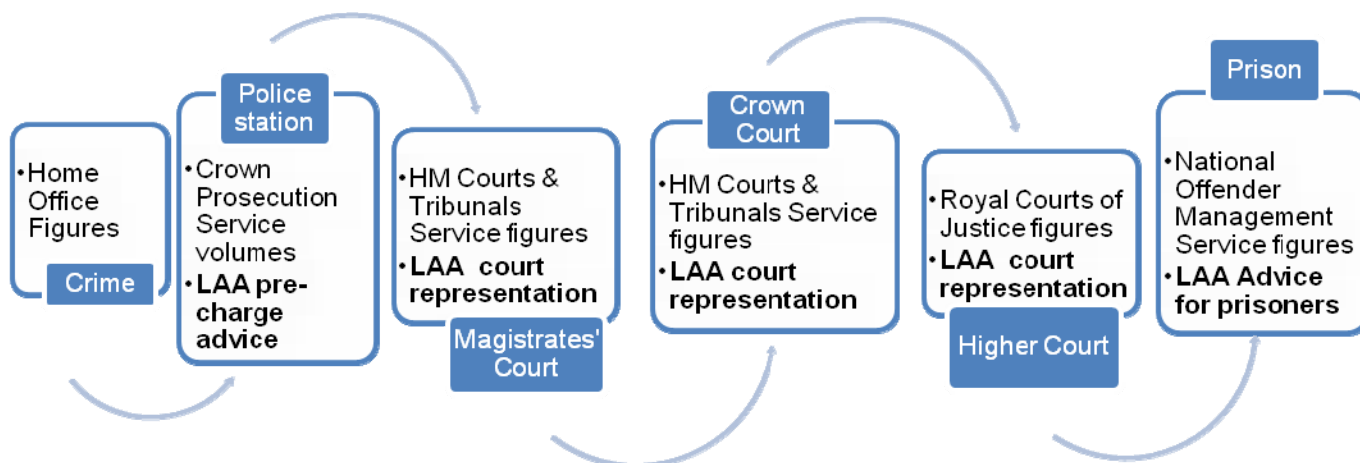


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<sup>1</sup> Data on the value of completed cases are provisional and subject to change.

# Criminal Legal Aid

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



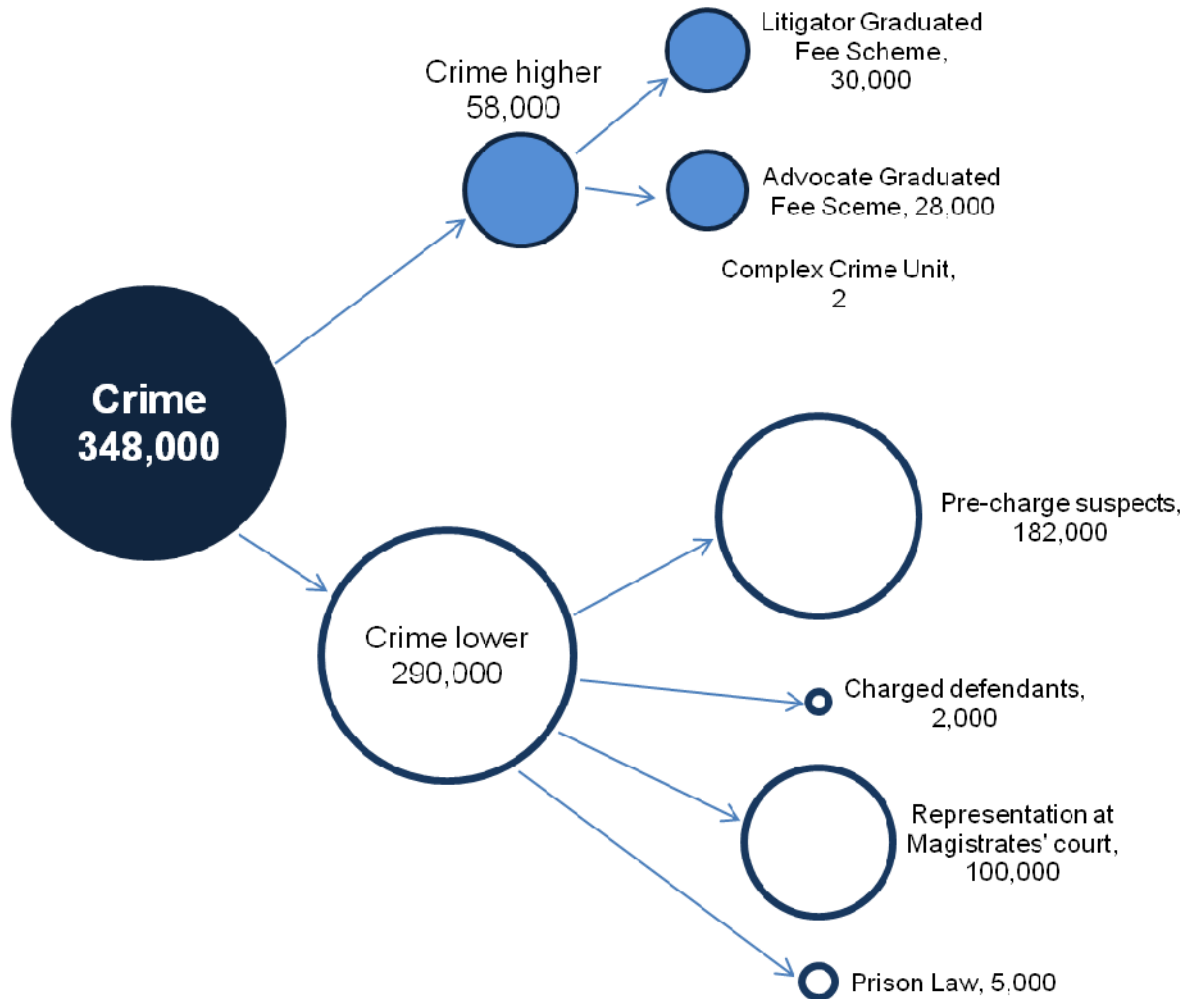
All criminal cases are potentially within the scope of the criminal legal aid scheme, subject to the Interests of Justice test and the means test operating to exclude some cases.

Figures given in this report reflect each of the areas above with information from the pre-charge stage, the early court system and prison assistance found in the crime lower section and the more serious Crown Court, Higher Courts and high cost case information provided in the crime higher section.

Workload in the wider Criminal Justice System (CJS) has fallen in the last few years and as a consequence work further down the system, including criminal legal aid, has also seen a fall. The largest volume reductions in overall workload within criminal legal aid between July and September 2014 compared to the same period in the previous year were in Representation at Magistrates' court, which has seen a fall of around 6,000 cases (6%).



**Figure 2:** Volumes within criminal legal aid area Jul-Sep 2014

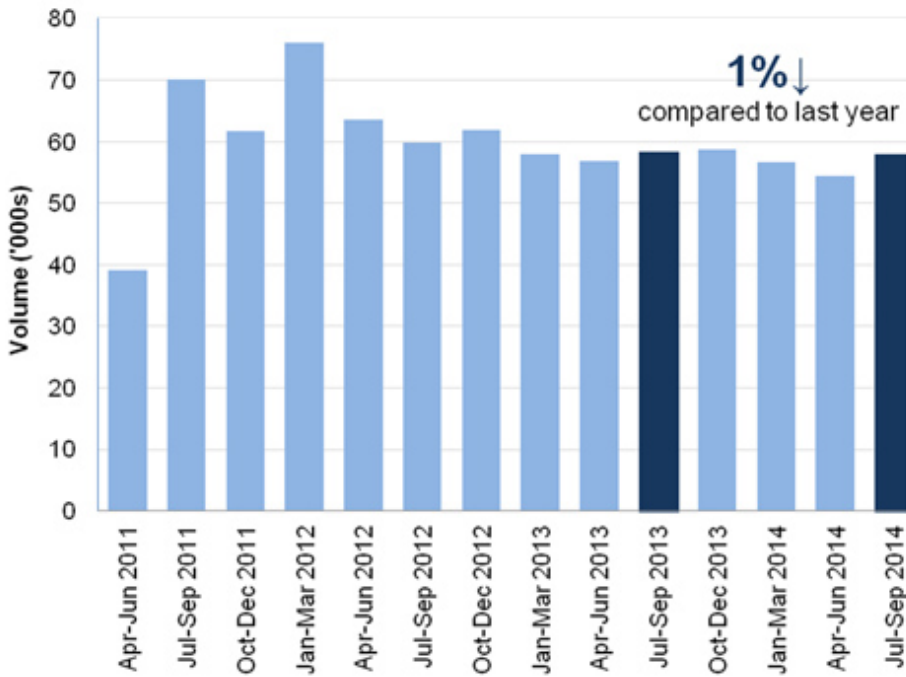


**Note:** figures have been rounded so may not sum to totals

### Crime higher

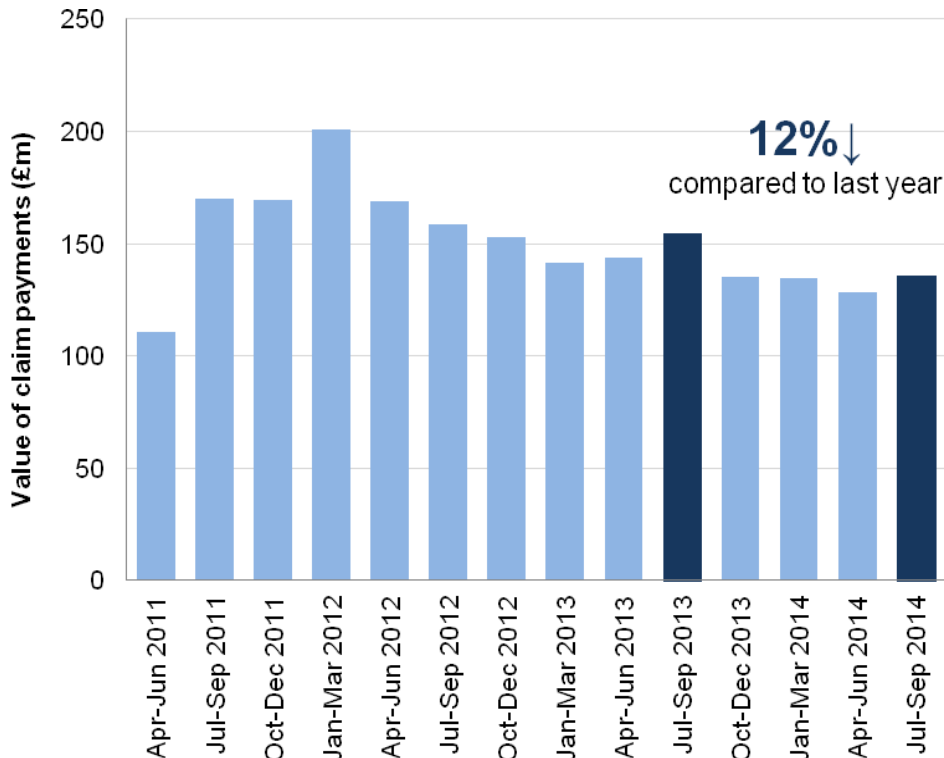
The last few years have seen a gradual decline in volume in the crime higher category (see figure 3). These have been driven by a fall in the volume of representations in the Crown Court. The value of payments for completed cases in crime higher has also decreased over the last three years, with falls in all categories (figure 4).

**Figure 3:** Number of cases within crime higher, Apr-Jun 2011 to Jul-Sep 2014



**Note:** Some payments relating to the first part of 2011-12 were processed in a previous, separate payment system from which it is not currently possible to determine the precise timing of case completion, and these payments have therefore been excluded. High cost cases are case starts and both litigator and advocate case completions are included.

**Figure 4:** The value of completed crime higher cases, Apr-Jun 2011 to Jul-Sep 2014



## Representations at Crown Court

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.

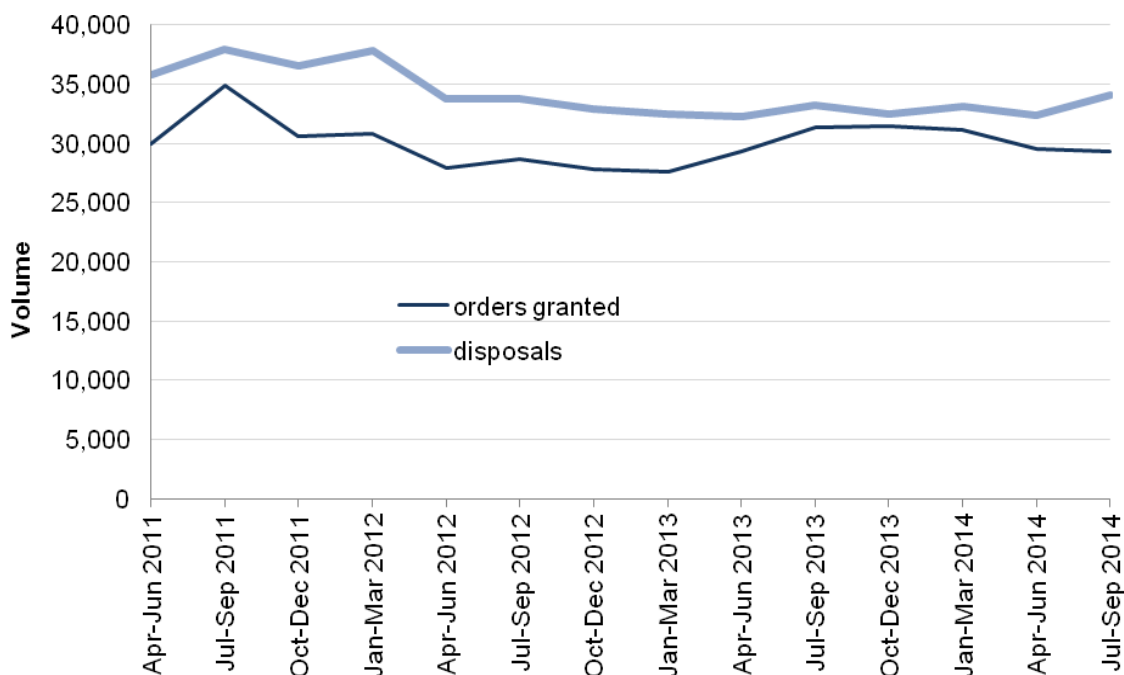
*Indictable offence:* A criminal offence that can only be tried in the Crown Court.

*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

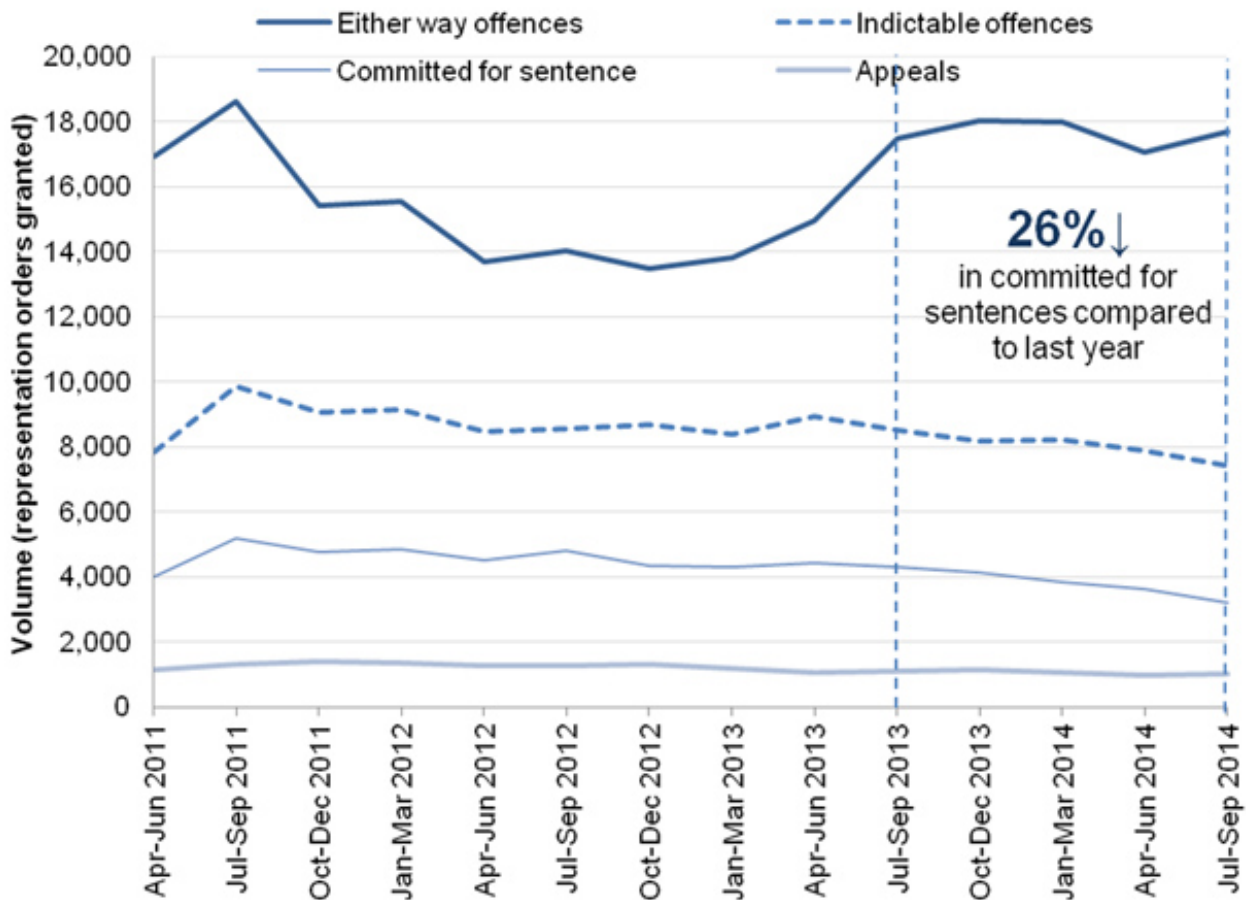
The trend in publicly funded representations in the Crown Court is broadly similar to the trend in Crown Court disposals<sup>2</sup> (see figure 5). The number of representation orders granted between July and September 2014 has fallen by 7% compared to the same period in 2013. This has mainly been driven by falls in Committed for sentence and Indictable offences (26% and 13% respectively) (see figure 6).

**Figure 5:** Representation orders granted and disposals in the Crown Court, Apr-Jun 2011 to Jul-Sep 2014



<sup>2</sup> Criminal Court Statistics Quarterly Jul-Sep 2014, <https://www.gov.uk/government/statistics/>

**Figure 6: Representation orders granted in the Crown Court, Apr-Jun 2011 to Jul-Sep 2014, by case category**



### Very High Cost Cases (VHCCs)

VHCCs are those cases in which, if the case were to proceed to trial, it would be likely to last more than 60 days. These cases can span a number of years and while the volumes are relatively small the number of related contracts with providers and the amount spent are high in comparison. 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 the small number of Crown Court cases that account for a large proportion of total expenditure on criminal legal aid.

Total expenditure on VHCCs between July and September 2014 was £11 million, a reduction of 29% compared to the previous year. Falling VHCC costs are due to changes in rates paid and also a reduction in the proportion of cases classified as a VHCC due to the threshold being increased from 40 to 60 days on 1 April 2013. VHCCs represent less than 1% of the volume but 8% of the overall cost of publicly funded cases in the Crown Court.

For each VHCC opened there may be multiple defendants, each represented by a different provider, with separate VHCC contracts. Figure 7 below shows the number of VHCCs opened since April 2011, together with the number of individual contracts signed, contracts closed and the total expenditure.

**Figure 7: VHCC workload Apr-Jun 2011 to Jul-Sep 2014**

Financial year	Quarter	High Cost Crime cases opened	High Cost Crime contracts opened	High Cost Crime contracts closed	High Cost Crime expenditure (£m)
2011-12	Apr-Jun	4	55	75	20
	Jul-Sep	14	65	62	21
	Oct-Dec	9	79	103	28
	Jan-Mar	1	28	54	23
2012-13	Apr-Jun	1	22	81	20
	Jul-Sep	6	32	61	16
	Oct-Dec	5	27	41	16
	Jan-Mar	8	31	39	16
2013-14	Apr-Jun	5	17	57	18
	Jul-Sep	4	24	37	15
	Oct-Dec	3	24	69	13
	Jan-Mar	0	8	52	11
2014-15	Apr-Jun	0	5	26	9
	Jul-Sep	2	14	18	11

**Note:** Data on expenditure are provisional and subject to change

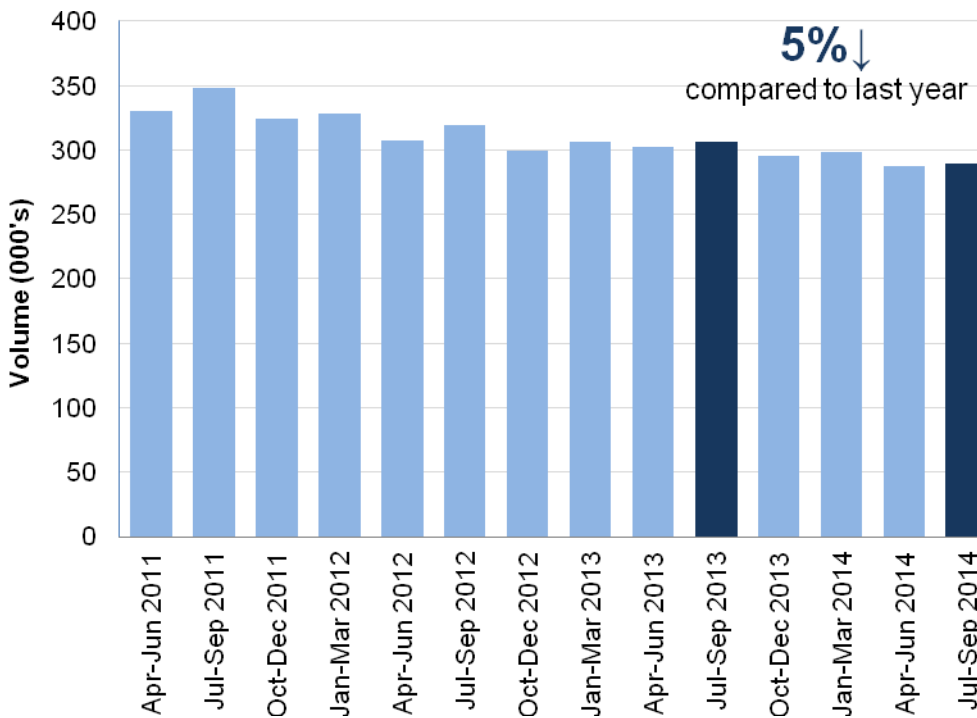
### **The Higher Courts: Court of Appeal and Supreme Court**

Legally aided cases within the Court of Appeal and the Supreme Court are counted within crime higher. However these figures are not currently available on a quarterly basis. The latest published figures are annual and can be found here: [www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014](http://www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014)

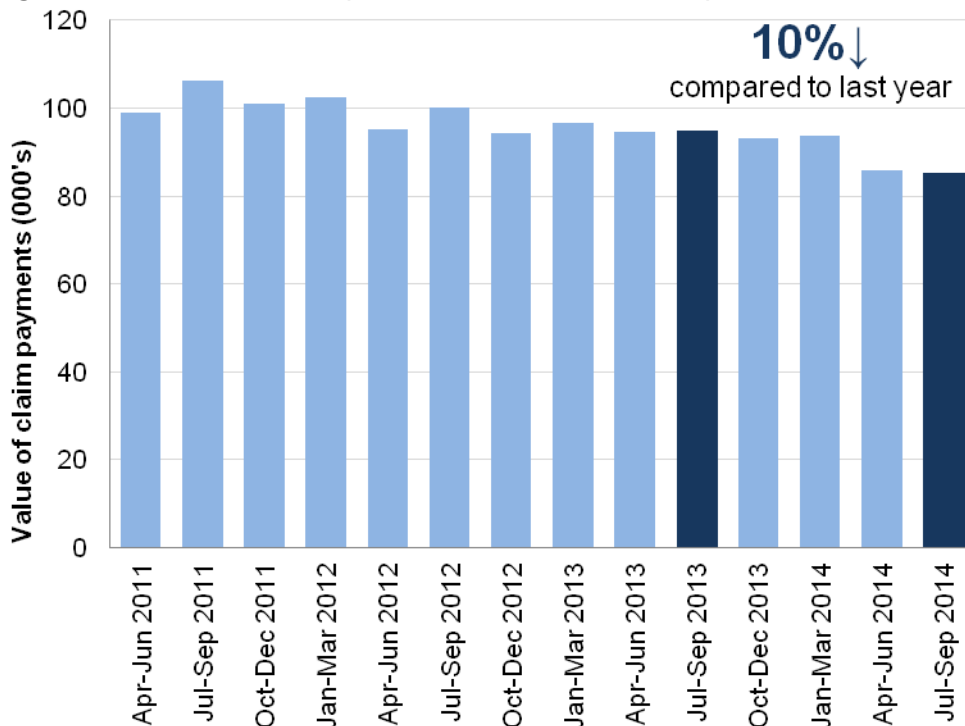
## Crime lower

There has been a general decline in the crime lower workload in recent years, with a 5% fall between July and September 2014 compared to the same period in the previous year (see figure 8). The value of completed cases in crime lower has also decreased over the last three years, with a 10% fall this quarter compared to the same period in 2013 (see figure 9).

**Figure 8:** Number of cases within crime lower, Apr-Jun 2011 to Jul-Sep 2014



**Figure 9:** The value of completed crime lower cases, Apr-Jun 2011 to Jul-Sep 2014



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

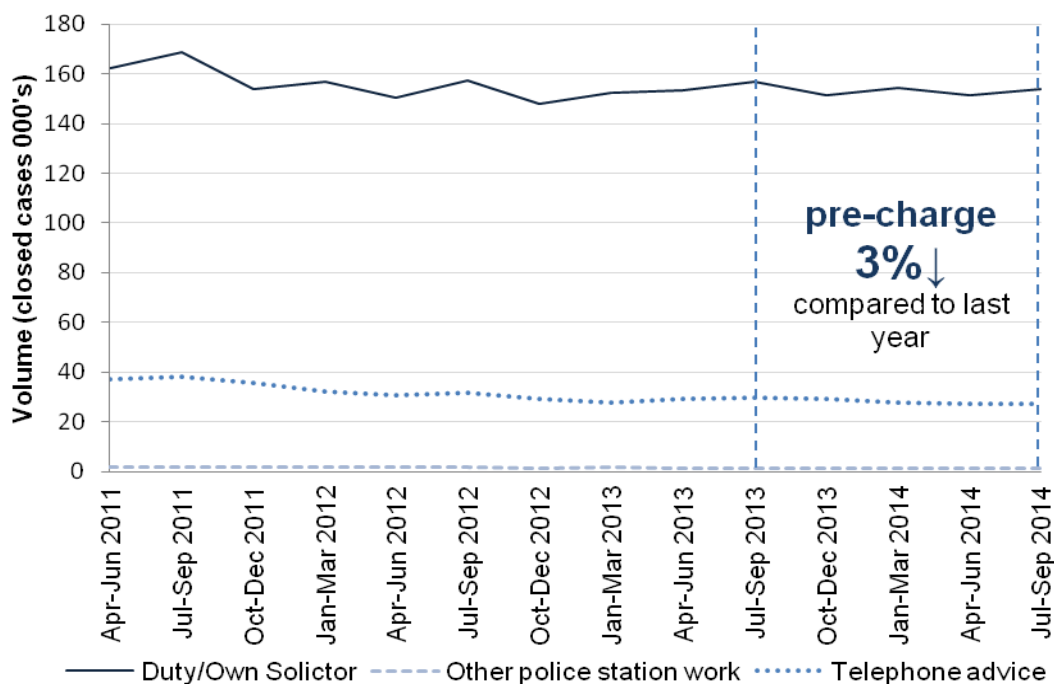
### Pre-charge suspects

Pre-charge work made up over 60% of the crime lower workload between July and September 2014. 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.

The overall workload between July and September 2014 fell by 3% compared to the previous year. Over the last three years the trend has been gradually decreasing (see figure 10). The trend in police recorded crime figures has also been reducing, but the falls in recorded crime have been larger than for legal aid pre-charge work<sup>3</sup>.

The majority of the pre-charge workload (84% in July to September 2014) consists of suspects receiving legal help with a solicitor in attendance at the police station; this has remained stable over the last year. Telephone advice has also remained stable over the last year.

**Figure 10:** Workload with pre-charge suspects, Apr-Jun 2011 to Jul-Sep 2014

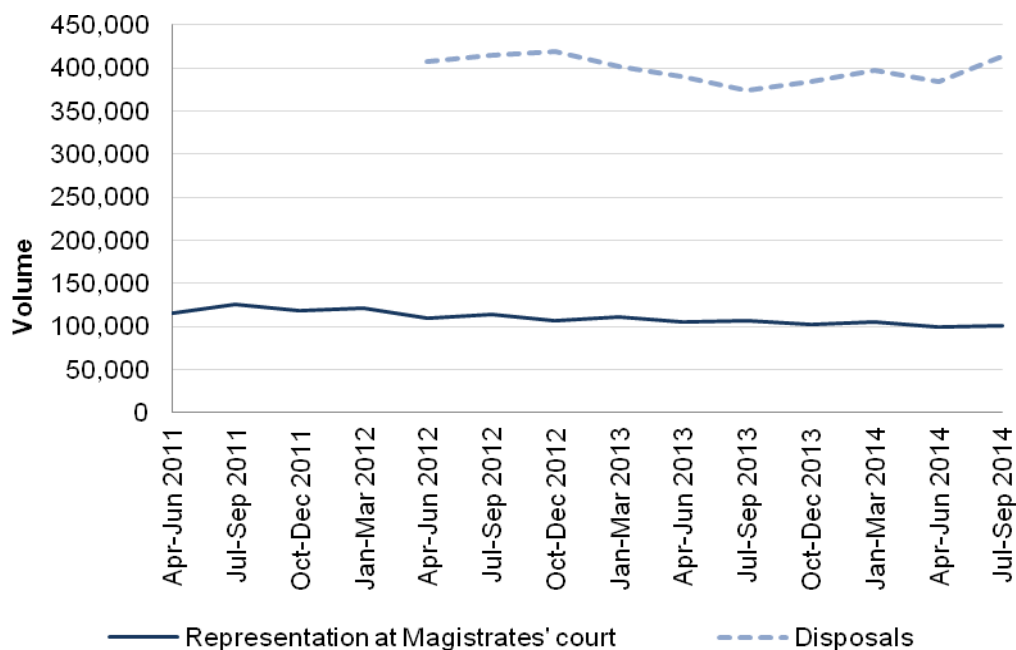


<sup>3</sup> [www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-december-2013/stb-crime-stats-dec-2013.html#tab-Overall-level-of-crime](http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-december-2013/stb-crime-stats-dec-2013.html#tab-Overall-level-of-crime)

## Magistrates' court

The overall workload in magistrates' courts where a representation order for legal aid is required fell by 6% this quarter when compared to the previous year. This is consistent with the trend in the magistrates' court workload which has fallen by 21% in July to September 2014 compared to the same period in 2011. This is driven by the fall in those cases where a representation order is required as these cases account for more than 80% of the magistrates' court workload. Figure 11 shows the number of disposals in the magistrates' court and the number of representation orders granted in the period.

**Figure 11:** Magistrates' court trends- representation and disposals, Apr-Jun 2011 to Jul-Sep 2014



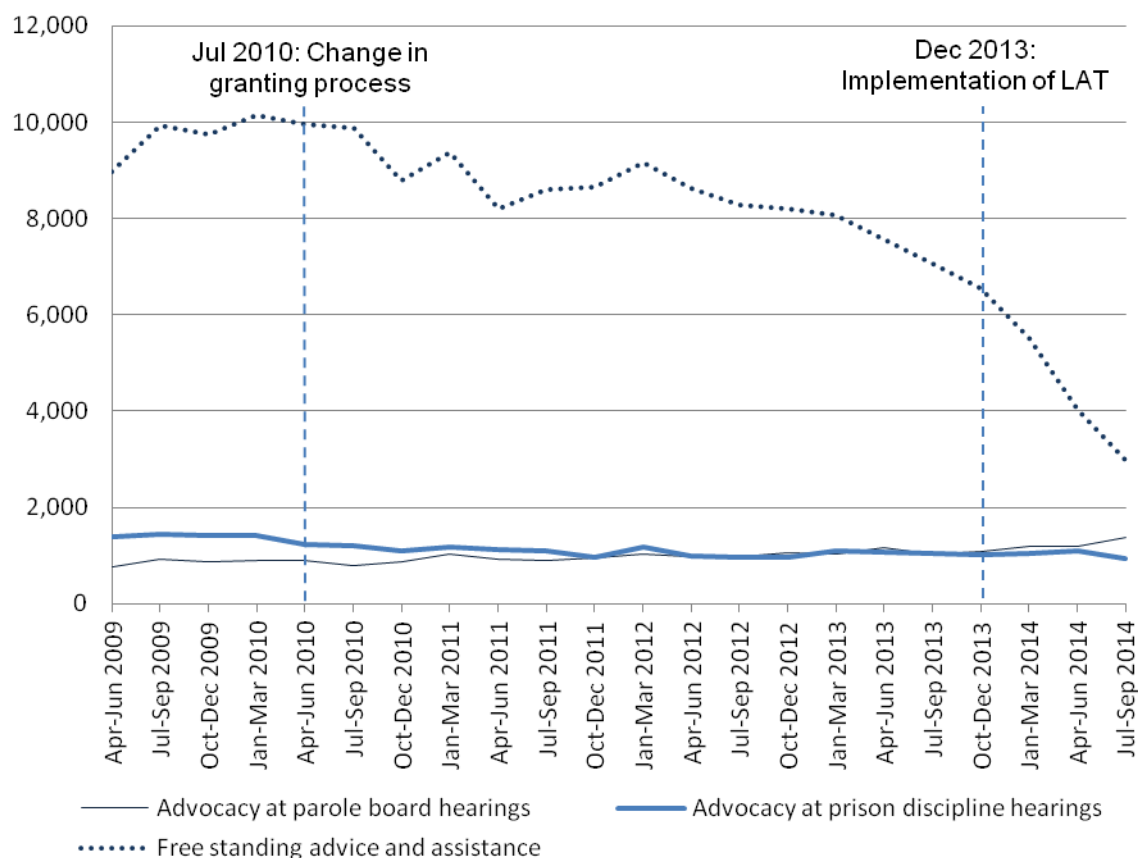
**Note:** Published quarterly disposals data is only available from April 2012



## Prison Law

Since the change in July 2010 whereby legal aid providers had to apply to the LAA for prior approval before starting work on treatment cases, Prison law workload has generally been decreasing (see figure 12). However, from December 2013, under the Legal Aid Transformation programme, there were changes to the scope of legal aid available for prison law<sup>4</sup>; these changes appear to have led to larger falls over the last three quarters. In particular, there has been a 42% fall in July to September 2014 compared to the same period the previous year. 56% of prison law cases between July and September 2014 were for free standing advice and assistance.

**Figure 12:** Volume of workload with prison law, Apr-Jun 2011 to Jul-Sep 2014

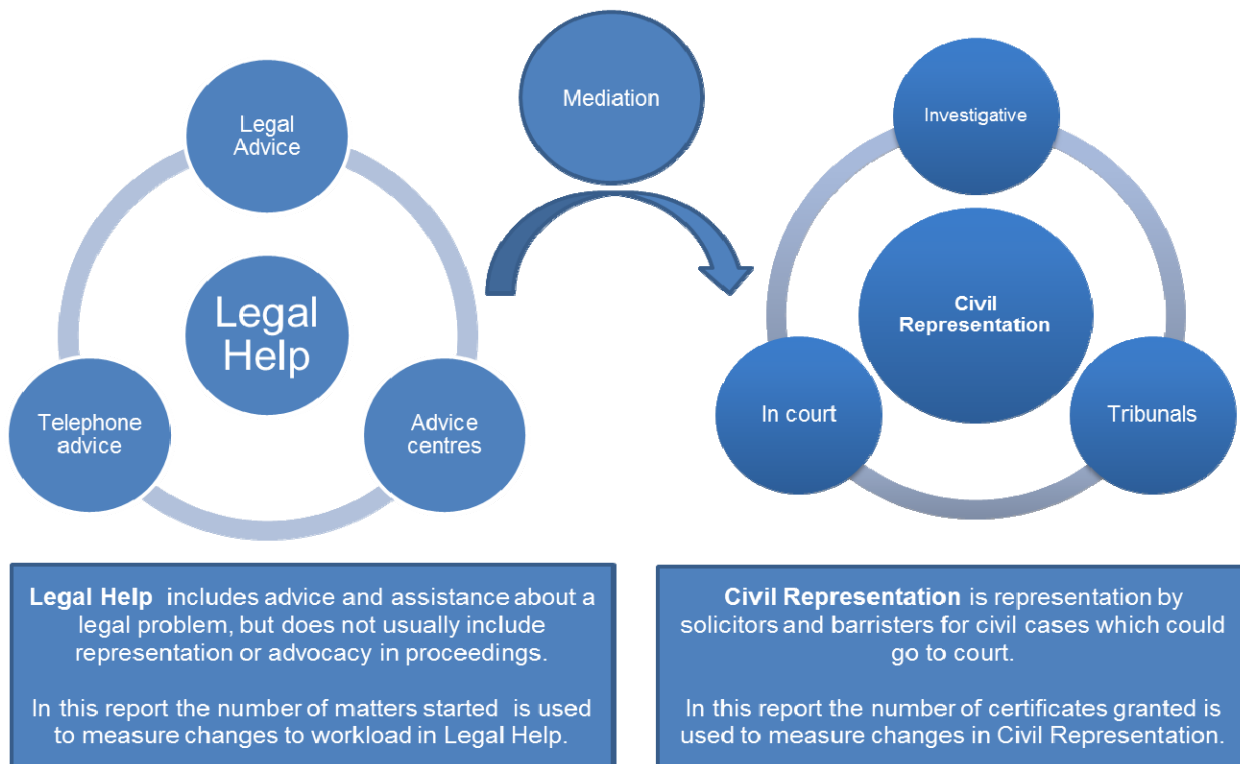


<sup>4</sup> [www.justice.gov.uk/offenders/parole-board](http://www.justice.gov.uk/offenders/parole-board)

# 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 long drawn out divorce with attempted mediation and further court appearances.

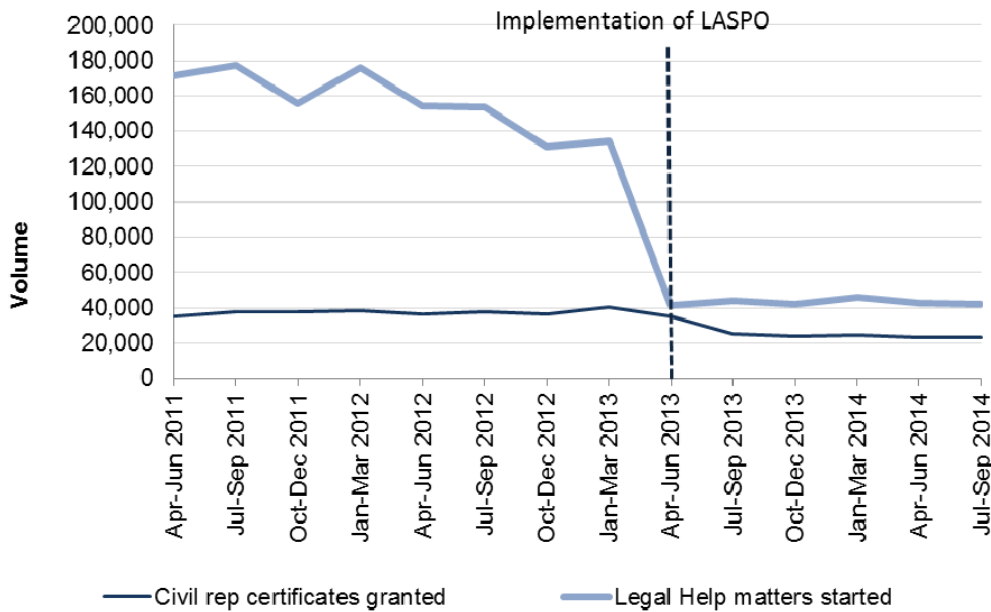
Civil legal aid can be broadly categorised into legal help and civil representation. The nature of each category is explained in the diagram below. The first point of contact for a client of civil legal aid is usually legal help, which covers help via telephone, face-to-face with a solicitor or at not 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.



The implementation of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act in April 2013 resulted in large reductions in legal help workloads. However, trends have begun to stabilise more recently. In the last quarter there was a 4% fall compared to the same period in 2013 (see figure 13).

In civil representation, the reductions following the implementation of LASPO were more gradual. However, the number of certificates granted for civil representation also seem to be stabilising now.

**Figure 13:** Trends in overall legal help and civil representation, Apr-Jun 2011 to Jul-Sep 2014

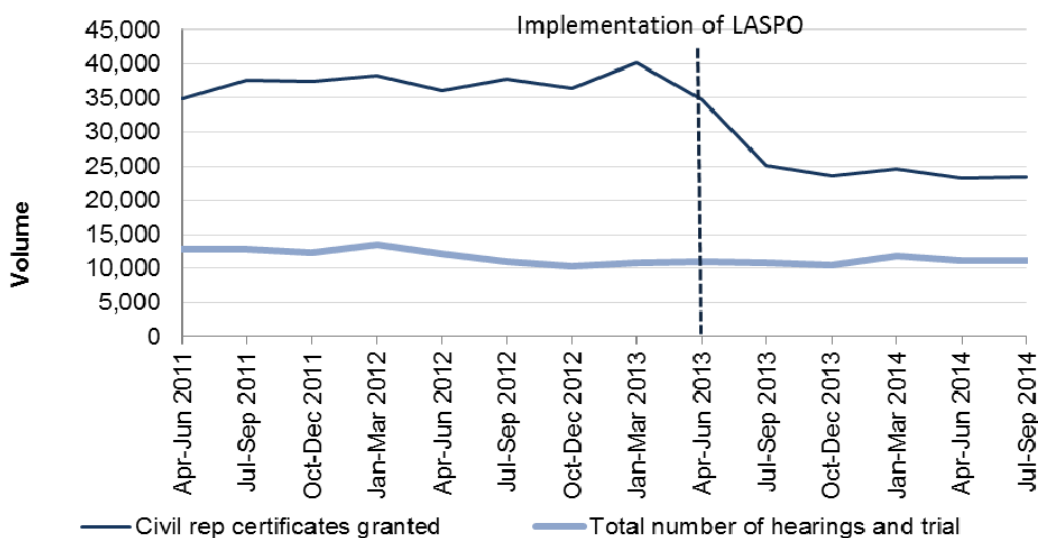


**Civil representation and overall court volumes**

Figure 14 shows the number of certificates granted for civil representation and the number of hearings and trials from court data<sup>5</sup>. The trends were broadly similar until the implementation of LASPO, when there were large reductions in civil representation workload.

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

**Figure 14:** Trends in civil representation and overall court workload - legal aid certificates granted and total number of hearings and trials, Apr-Jun 2011 to Jul-Sep 2014

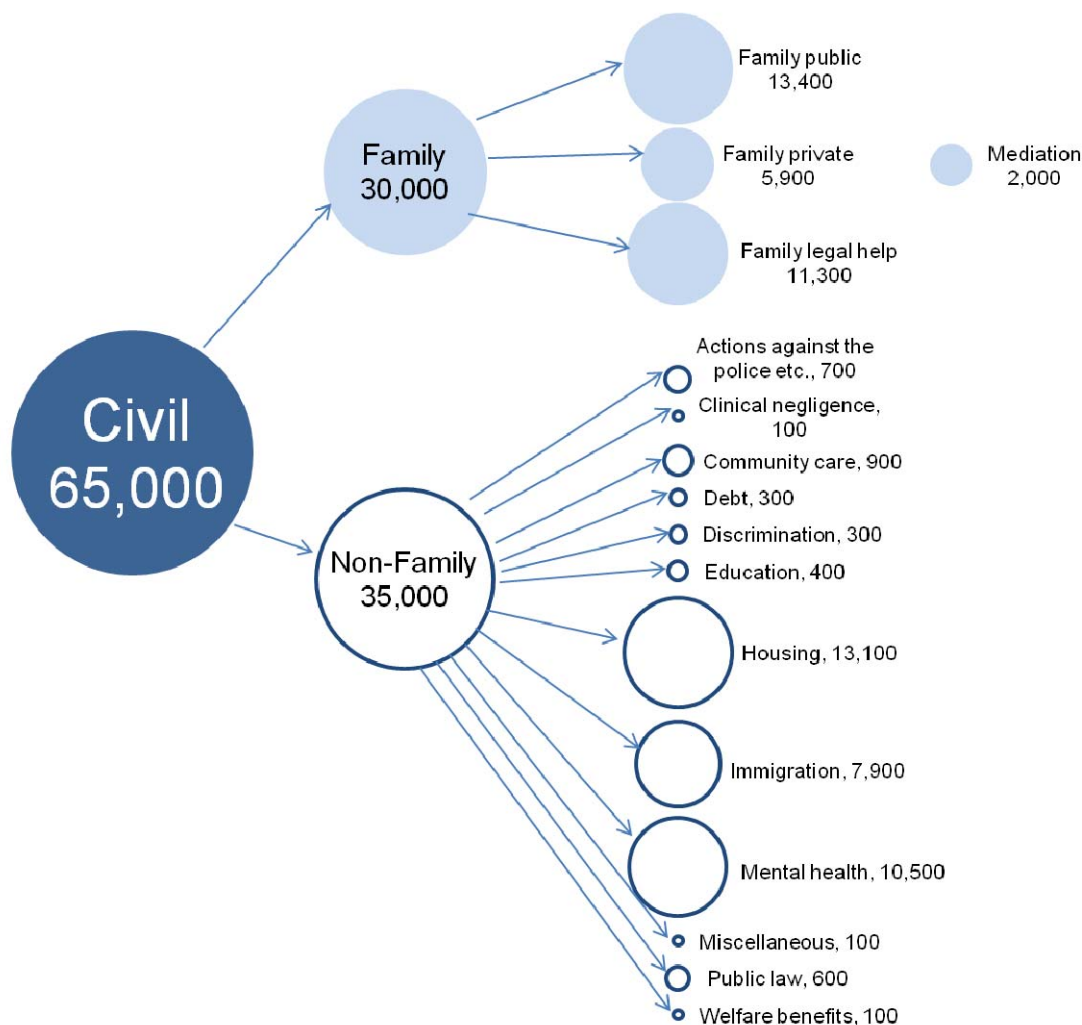


<sup>5</sup> Figures from Civil Justice Statistics quarterly, table 1.1, [www.gov.uk/government/statistics/civil-justice-statistics-quarterly-july-to-september-2014](http://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-july-to-september-2014)

## Civil legal aid by category of law

A range of categories of law are covered within the scope of civil legal aid. Legal aid may be available for benefit appeals, debt (if your home is at risk), special educational needs, housing, discrimination issues, help and advice if you are a victim of domestic violence or issues involving a child being taken into care. A full list of the type of work contained within each category is given under 'civil' in the glossary at Annex B. Figure 15 shows the different areas of civil legal aid and the workload for the latest period in each category.

**Figure 15:** Civil legal aid volumes by category of law, Jul-Sep 2014



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

## Family

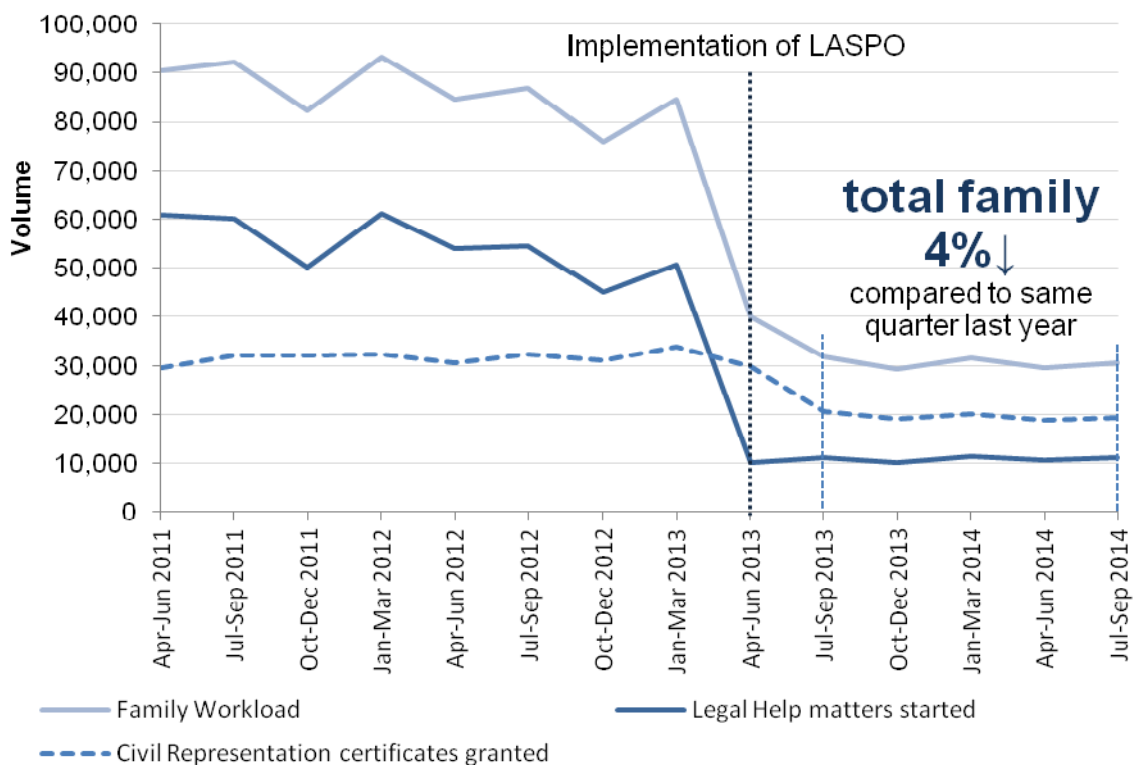
The category of family legal aid covers work on both private and public law and includes work associated with the Special Children Act, Private Law Children Act, domestic abuse, financial provision and family mediation.

When submitting information regarding new matter starts at Legal Help, providers report only that their matter starts relate to family, meaning that there is no breakdown below this level.

In legal help there was a large decrease in family cases following the implementation of the LASPO Act. This is because many areas of legal aid were removed from scope in the LASPO Act. However, this seems to be stabilising now, with new matter starts up 2% on the same quarter of 2013. For civil representation there was a more gradual decrease following the implementation of LASPO, but these figures also appear to be stabilising now (figure 16).

Despite large reductions in workload for other areas of family legal aid, civil representation workload in domestic violence and family public law has remained stable (see table 6.2). Legal help matters completed also show that family public law has remained stable (see table 5.2). Family public cases may include things like care proceedings or emergency protection orders and are primarily driven by the issuing of proceedings by individual Local Authorities. These are non-means and merits tested, and the LAA has no control over the volume of these cases.

**Figure 16:** Family workload: Legal Help and Civil Representation, Apr-Jun 2011 to Jul-Sep 2014



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

## Non-family

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

Within non-family civil legal aid, the largest categories are housing, mental health and immigration (see figure 17).

**Figure 17:** Non-family workload: Legal Help and Civil Representation, Jul-Sep 2013 to Jul-Sep 2014

	<b>Jul-Sep 2013</b>	<b>Oct-Dec 2013</b>	<b>Jan-Mar 2014</b>	<b>Apr-Jun 2014</b>	<b>Jul-Sep 2014</b>
<b>Non-family</b>	<b>37,242</b>	<b>36,323</b>	<b>39,007</b>	<b>36,241</b>	<b>35,092</b>
Actions against the police etc.	715	640	751	739	717
Clinical negligence	202	166	186	188	129
Community care	938	951	928	831	873
Consumer	10	2	0	0	0
Debt	710	554	536	406	348
Discrimination	671	430	469	409	312
Education	305	243	266	477	414
Employment	2	0	3	2	5
Housing	14,440	14,486	15,991	14,171	13,138
Immigration	7,885	7,697	7,891	7,486	7,854
Mental health	10,520	10,336	11,091	10,668	10,502
Miscellaneous	101	74	190	110	106
Personal injury	3	0	0	0	1
Public law	735	694	606	622	562
Welfare benefits	5	50	99	132	131

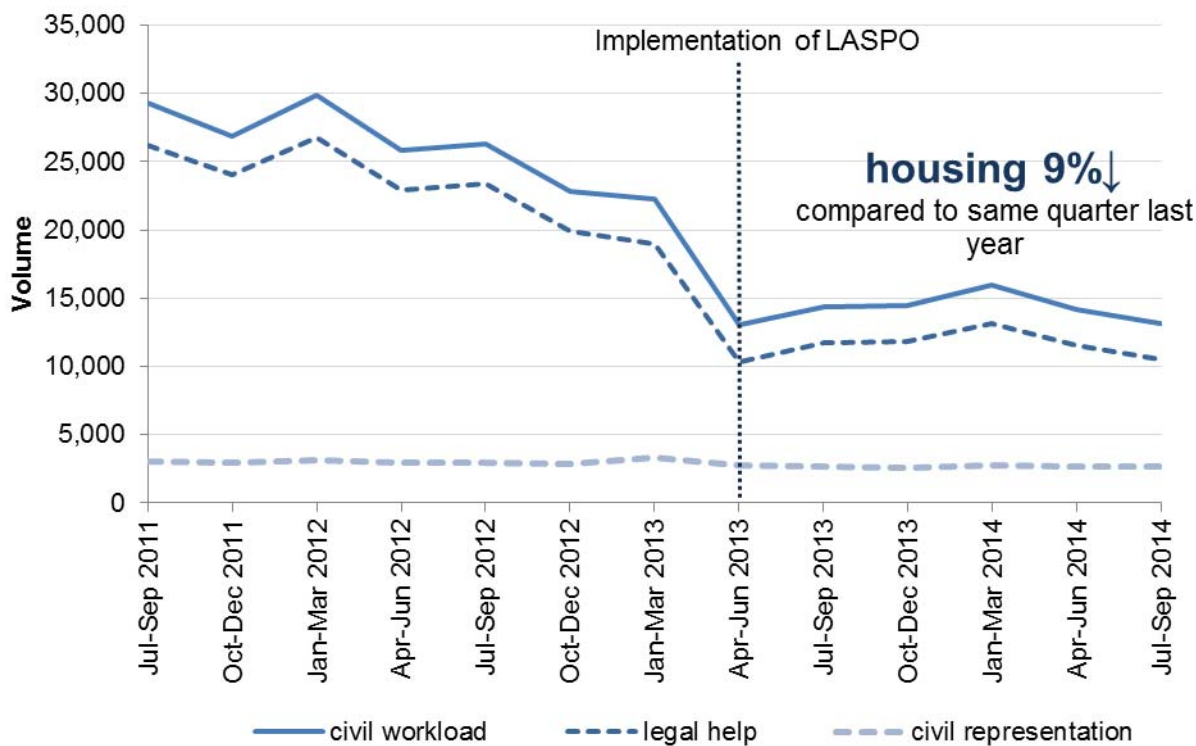
**Note:** workload has been calculated by adding legal help matters started and civil representation certificated granted. A longer time series for legal help new matter starts can be found in table 5.1 and for civil representation certificated granted in table 6.2.

## Housing

The LASPO Act, which was implemented in April 2013, 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, possession proceedings and for anti-social behaviour cases in the county court.

The volume of legally aided housing cases halved between April to June 2012 and April to June 2013 (see figure 18). In the last quarter there was an 9% decrease compared to the same quarter the previous year. This decrease was mainly in legal help, which makes up 80% of housing volume. The trend in civil representation has remained stable (see figure 18).

**Figure 18:** Workload in housing law, Jul-Sep 2011 to Jul-Sep 2014



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

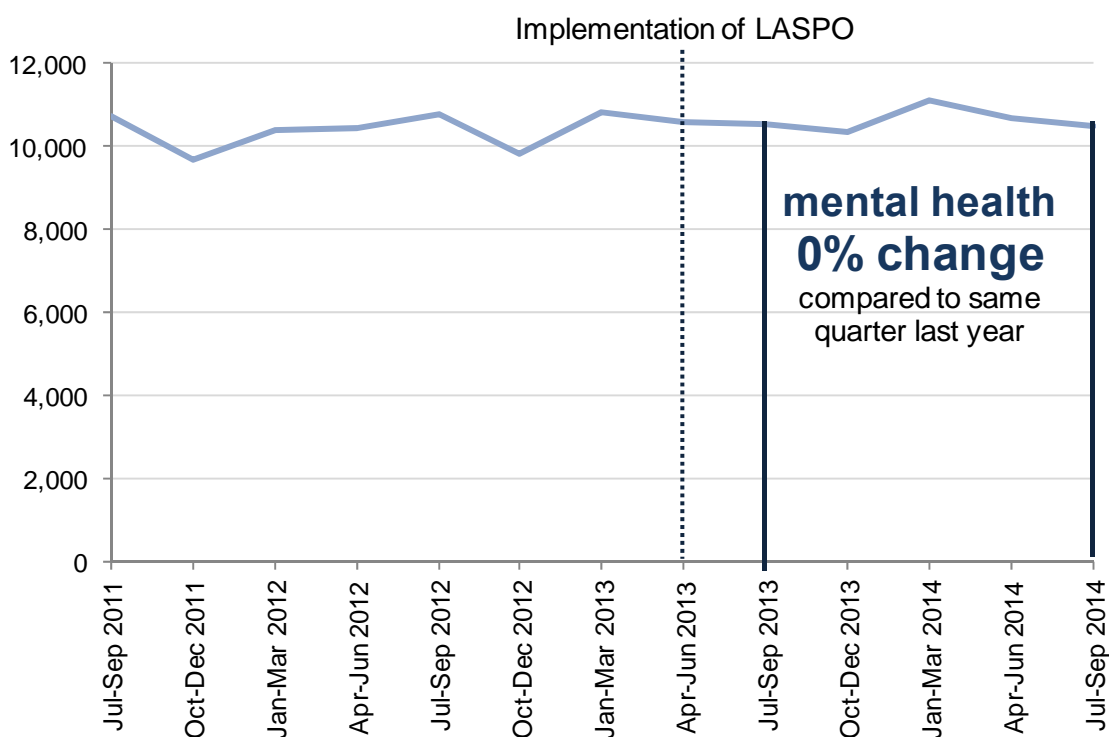
## Mental Health

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 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 other categories. Providers have to travel to discreet NHS and private hospital locations to advise high priority detained clients. More information on mental health tribunals is available on the justice website <http://www.justice.gov.uk/tribunals/mental-health>

Over the last three years there has been a gradual increase in the volume of those legally aided at a mental health tribunal. However, in recent quarters, this has stabilised (see figure 19).

**Figure 19:** Workload in mental health, Jul-Sep 2011 to Jul-Sep 2014



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

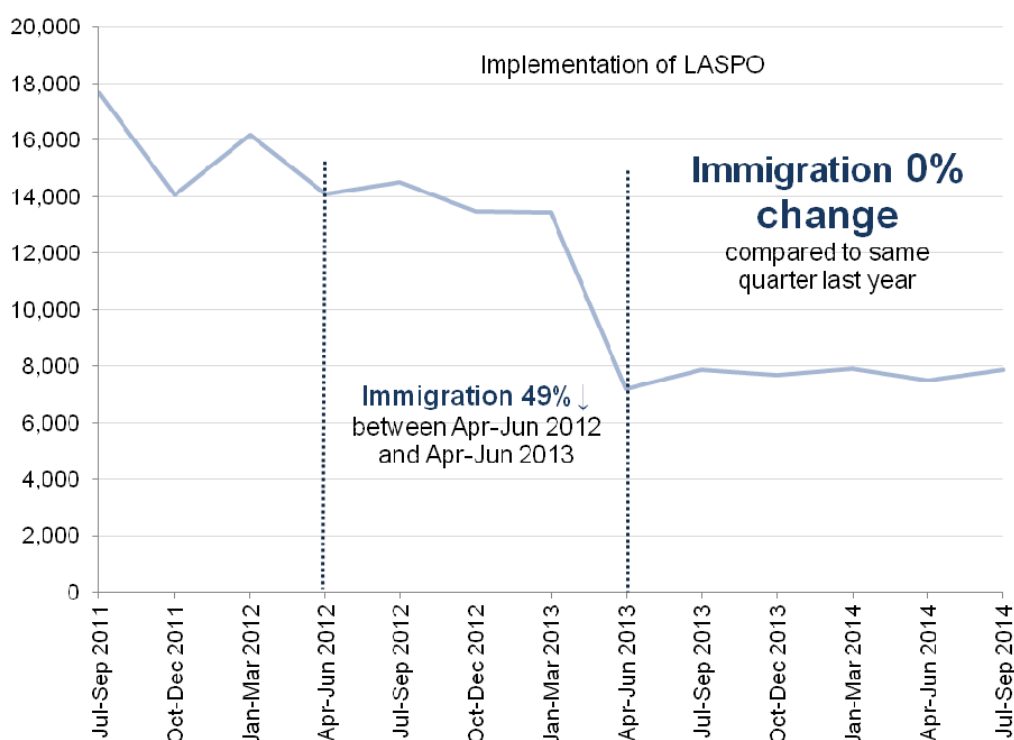


## Immigration

The LASPO Act, which came into effect on 1 April 2013 made changes to the scope of legal aid in the immigration category, but some areas remained in scope. These include asylum, immigration-detention, victims of trafficking / 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. In the last quarter there was a fall of 1% when compared to the same quarter the previous year.

**Figure 20:** Workload in immigration, Jul-Sep 2011 to Jul-Sep 2014



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

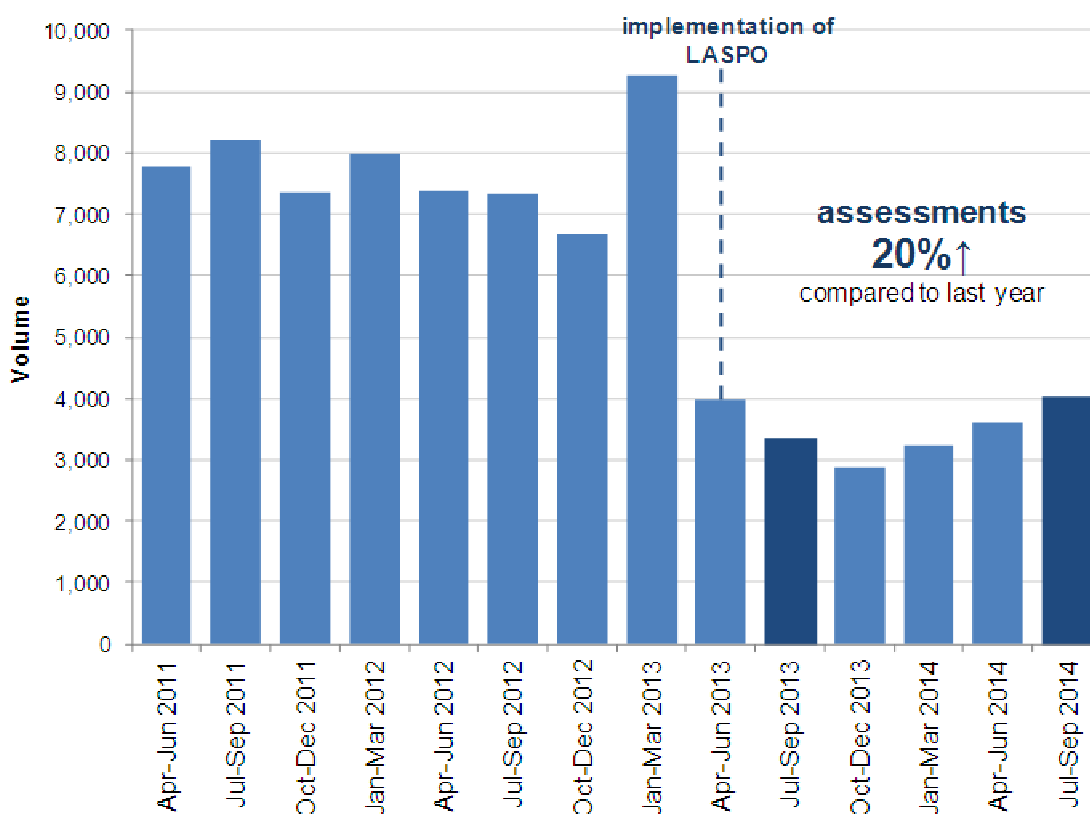
## Family Mediation

Family mediation is when an independent and impartial professionally accredited mediator discusses problems with a divorcing or separating couple. This process is cheaper and quicker than using the courts and it also allows for a more flexible approach.

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

A mediation assessment, sometimes also known as a MIAM (Mediation Information and Assessment Meeting), is an initial meeting between one or both parties and a mediator. The aim of the meeting is to see if mediation could be used to resolve the issue, rather than going straight to court. The number of mediation assessments fell after the introduction of LASPO in April 2013, but in the last year there has been an increase, with a 20% rise in the latest quarter compared to the same period in 2013 (see figure 21).

**Figure 21:** Family mediation assessments, Apr-Jun 2011 to Jul-Sep 2014.

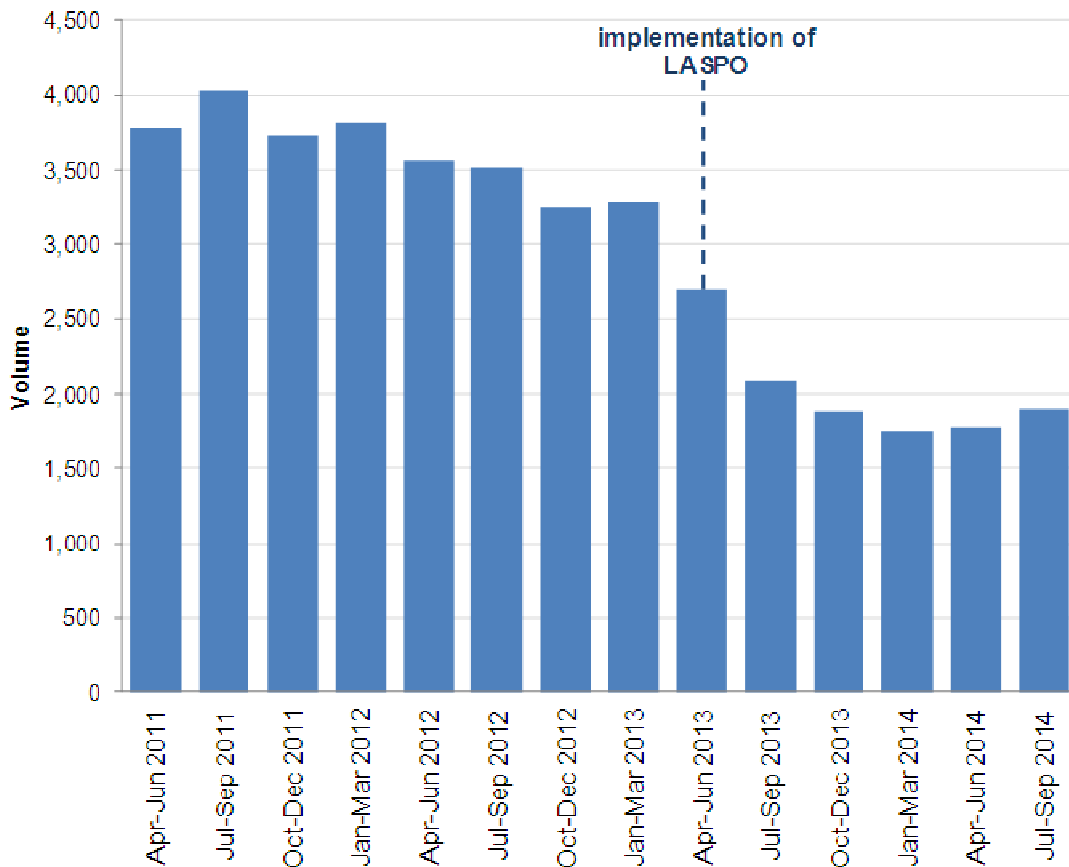


**Figure 21:** Family mediation assessments, Apr-Jun 2011 to Jul-Sep 2014.

Parties can attend mediation assessment meetings alone, separately or together. During July to September 2014, over 94% of couples attended assessment meetings separately.

It is not possible from the data held by the Legal Aid Agency to track a family's mediation progress through the various stages. Although the number of mediations reaching each stage within a time period can be reported, it cannot be determined from a given set of assessments what proportion of them led to starts, or what proportion of starts led to agreements. Nevertheless, it can be seen that the number of mediation starts during the last three years has followed a similar trend to assessments; there were large falls after LASPO, but the trend is slowly beginning to increase again (see figure 22).

**Figure 22:** Family mediation starts, Apr-Jun 2011 to Jul-Sep 2014.



Family mediation can take place to resolve issues to do with children, property and finance or all issues following divorce or separation. The all issues category describes mediations which focus on both children and property and finance, but the three categories are discrete.

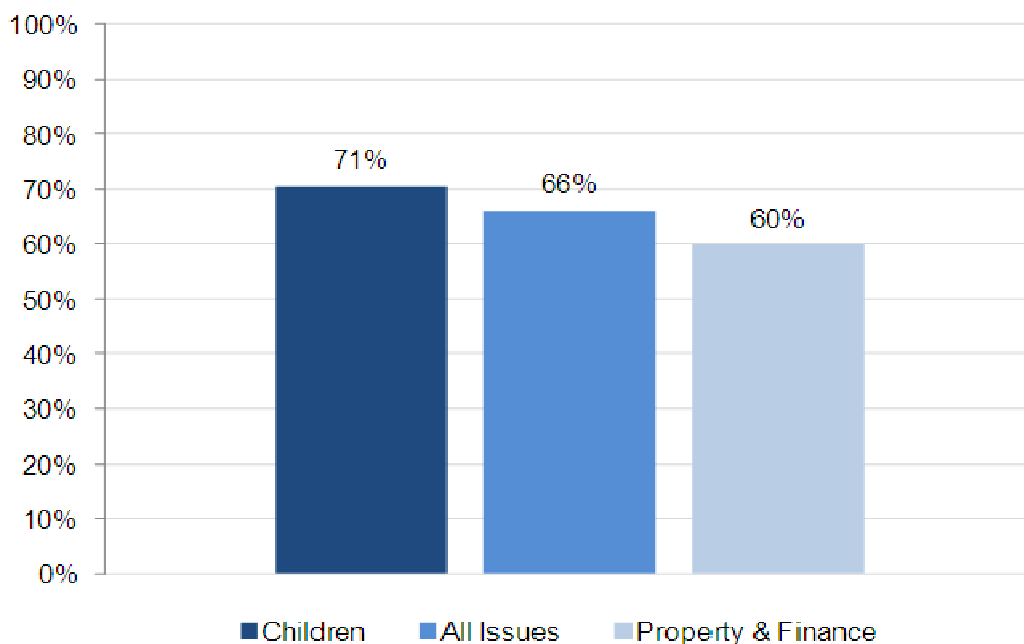
The volume of mediation starts focussing on resolving issues with children is consistently greater than the volume of mediation starts in the all issues and property and finance categories (Figure 23). Additionally, the proportion of mediation starts focussing on children has been steadily increasing over the last three years. In July to September 2011 these cases made up 48% of all mediation starts, but in July to September 2014 they made up 63%.

**Figure 23:** Family mediation starts by mediation type, Apr-Jun 2011 to Jul-Sep 2014

	All Issues	Children	Property & Finance	Total
Apr-Jun 2011	1,336	1,783	662	3,781
Jul-Sep 2011	1,376	1,925	724	4,025
Oct-Dec 2011	1,183	1,895	657	3,735
Jan-Mar 2012	1,127	1,935	754	3,816
Apr-Jun 2012	990	1,907	669	3,566
Jul-Sep 2012	979	1,875	665	3,519
Oct-Dec 2012	865	1,786	591	3,242
Jan-Mar 2013	851	1,731	700	3,282
Apr-Jun 2013	688	1,503	516	2,707
Jul-Sep 2013	508	1,263	321	2,092
Oct-Dec 2013	498	1,088	297	1,883
Jan-Mar 2014	449	1,023	279	1,751
Apr-Jun 2014	450	1,070	263	1,783
Jul-Sep 2014	439	1,200	257	1,896

Mediations can either break down or result in an agreement. Agreements can be full or partial, depending on which category they refer to; only all issues mediations can reach 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. The trend over the last three years suggests that mediations involving children may have a higher proportion of success compared with the other types of mediation (Figure 24).

**Figure 24:** Total family mediation, percentage of successful agreements, by mediation type, Oct 2013 - Sep 2014.



## Other civil legal aid subcategories

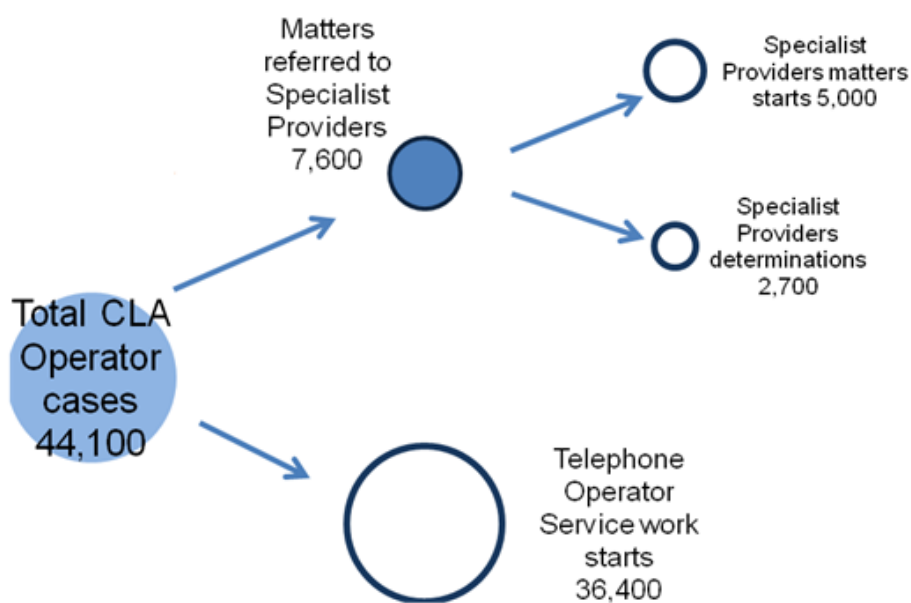
### Legal help telephone service

Figure 25 shows the nature of the Legal help telephone service. The first point of contact for a client is usually the telephone operator service.

The majority of these cases (83% between July to September 2014) were dealt with entirely by the operator service. In such instances the client is referred to a face to face provider, an alternative helpline or offered self-help resources.

The remainder of cases are referred to the specialist telephone service for advice, where a specialist will assess whether a matter should be started or determined (for example because it is out of scope, lacks merits or the client has failed to provide evidence).

**Figure 25:** Workload in telephone service, Jul-Sep 2014



### Judicial Reviews

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

Of all civil representation applications granted only a small number, less than 5,000, relate to judicial review.

Within the underlying figures released there are data held on applications, applications granted and outcomes are provided showing if the case is considered a Judicial Review.

**Figure 26: Judicial Review applications granted by category, Apr-Jun 2013 to Jul-Sep 2014**

Category	Apr-Jun 2013	Jul-Sep 2013	Oct-Dec 2013	Jan-Mar 2014	Apr-Jun 2014	Jul-Sep 2014
Actions against the police etc.	2	3	4	4	2	3
Community care	140	146	137	143	117	126
Education	8	9	5	3	1	2
Housing	149	150	182	144	136	116
Immigration	503	633	650	442	407	288
Mental health	10	8	2	3	8	5
Miscellaneous	6	9	24	101	50	27
Other public law Children Act proceedings	3	0	1	2	1	1
Public law	347	362	411	269	275	234
Welfare Benefits	2	0	1	2	1	2
<b>Judicial Review total</b>	<b>1,170</b>	<b>1,320</b>	<b>1,417</b>	<b>1,113</b>	<b>998</b>	<b>804</b>

### **Applications for Civil Representation legal aid in private family law cases on the basis of evidence of domestic violence or child abuse**

With effect from April 2013, the LASPO Act removed legal aid for most private family law. However, legal aid remains available for such cases (which include issues such as contact or divorce) 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 acceptable forms of evidence.

The LAA first published statistics on applications for, and grants of, such cases in September 2014. However it was later found that as some applications were received and processed, the specific category of evidence involved was completed incorrectly, with a specific 'error code' entered. This did not affect the processing of these cases, but where it occurred it did mean that the data field on evidence type that is held for reporting purposes does not identify which type of evidence was provided.

When this was discovered the data were investigated and, in line with the Code of Practice for Official Statistics (Principle 2, Practice 8), on 3 December the LAA published an errata slip to notify users and include those cases against which the error code had been entered.

The LAA has continued to investigate these cases, and has now identified that the error code may have been entered against some cases that are not of the type covered by this section, and therefore the data field on evidence type may not alone identify such cases reliably. We have therefore sought and identified other information held in relation to them that may be used to improve these statistics.

In particular, linked information on the area of law to which the case relates and the gender of the applicant may be used to judge how likely one of these 'unknown' cases is to be a case to which the evidence rules on domestic violence and child abuse apply.

As a result, we have identified that a subset of the cases with this error code probably should be included (although the specific category of evidence involved remains unknown) and the remainder probably should not. There remains a degree of uncertainty in the statistics on this specific area of legal aid, and figures are expressed as estimates to reflect this.

Figure 27 sets out all of the cases discussed above, and therefore provides our current best estimate of applications for, and grants of, such cases as well as minimum and maximum estimates given the uncertainty in the data.

**Figure 27:** Applications with evidence of domestic violence or child abuse, Apr-Jun 2013 to Jun-Sep 2014

		2013-14				2014-15	
		Apr-Jun	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep
<b>Applications received</b>							
A	Evidence category known: child abuse	279	391	370	365	379	324
B	Evidence category known: domestic violence	615	1,083	964	1,153	1,068	1,073
C	Evidence category known: both	1	0	1	1	5	1
D	Evidence category unknown (Family law)	162	231	202	198	164	190
E	Evidence category unknown (Non-family law)	397	638	646	487	399	201
<b>Estimates of total applications involving evidence of domestic violence or child abuse</b>							
A+B+C	Minimum	895	1,474	1,335	1,519	1,452	1,398
A+B+C+D	<b>Best estimate</b>	<b>1,057</b>	<b>1,705</b>	<b>1,537</b>	<b>1,717</b>	<b>1,616</b>	<b>1,588</b>
A+B+C+D+E	Maximum	1,454	2,343	2,183	2,204	2,015	1,789
<b>Applications granted</b>							
A	Evidence category known: child abuse	168	260	236	250	271	235
B	Evidence category known: domestic violence	405	789	748	879	840	762
C	Evidence category known: both	0	0	2	0	5	2
D	Evidence category unknown (Family law)	16	77	50	36	32	30
E	Evidence category unknown (Non-family law)	397	638	646	487	399	201
<b>Estimates of total grants involving evidence of domestic violence or child abuse</b>							
A+B+C	Minimum	573	1,049	986	1,129	1,116	999
A+B+C+D	<b>Best estimate</b>	<b>589</b>	<b>1,126</b>	<b>1,036</b>	<b>1,165</b>	<b>1,148</b>	<b>1,029</b>
A+B+C+D+E	Maximum	986	1,764	1,682	1,652	1,547	1,230

Between 1 April 2013 and 30 September 2014 our best estimate is that there were 9,220 applications for legal aid made supported by evidence of child abuse or domestic violence. During this same period 6,093 such applications were granted (note that applications granted in a period do not necessarily relate to those applications received within the same period; some relate to applications from previous periods).

# Exceptional Case Funding

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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 Legal Aid Agency (LAA).

ECF 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 only be granted if:

- the above exceptional case criteria are met, and
- the merits criteria are met - the likelihood of the client being successful, and
- the means criteria are met - the client's financial eligibility

More information on the merit and means 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 Legal Aid Agency (LAA). If the ECF application sent directly by the client is likely to be granted, their application is given a positive preliminary view subject to a full ECF application being submitted in conjunction with a legal aid provider.

More information on ECF 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)

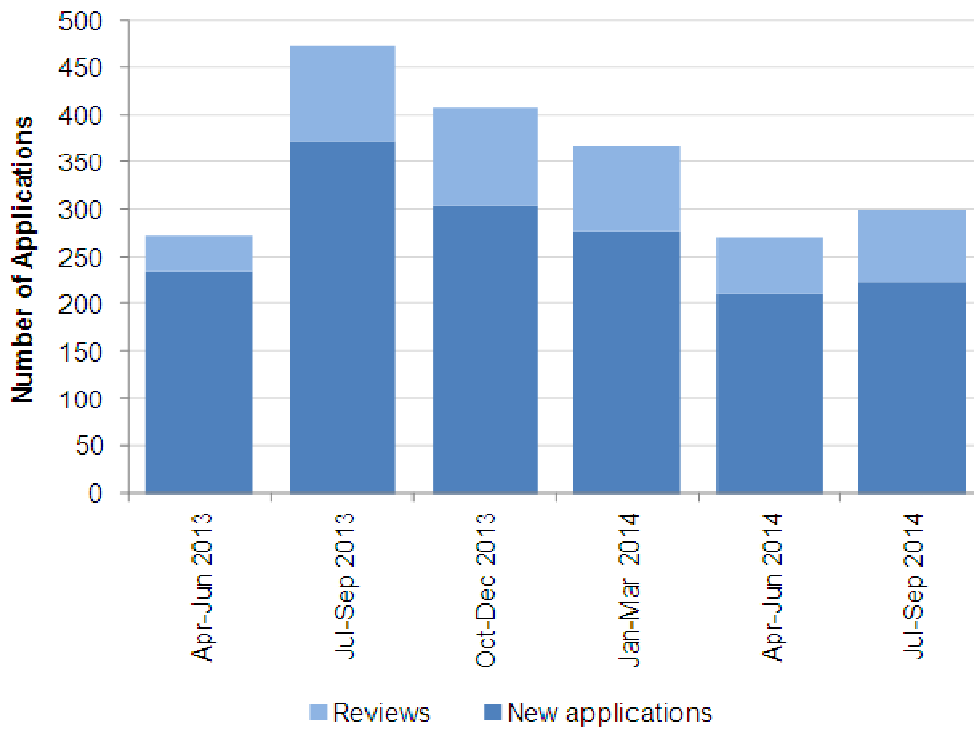
## Applications

There were 300 applications for ECF received between July and September 2014. This is an 11% increase from the previous quarter but a 36% reduction compared with the same period during 2013.

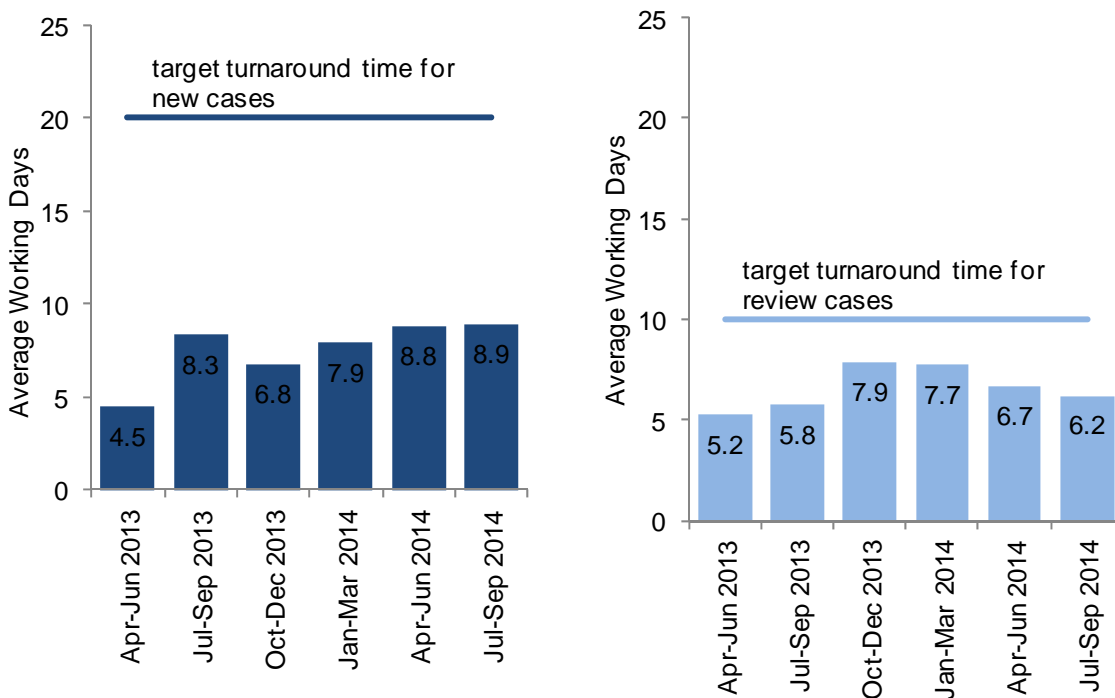
The majority of ECF applications during July to September 2014 were new (74%), which is consistent with last quarter (see Figure 28). For the 222 new applications, the mean average turnaround time for assessment was 9 working days, where the target is 20. There were 78 applications re-submitted for review; this describes a case which has previously not been approved for ECF funding, either because it violated one of the eligibility criteria, was in scope for regular legal aid or the application was incomplete. Review cases have a smaller target turnaround time, set at 10 working days. During July to September 2014, the mean average turnaround time was in target at 6 working days (see figure 29).



**Figure 28:** ECF applications, new or review, Apr-Jun 2013 to Jul-Sep 2014.



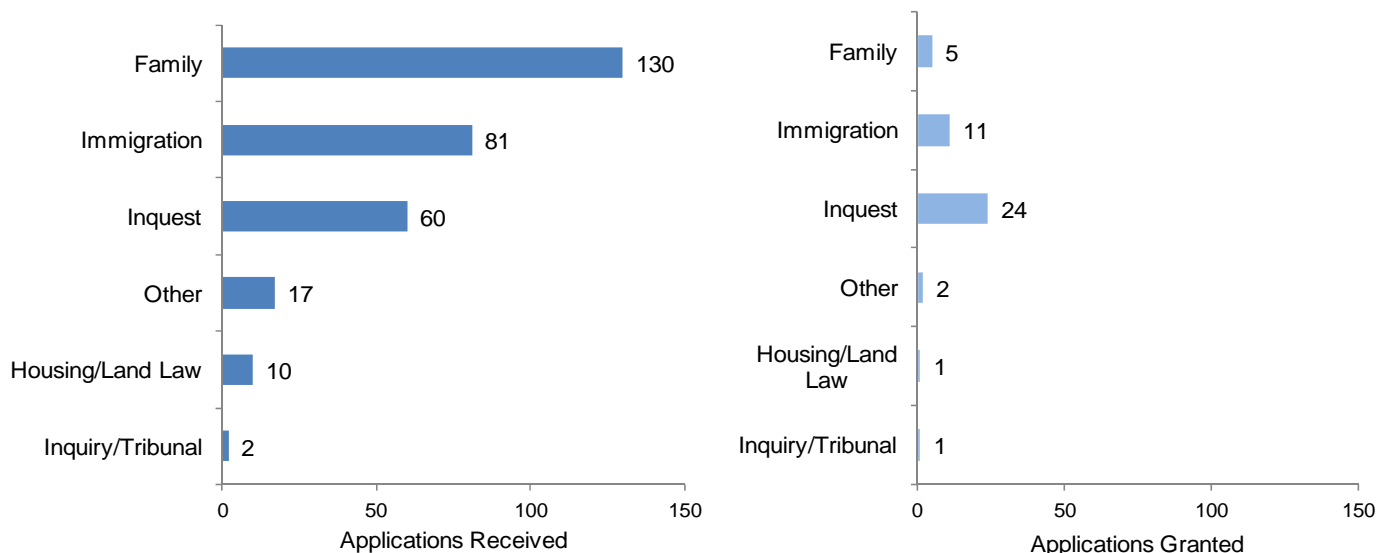
**Figure 29:** ECF application turnaround time, new and review, Apr-Jun 2013 to Jul-Sep 2014.



**Note:** The mean average turnaround times given above exclude cases currently awaiting assessment as of 30 November. The turnaround time for each ECF application starts on the date it is received by the LAA ECF Team and finishes on the day a decision over the case is made, excluding weekends, bank holidays and time spent on hold for further information.

Of all received ECF applications July to September 2014, family, immigration and inquest were the most requested categories of law. There were 130 applications in the family category, 81 applications in the immigration category and 60 applications in the inquest category (see figure 30).

**Figure 30:** ECF applications received and granted by category of law, Jul-Sep 2014.



In July to September 2014, 5 ECF applications (2%) were made directly by the client, without solicitors formally submitting applications on their behalf. The remaining 295 applications (98%) were made by Legal Aid providers.

### Determinations

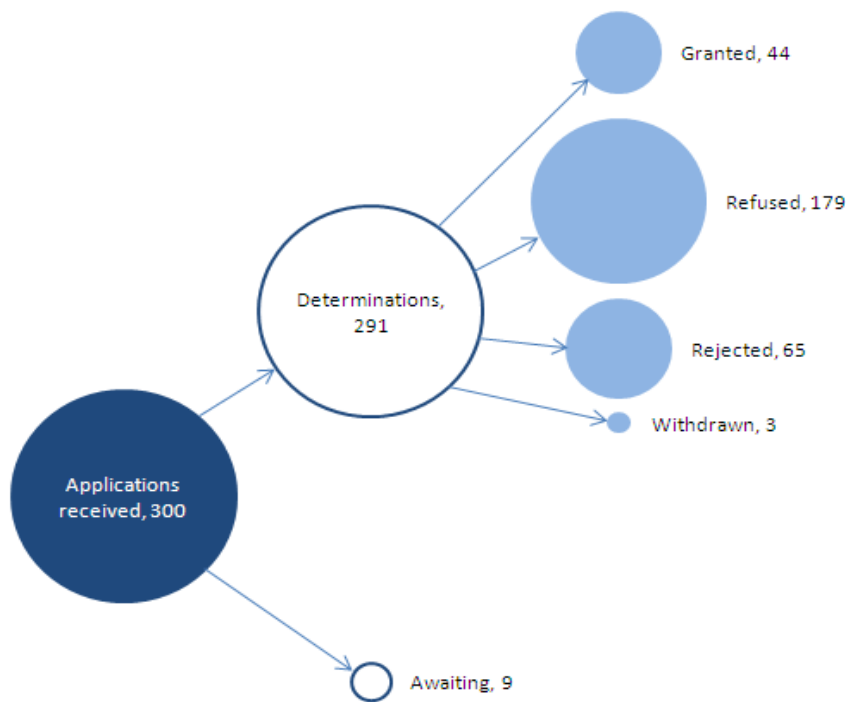
Applications that are not withdrawn by the client or given a positive preliminary review can receive three different determinations: rejection, refusal or grant. For an application to be granted it must meet the appropriate ECF criteria detailed at the beginning of the chapter. Applications may be refused if they do not meet these criteria. Rejected applications differ in that they do not get to the stage where they would be assessed against the means and merit criteria. This will be because they are either:

- in scope (eligible) for non-ECF legal aid, or
- an incomplete application.

Of the 300 ECF applications received between July and September 2014, 291 were determined by the LAA with the further 9 awaiting assessment as of 30 November 2014 (see figure 31). 44 (15%) determinations were granted and 179 (62%) were refused, with the remainder rejected, awarded a positive preliminary view or withdrawn (see figure 32).

The majority of applications granted were for inquest category cases and the top three categories of law with the highest proportion of applications granted are the same as those receiving the greatest numbers of applications (see figure 30).

**Figure 31:** Current status of ECF applications received and determinations made, Jul-Sep 2014.

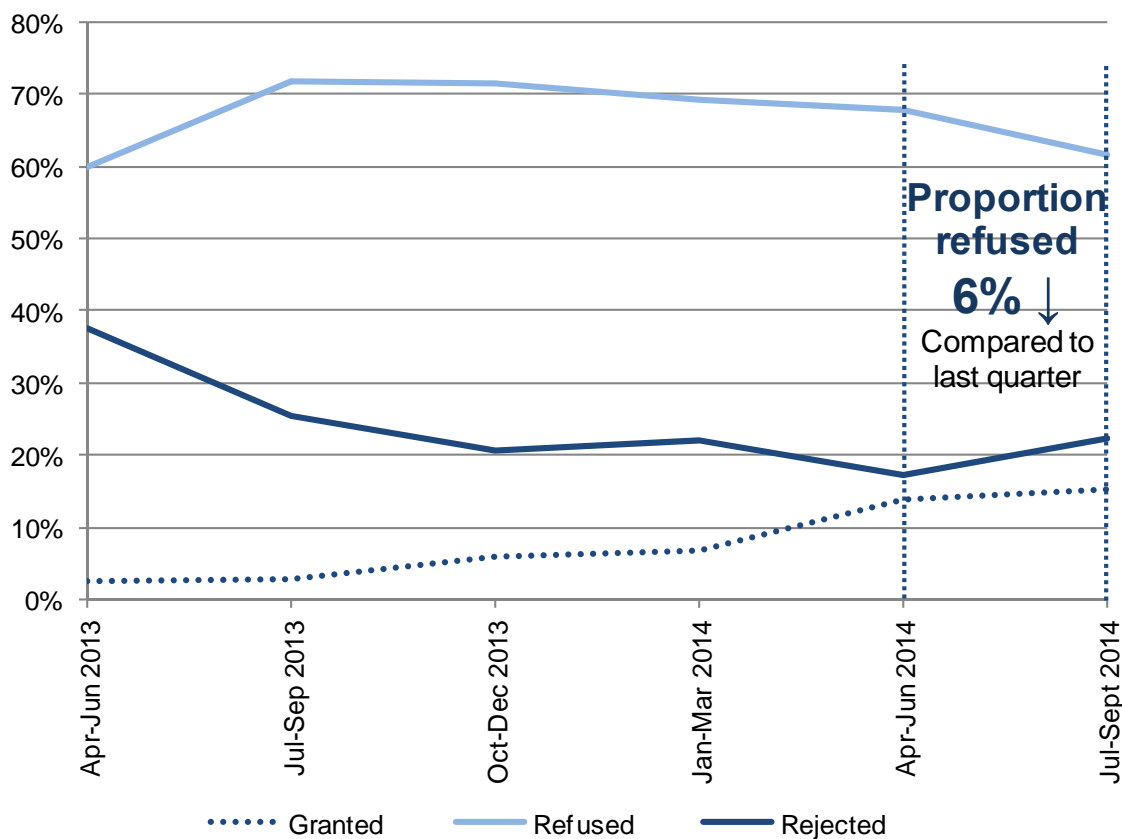


**Figure 32:** ECF applications received, by category of law and by determination, Jul-Sep 2014.

Area of Law	Positive Preliminary						Total
	View	Awaiting	Granted	Refused	Rejected	Withdrawn	
Family	0	2	5	92	31	0	130
Inquest	0	1	24	21	14	0	60
Immigration	0	6	11	47	15	2	81
Housing/Land Law	0	0	1	8	0	1	10
Inquiry/Tribunal	0	0	1	1	0	0	2
Other	0	0	2	10	5	0	17
<b>Total</b>	<b>0</b>	<b>9</b>	<b>44</b>	<b>179</b>	<b>65</b>	<b>3</b>	<b>300</b>

The number and proportion of ECF applications being granted has increased every quarter since the introduction of ECF April 2013. Since July to September 2013, the proportion of applications refused has been slowly declining, while the proportion of rejections has remained fairly constant over the same period (see figure 33).

**Figure 33:** ECF applications received, and percentage granted, Apr-Jun 2013 to Jul-Sep 2014.



# Criminal Barrister Payments

The figures in this section show the amounts paid by the Legal Aid Agency (LAA) and the Crown Prosecution Service (CPS) to barristers for legal services they have provided, and the distribution of barristers according to amount received. As well as CPS work, the areas of LAA-funded work included are high cost cases, Crown Court work, Magistrates' court work and civil representation. Barristers are only included in the data if they have received payments from the CPS or the LAA in 2013-14 for CPS work or criminal advocacy work in the Crown Court.

To produce these figures data from a variety of sources were matched. Further information about the matching exercise, data sources and quality can be found in the Data sources and quality section of this bulletin.

These figures are subject to important caveats and should only be stated when accompanied by with their associated caveats. A full list of these can be found in the Data sources and quality section of this bulletin, but in particular it is important to note that:

- The figures do not represent barristers' personal earnings, and include elements such as VAT and disbursements.
- The amounts paid may represent payments for work covering many years and the amount an individual receives in any year fluctuates. The figures for each barrister exclude payments received for work carried out on behalf of a colleague.
- The barristers included in this analysis may work full-time on work covered by this data, may combine it with other work not covered here, such as private work, or may work part-time. Therefore the amount of work done will vary between barristers just as the amount paid varies.

**Figure 35: Distribution of criminal barrister total fee payments from public sources, including VAT and disbursements, 2012-13 and 2013-14**

Payment Band	2012/13		2013/14	
	Number barristers	Total payment (£)	Number barristers	Total payment (£)
0-50k	2,213	45,776,692	2,123	40,273,539
50-100k	1,394	100,627,496	1,317	97,633,089
100-150k	720	87,717,827	761	92,556,538
150-200k	298	51,316,532	264	45,482,542
200-250k	132	29,038,420	104	23,005,312
250k +	114	37,476,318	89	28,194,182
<b>Total</b>	<b>4,871</b>	<b>351,953,287</b>	<b>4,658</b>	<b>327,145,202</b>

During 2013-14, around 18% of barristers included received less than £10,000 and 26% received less than £20,000. 25% received more than £100,000.

The 2013-14 mean fee payments for the 4,658 barristers included is £70,200 and the median is £57,400. This compares to a mean payment in 2012-13 of £72,300 and a median of £56,000.

Figures for 2012-13 have been amended from those previously released to remove a small number of Higher Advocates working for specific solicitor firms and make comparisons between the two years more accurate.

**Figure 36: Distribution of criminal barrister total fee payments, including VAT and disbursements, in 2013-14 split by area of work**

Payment Band	Number barristers	Payments (£'s)				
		Total	CPS	LAA Crime	LAA High Cost Cases	LAA Civil
0-50k	2,123	40,273,539	12,352,147	21,678,484	952,451	5,290,458
50-100k	1,317	97,633,089	37,292,408	51,593,726	2,536,101	6,210,853
100-150k	761	92,556,538	33,424,611	52,674,885	4,557,289	1,899,753
150-200k	264	45,482,542	12,444,131	27,038,455	5,298,811	701,145
200-250k	104	23,005,312	7,178,611	11,322,500	4,131,250	372,951
250k +	89	28,194,182	7,719,229	12,083,940	7,854,308	536,705
<b>Total</b>	<b>4,658</b>	<b>327,145,202</b>	<b>110,411,136</b>	<b>176,391,990</b>	<b>25,330,210</b>	<b>15,011,865</b>

During 2013-14 3,161 barristers received payments totalling £110m from the CPS. 4,042 barristers received payments relating to LAA-funded Crown Court work with a total value of £175m and of these 212 had been paid for work in the magistrates' court with a value of £1m.

High cost cases in 2013-14 had payments for 474 barristers, totalling £25m. For the 887 barristers who received payments for publicly-funded civil representation work, those payments totalled £15m.

**Figure 37: Distribution of criminal barrister payments and VAT, 2013/14**

Payment Band	Number barristers	Total payment (£)	Vat Amount	VAT as % of total payment	VAT Amount	
					Unknown (VHCC non-panel)	Calculated VAT amount
0-50k	2,123	40,273,539	5,502,306	13.8%	425,462	5,561,054
50-100k	1,317	97,633,089	14,864,211	15.5%	1,460,137	15,089,885
100-150k	761	92,556,538	14,668,838	16.2%	1,823,314	14,963,613
150-200k	264	45,482,542	7,054,509	16.1%	1,797,159	7,344,722
200-250k	104	23,005,312	3,616,595	16.3%	860,491	3,757,126
250k +	89	28,194,182	4,138,490	16.1%	2,521,467	4,544,955
<b>Total</b>	<b>4,658</b>	<b>327,145,202</b>	<b>49,844,948</b>	<b>15.7%</b>	<b>8,888,029</b>	<b>51,236,978</b>

The value added tax element for each payment is available in almost all the data sources. For payments made on very high cost cases via a solicitor firm (shown in Figure 37 as 'VAT amount unknown (VHCC non-panel)') this information is not available.

Figure 37 shows a calculated VAT amount when using the VAT rate as given for all other areas. The VAT portion of total payments equates to over £57m (15.7%) of the overall payment of £327m, and ranges from 13.8% of payments to barristers in the lowest payment band to 16.3% of payments to those in the £200-250k band.

**Figure 38: Distribution of criminal barrister disbursements, AGFS and VHCC direct payments only, 2013-14**

Payment Band	Number barristers	Total payment (£)	Disbursements (£)	
			AGFS and VHCC panel	for AGFS and direct VHCC only
0-50k	2,123	40,273,539	21,930,159	575,963
50-100k	1,317	97,633,089	52,234,308	1,318,936
100-150k	761	92,556,538	55,105,557	1,292,199
150-200k	264	45,482,542	30,536,593	639,028
200-250k	104	23,005,312	14,555,337	281,807
250k +	89	28,194,182	17,392,364	279,737
<b>Total</b>	<b>4,658</b>	<b>327,145,202</b>	<b>191,754,317</b>	<b>4,387,670</b>

Payments data with the amount paid for disbursements are only available for the Crown Court advocate graduated fee scheme and the payments made under VHCC direct panel payments (see glossary at Annex B). Together, these areas of work account for £192m (59%) of the total payment of £327m.

Figure 38 shows the total payment amounts and the disbursements for these areas of work combined. Any disbursements from payments in relation to CPS work, civil representation or crime lower work are not included in the disbursements column.

# Annual updates

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Statistics on the following topics are updated on an annual basis, in the Legal Aid Statistics bulletin published following the final (January to March) quarter of the financial year.

## Appealing decisions

This section of the report is updated annually as only partial data is available on a quarterly basis. The most recent annual publication can be found here: [www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014](http://www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014)

## Provider Information

This section of the report is updated annually. The most recent annual publication can be found here: [www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014](http://www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014).

## Clients of Legal Aid

This section of the report is updated annually. The most recent annual publication can be found here: [www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014](http://www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014).

## Timeliness

This section of the report is updated annually. The most recent annual publication can be found here: <https://www.gov.uk/government/statistics/legal-aid-statistics-april-2013-to-march-2014>.



# Data sources and data quality

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This section outlines the different data sources used to compile the statistics presented in the bulletin with discussion on data quality where relevant.

The main sources of the statistics are compiled from administrative systems designed for the accurate management of the legal aid system.

There are many administrative systems used to create the statistics covering each of the main areas of legal aid:

- Within **crime higher** figures are drawn from two systems:
  - Litigator Graduated Fee Scheme ( LGFS) called Crown Court Legal Fees (CCLF)
  - Advocate Graduated Fee Scheme (AGFS) called Crown Court Remuneration (CCR)

They provide the value of completed cases and volume of cases information for much of the Crime Higher data. This is supported with information from the Means Assessment Admin Tool (MAAT) which gives information on the granting of legal aid.

High cost case information is drawn from the LAA High Cost Case team (HCC) and their administrative system.

- For **crime lower** data is taken from the Contracted Work and Administration system and supported with information from the Means Assessment Admin Tool (MAAT) which gives information on the granting of legal aid.
- For **civil representation** the figures are obtained from the Corporate Information Store (CIS), Client and case management system (CCMS) and their associated supporting systems.
- For **legal help**, information is provided by the CWA system and its management information and the telephone advice service starts, receipts and determinations.
- For **Exceptional Case Funding** (ECF) information is drawn from the LAA ECF team's live administrative database.

While the majority of information is held within source administrative systems, some information is provided from other non-database sources including data on telephone advice, community legal advice centres and the housing court duty solicitor scheme.

Data is from live administrative sources and may contain errors due to incorrect data entry.

### **Barrister payments: Advocate Graduated Fee Scheme (Crown Court) and Crime Lower (Magistrates' court)**

Obtained from the LAA crime billing data, which has a unique identifier for each barrister. There were 4,042 barristers who had been paid in this period with a total value of £175m and of these 212 had been paid from work in the magistrates' court with a value of £1m.

These compare to the 2012-13 figures of 4,175 barristers with a total value of £193m and of these 149 had been paid from work in the magistrates' court with a value of £600k.

### **Barrister payments: Very High Cost Case (VHCC) panel**

Obtained from the VHCC billing data, which has a unique identifier for each barrister. These 309 directly paid VHCC barristers had payments amounting to £16.4m

These compare to the 2012-13 figures of 296 directly paid VHCC barristers with payments amounting to £13.5m

### **Barrister payments: VHCC non-panel**

Payments to barristers on this basis are through the solicitor firm working on the VHCC. The work attributed to an advocate appears in the VHCC billing data as a disbursement, where the name of the advocate is listed in the disbursement. A matching process has been to assign these payments to individual barristers, by name. This is because there is no unique identifier. Whilst the data has been quality assured, with a process such as this, there is scope for error. Of the 244 barristers identified who were paid using this method they had payments totalling £8.9. This is compared to the total billed to non-panel advocates of £9m with only £80k unattributed to a specific barrister.

These compare to the 341 barristers in 2012-13 with payments totalling £15.4m and £400k unattributed to a specific barrister.

### **Barrister payments: Civil Legal Aid**

Obtained from LAA civil billing data, which has a unique identifier for each barrister. There were 887 barristers who undertook civil work alongside criminal work using public funds and they received payment of £15m.

These compare to the 2012-13 figures of 985 barristers who undertook civil work alongside criminal work using public funds and they received payment of £18m.

### **Barrister payments: Data Sources in CPS and Data Quality**

The CPS uses two fees schemes for the payment of self-employed advocates' fees. The majority of cases in the Crown Court handled by external advocates are paid under the graduated fee scheme (GFS). GFS is a formulaic scheme using a range of measures to determine the fee, and measures include offence category, pages of evidence, numbers of witnesses, outcome type, etc. In March 2012 a new, simplified scheme (Scheme C) was launched that is simpler to administer and which introduced revised rates.

The data provided by the CPS contained amount paid and an associated unique identifier the Bar ID. This allowed us to match approximately 64% of the data automatically where LAA records also contained data for the barristers Bar ID. The remaining cases were matched using data linking to the LAA list of barristers. Of the 3,198 records supplied by the CPS only 23 were not matched to an existing LAA identifier. From the total £110.6m paid by the CPS in 2013-14 £110.4m was assigned to a barrister in the published dataset.

These compare to the 2012-13 figures of 3,645 records supplied by the CPS only 43 were not matched to an existing LAA identifier. Of the total £115.5m paid by the CPS in 2012-13 £114.8m was assigned to a barrister in the published dataset.

### **Barrister payments: Full caveats for criminal barrister payment section**

- The figures do not represent barristers' personal earnings.
- The barristers included in this analysis may work full-time on work covered by this data, may combine it with other work not covered here, such as private work, or may work part-time. Therefore the amount of work done will vary between barristers just as the amount paid varies.
- The list of all barristers included in this analysis are those that performed some publicly funded work and have done some criminal work within the 2013-14 financial year. However, barristers had to be matched across 4 databases across LAA and CPS system either automatically or manually; thus, it is possible that some barristers have been excluded from the final dataset.
- The amounts paid may represent payments for work covering many years and for a variety of cases. The amount an individual receives in any year fluctuates widely, and is due to the variety of payment processes and schemes used. Prior to the introduction of the very high cost case (VHCC) contracts cases were paid using the system of individual case assessment where payments are made once the case has finished.
- The amount attributed to a barrister may include payments subsequently made to other barristers as remuneration for work carried out on behalf of the named barrister. The figures exclude payment to the named barrister when they have carried out work on behalf of a 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 received can be minimal.
- Barristers pay a percentage of their fees towards professional overheads and face the same expenses as all self employed including payments tax and national insurance contributions.
- Barristers who were not members of the VHCC panel were paid through the solicitor firm leading the case. Where the barrister can be identified from the disbursements paid to the solicitor firm the payment has been included.
- Payments are made only after the claims are scrutinised and possibly adjusted leading to payments in a different financial year subsequently and payments to an individual may include recoupments against previous payments leading to an overall negative payment in the period.
- While these figures represent gross payments made to the barrister during the year some of these may have been repaid to the Community Legal Service fund by other parties. This can occur in cases where the legally aided party wins the case and recovers costs from the opponent. Once these costs are recovered the legally aided party's solicitor refunds some or all of the money to the fund. As a consequence the figures may not reflect the actual cost of the barristers' fees to the fund. In some cases where the costs are recovered from the losing party the actual cost to the fund may be small or even nothing.
- More than one barrister has relations or closely matched names with another criminal barrister, making matching the manual payments by name more difficult. Previous publications have had issues in this area and it should be noted that to be absolutely sure for each individual barrister, we would need their confirmation of payments received.

## **Barrister payments: Data Matching Process**

### *Example Non-Panel Advocate Detail line*

Disbursement Payment for Contract: CHCC/0A123U/1, Disbursement: NPA – Mark Jones QC - STG 2.

### *Method to process line of data*

Extraction of 'NAME' variable (can be single word or it can be multiple with other identifiers e.g. QC)

Linking of Name variables to LAA barrister list

Linking of Name variable and contract code to list of known barristers on case

Final additional manual checks

Case file investigation into large amounts still outstanding and unverified

### *Example CPS Data line*

Barrister	Amount Paid
Jones Alwyn Fring Mark 12345B	123456.78

### *Method to process line of data*

Lookup against LAA barrister ID (64% matched on Bar Code)

Name Linking to LAA barrister list - Firstname & Surname

Combining name link and lookup

Name using wildcard against LAA barrister list

Combination of name link, lookup and name link using wildcard

Link back to previous annual data releases on full name

Final additional manual checks

## **Revisions**

In accordance with Principle 2 of the Code of Practice for Office Statistics, the MoJ is required to publish transparent guidance 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)

The three reasons specified for statistics needing to be revised are changes in sources of administrative systems or methodology changes, receipt of subsequent information, and errors in statistical systems and processes. Each of these points, and its specific relevance to the legal aid statistics publication, are addressed below:

### **Changes in source of administrative systems or methodology changes**

The data within this publication come from a variety of administrative systems. The document will present where there have been revisions to data accountable to switches in methodology or administrative systems with statistics affected within the publication appropriately footnoted.

### **Receipt of subsequent information**

The nature of any administrative system is that data may be received late. Within the legal aid statistics, any such late data will be reviewed on a quarterly basis and revisions to figures for previous periods will be made each quarter.

### **Errors in statistical systems and processes**

Occasionally errors can occur in statistical processes; procedures are constantly reviewed to minimise this risk. Should a significant error be found the publication on the website will be updated and an errata slip published documenting the revision.

# Annex A - Background to the legal aid system

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## Creation of the Legal Aid Agency

Until April 2013 the Legal Services Commission (LSC) was a Non Departmental Public Body (NDPB) with statutory duties in relation to the Community Legal Service Fund (CLSF) and Criminal Defence Service (CDS), funding legal advice and representation in civil and criminal law. On 1 April 2013 the LSC was abolished as a result of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. An executive agency of the Ministry of Justice (MoJ) was created to administer legal aid from 1 April 2013, called the Legal Aid Agency (LAA).

The legal aid system dates from 1949. The scheme was administered by the Law Society, the professional body which regulates and represents solicitors, until the Legal Aid Act 1988, which established the Legal Aid Board. Following the doubling of the legal aid budget in the early 1990's a review of the system was carried out in 1997, leading to the Access to Justice Act 1999 and the LSC. The latest review recommended that the LSC align more closely with the MoJ and therefore the LSC as a NDPB was abolished and the LAA, an executive agency was created as a result of the LASPO Act 2012.

## LASPO Act 2012

As well as creating the LAA, the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act also made changes to the scope and eligibility of legal aid and to exceptional case funding. These changes came into effect from 1 April 2013 and so will be reflected in this report. The full details of the LASPO Act can be found here: <http://www.legislation.gov.uk/ukpga/2012/10/enacted>

### Workload

For many areas of civil law, the implementation of the LASPO Act led to a reduction of workload. Areas affected include:

- Family – legal aid is now only available for private family law cases (such as contact or divorce) if there is evidence of domestic violence or child abuse and child abduction cases. Legal aid remains available for public family law cases (such as adoption).
- Social Welfare – legal aid has been removed (with some exceptions) for debt, employment, housing and welfare benefits.
- Low Volume – legal aid has been removed (with some exceptions) or reduced for clinical negligence, education and personal injury.
- Tribunals – legal aid has been reduced for immigration work.

### Exceptional Case Funding (ECF)

If a case falls outside the scope of legal aid, funding may still be provided if the case is deemed 'exceptional'. A case will be deemed as such if failure to provide legal aid would be, or would result in, a breach of the individual's rights under the

European Convention of Human Rights. There is a section in this report on ECF applications and determination.

#### Telephone Gateway

The LASPO Act created a mandatory gateway through the 'Community Legal Advice' helpline for those seeking legal advice in relation to debt, special education needs and discrimination claims relating to a breach of the Equality Act 2010. This means that the only way clients can obtain legal aid for these types of cases is by initially calling the helpline. Gateway call operators and specialist advisers will assess the specific needs of callers on a case by case basis and may refer them to a face to face advice service if they consider it necessary.

#### Legal Aid Transformation

The LASPO Act also required the LAA to implement a number of changes to the way legal aid is administered, through the Legal Aid Reform programme.

The Legal Aid Transformation programme has since been put in place to examine the possibilities of further legal aid savings, including the concept of tendering to be a criminal legal aid provider.

As a result the following reforms were effective from 2 December 2013:

- Reform of fees in criminal Very High Cost Cases (VHCCs). On 7<sup>th</sup> July 2014 temporary arrangements were put in place, under which self-employed barristers were instructed to represent defendants in a number of VHCCs. For more information: <http://www.justice.gov.uk/legal-aid/newslatest-updates/crime-news/joint-statement-by-the-bar-council,-the-criminal-bar-association,-the-circuit-leaders-and-the-ministry-of-justice-on-vhcc-advocacy>
- Changes to the scope of prison law for legal aid
- Changes to the rules for use of multiple advocates for criminal legal aid
- Changes to experts' fees for both civil and criminal law
- Removal of the uplift for permission and appeal work for immigration and asylum law
- Harmonising Barrister fees – for civil (non-family) law

The following reforms were effective from 27 January 2014:

- Changes to the Crown Court means test for criminal legal aid
- Removing legal aid for cases judged to have borderline prospects of success

The following reform was effective from 20 March 2014:

Interim Fee Cut for criminal legal aid work of 8.75% (excluding VHCCs)

The following reforms are effective from 22 April 2014:

- Changes to the Remuneration of Judicial Review cases
- Changes to remuneration schemes to reflect the introduction of a Family Court
- Reduction of the fixed fee paid to providers in Family Cases covered by the Care Proceedings Graduated Fee Scheme (and the underlying hourly rates) by 10%

- Amendments to private family law children and finance evidence requirements
- A new legal requirement for applicants to attend a mediation information and assessment meeting

The full effect of all these changes will not be seen in this report as reforms were implemented part way through the period with some work now completing that started before the implementation.

#### [Geographic coverage of the report](#)

The LAA administers the legal aid system for England and Wales only. Scotland and Northern Ireland have their own legal aid systems, administered by the Scottish Legal Aid Board and Northern Ireland Legal Services Commission respectively.



## Annex B - Glossary of key terms

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Terms used in the report and tables are explained below.

**Advocates' Graduated Fee Scheme (AGFS):** The fee scheme which governs fees paid to advocates (barristers or solicitor advocates) who represent clients in criminal proceedings in the Crown Court, other than in cases which have been classified as very high cost (Criminal) cases. Payment is determined by proxy measures, the seniority of the advocate, offence type, pages of prosecution evidence, prosecution witnesses and days that the advocate spends at court at trial.

**Appeals (in the Crown Court):** The Crown Court deals with appeals from magistrates' courts against conviction and sentence in the Magistrates Court or Youth Court, hospital or guardianship orders, failure to comply with a supervision order and failure to make a football banning order. The Crown Court also has the power to alter a sentence or other order made by the Crown Court within 56 days of the date on which it was made.

**Barristers:** Barristers and Solicitors are the two main categories of lawyer in England and Wales. Barristers have traditionally had the role of handling cases for representation in court, both defence and prosecution, by providing specialist legal advice and representing their clients in court and through written legal advice. Barristers' work varies considerably depending on the area of law in which they practise and their level of expertise. It may include advising clients on the law and the strength of their legal case, holding conferences with clients to discuss the client's situation and problems and representing clients in court. About 80% of barristers are self-employed. The rest are employed in industry, commerce or central/local government. Self-employed barristers work in offices called 'chambers', which they may share with other barristers. On completion of their training, barristers apply for a permanent position known as 'tenancy' in a set of chambers. Both the CPS and LAA make direct payments to barristers for the vast majority of billing except for a small number of payments made to solicitor firms on their behalf.

**Category and areas of law:** The LAA defines areas of law (education, housing etc) thematically and contracts for the provision of advice and representation based on the categories below (see below for Crime Higher, Crime Lower, Civil Family, Civil Social Welfare law, Civil Non-Family Low volume and Civil Tribunals)

**Civil:** The area of law that concerns the rights and relations of private citizens – for example, disputes relating to unpaid debts or the enforcement/breach of contracts. Covers civil and family law but excludes criminal matters.

### **Civil Family categories:**

*Family legal help* both private and public law- this category cannot be broken down any further for legal help.

*Private law Children Act proceedings:* covers disputes about divorce, children issues (contact and residence), the separate representation of children where the court appoints it, and child abduction.

*Domestic violence*: injunctions, committal orders, or other orders for protection of a person from harm or forced marriages. Unlike other applications there is no upper limit to a victim's income or capital (they may have to pay a contribution).

*Financial provision*: ancillary relief, this is generally about money & property after a divorce or separation. There is a funding test for representation.

*Other family proceedings*: This area covers proceedings relating to defended divorce, nullity, civil partnership rights or applications under the Human Embryology Act.

*Other public law Children act proceedings*: Public proceedings about the welfare of children other than those covered in the Special Children Act. Generally for children or parents in disputes with the state, particularly local authorities, on matters such as care proceedings and adoption. In care proceedings there is no means or merits test.

*Special Children Act proceedings*: Public proceedings under the Children Act 1989. Can cover areas such care or supervision, a child assessment order, or an emergency protection order.

*Family Mediation (Civil Family)*: enables separating or divorcing couples to reach decisions about their arrangements together, using an independent third party mediator.

**Civil Low Volume**: These differ from other Civil and family categories as need is thinly distributed within the population, and demand is greatly influenced by the location and advice provided by low volume providers.

*Actions against the Police (Civil Low Volume)*: help with claims against the police such as assault, entering the home, false imprisonment, wrongful arrest, interference with property, malicious prosecution or other abuses of police authority.

*Clinical Negligence (Civil Low Volume)*: help with claims for damages against all types of public and private medical practitioners, including doctors, nurses and dentists.

*Consumer and general contract (Civil Low Volume)*: enables clients to obtain advice and bring civil law actions regarding contracts and their enforcement (except where this falls into another category).

*Education (Civil Low Volume)*: legal help on problems to do with the education service, including failing to provide education e.g. special educational needs, exclusions, bullying and admissions.

*Personal Injury (Civil Low Volume)*: enables clients to take action for compensation if they have suffered an injury due to someone's negligence or deliberate action. Most personal injury cases have now been excluded from the scope of legal aid. Most new cases involve applications to the Criminal Injuries Compensation Board.

*Public Law (Civil Low Volume)*: civil liberties or human rights advice including advice on data protection, freedom of information issues and how to challenge the decisions of public bodies.

*Miscellaneous* (Civil Low Volume): aimed at ensuring that meritorious cases can be brought and advice given for issues that do not fall within the scope.

### **Civil Social Welfare Law categories:**

*Community Care* (Civil Social Welfare): help for people who are unable to look after themselves because of age, illness or disability. May include obtaining or challenging an assessment for adequate services, challenging care home closures or contesting involuntary removal from home, by a local authority if deemed incapable of looking after yourself.

*Debt* (Civil Social Welfare): personal debts, both priority (e.g. council tax, rent arrears) and non-priority (credit cards), rescheduling debts (e.g. negotiating payment plans with creditors), challenging the validity of debts (e.g. due to dormancy) and personal insolvency/bankruptcy/Individual Voluntary Arrangements (IVAs).

*Employment* (Civil Social Welfare): unfair and wrongful dismissal, redundancy, employment contract, discrimination, strike action, data protection and employee confidentiality, terms and conditions and wages issues. Legal aid is available for assistance prior to an Employment Tribunal (not for representation at the Tribunal). It is available for representation at an Employment Appeal Tribunal.

*Housing* (Civil Social Welfare): help with issues arising out of where people live e.g. possession and eviction, disrepair, homelessness, allocation of housing, and other landlord and tenant issues. It also includes anti-social behaviour work (e.g. a local authority taking action against a tenant).

*Welfare Benefits* (Civil Social Welfare): covers receipt of and entitlement to benefits. Work in this category includes: challenging benefit decisions (e.g. where a benefit has been refused), gaining benefits a client is entitled to, benefit fraud and overpayments.

### **Civil - Tribunals**

*Mental Health* (Civil Tribunals): covers all work where the primary legal issue relates to mental health, particularly where this is covered by the Mental Health Acts of 1983 and 2007, and the Mental Capacity Act 2005.

*Immigration & Asylum* (Civil Tribunals): covers legal help on anything to do with immigration into the UK, for example, questions relating to nationality or right to stay in this country or deportations. Also covers issues relating to asylum including representation before the Asylum and Immigration Tribunal and advice to appeal to higher courts.

**Civil Representation:** Representation by solicitors and barristers for civil cases, which could go to court (also see Licensed work).

**Committal for sentence:** Where, in the magistrates' court, an offender has been convicted of, or has pleaded guilty to, an either way offence, but the magistrates consider that the penalties available to them are inadequate having regard to the seriousness of the offence or combination of offences, they may commit the offender to the Crown Court for sentencing.

**Community Legal Advice Centre (CLAC):** These were walk-in Community Legal Advice Centres providing free, generalized, face-to-face legal advice at an initial appointment and further specialized advice for people eligible for legal aid.

**Complex Crime Unit:** The Complex Crime Unit manages all Very High Cost Cases under a criminal legal aid contract.

**Contracted Providers:** The LAA contracts with solicitor firms and not for profit organisations to deliver face to face advice and assistance in both crime and civil, and to deliver advice over the telephone via Community Legal Advice (CLA) contracts. This includes contracted mediators who undertake mediation on behalf of legally aided clients.

**Controlled Work:** Work under the civil contract that covers legal advice and assistance (Legal Help), help at court and legal representation in front of Mental Health Review Tribunals and the Asylum and Immigration Tribunal.

**Court of Appeal and Supreme Court (Crime Higher):** The appeal and higher courts deal with smaller volumes of caseload but are generally more complex with points of law and other unusual case work.

**Criminal Higher:** Legal representation in the Crown Court and above.

*Crown Court (Crime Higher):* typically solicitor prepares case for trial and barrister or solicitor advocate provides representation.

*Very High Cost Cases (Crime Higher):* extensive evidence reviewed and case prepared by solicitor. Senior counsel (QC) often presents.

*Court of Appeal and Supreme Court (Crime Higher):* The appeal and higher courts deal with smaller volumes of caseload but are generally more complex with points of law and other unusual case work.

**Criminal Lower:** Work carried out by legal aid providers at police stations and in magistrates' courts in relation to people accused of or charged with criminal offences. Prison law is also included within this category.

*Magistrates' Court (Crime Lower):* solicitor preparation for appearance or trial. Representation within the magistrates' court, often by a solicitor advocate or junior barrister.

*Police Station (Crime Lower):* advice on rights and options pre-charge, in the station, in person by solicitor or outside the police station relating to pre-charge; or applications to extend detention.

*Prison Law (Crime Lower):* advice for prisoners relating to their treatment or discipline in prison (e.g. parole hearings) and their progression through the prison system.

**Crown Prosecution Service (CPS):** The CPS is an independent authority set up to prosecute criminal cases investigated by the police in England and Wales. In undertaking this role the CPS advises the police during early stages of investigations, determines appropriate charges in serious or complex cases, keeps cases under continuous review and decides which cases should be prosecuted, prepares cases for prosecution and prosecutes cases using in-house advocates, self-employed advocates or agents to present cases in court.

**Determination (specialist telephone advice service):** The determination process was introduced in 2013/14 for matters referred by the operator service to advice specialists to provide assessment on scope and eligibility. These outcomes have no recorded benefit but under the current payment schedule will receive a fixed payment for the work

**Disbursements:** Costs incurred by the provider that relate to expenses such as the cost of a travel, paying fees. For example, the payment of court fees, or paying other parties to undertake a service using experts' opinions.

**ECF application:** an ECF application for civil legal services is made where a case falls outside the scope of legal aid but the client or conducting solicitor believes there is evidence to support there being a requirement to provide funding because failure to do so would be a breach of, or having regard to any risk that failure to do so would be such a breach of, their Convention rights (within the meaning of the Human Rights Act 1998), or any rights of the individual to the provision of legal services that are enforceable EU rights.

**ECF determinations** - this is the decision taken on an application by the LAA ECF Team. Decision results are to either Positive Preliminary View, Grant, Refuse or Reject an application.

**ECF granted-** an ECF application can only be granted if: the exceptional case criteria are met, and the relevant criteria set out in the Civil Legal Aid (Merits Criteria) Regulations are met, and

the relevant criteria set out in the Civil Legal Aid (Financial Resources and Payment for Services) Regulations are met

**ECF new applications** – this is the first application in relation to a particular set of proceedings.

**ECF positive preliminary view-** this is only viable on ECF applications made directly by the client, prior to a full ECF Application being received in conjunction with a Legal Aid provider.

**ECF refuse** – The application was assessed by the LAA ECF Team and the determination is to Refuse. ECF criteria were not met, so the application is refused with details for refusal provided.

**ECF reject** – The application was assessed by the LAA ECF Team and the determination is to Reject. Either the application was in scope for a non exceptional legal aid application, or not enough information has been provided in the application to make a determination, so the application is rejected with details for rejection provided.

**ECF review applications** – this relates to a request for an internal review of a determination previously made by the LAA ECF team.

**Either way offence:** An offence which can be tried either before the magistrates' court or the Crown Court. The appropriate venue is determined at a Mode of Trial hearing at the magistrates' court. If the magistrates determine that the matter is too serious or complex for summary trial, they can commit it to the Crown Court. If the magistrates determine that the case is suitable for summary trial, the defendant can elect for trial by jury.

**Help at Court:** Enables a solicitor or advisor to speak at a court or tribunal on an informal basis e.g. to argue that an order should not be enforced immediately.

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

**Interests of justice test:** The test is applied to criminal cases as part of the process to determine whether a client receives criminal legal aid. The provision of publicly funded representation is usually deemed to be in the interests of justice when the case is so serious that if the defendant is found guilty they are likely to face imprisonment, loss of livelihood or loss of reputation, where there are substantial questions of law to be argued, or the defendant is a minor, mentally handicapped, cannot speak English, or is otherwise incapable of following proceedings.

**Legal Help:** A form of civil legal services which includes advice and assistance about a legal problem, but does not include representation or advocacy in proceedings (also see Controlled work).

**Licensed Work:** Work under the civil contract that covers all legal representation (representation by solicitors and barristers for civil cases which could go to court) except work covered by Controlled Work or VHCC, which are managed under separate contracts.

**Litigators' Graduated Fee Scheme (LGFS):** The fee scheme which governs fees paid to solicitors who represent clients in criminal proceedings in the Crown Court, other than in cases which have been classified as Very High Cost (Criminal) Cases. Payment is determined by proxy measures, the type of offence, pages of prosecution evidence, and number of days of trial.

**Means test:** The process by which an assessment of clients' financial eligibility for public funding is made.

**Merits test:** The aim of the merits test is to ensure that only cases with reasonable prospects of success receive legal aid. The test does this by seeking to replicate the decision making process that somebody who pays privately would make when deciding whether to bring, defend or continue to pursue proceedings.

**New matter starts:** A matter refers to an instance of help given by a service provider to a legal aid client under Controlled Work and does not cover representation at court.

**Referral Providers:** The LAA does not currently contract directly with referral providers such as barristers and experts. Whilst contracted providers will in most cases seek prior authority from the LAA for payment of barristers and experts, it is the contracted provider who chooses when to instruct a referral provider and which barrister or expert to instruct. Referral providers are paid for each piece of work either directly by the LAA in the case of barristers, or via the contracted providers in the case of experts.

**Very High Cost Cases (VHCC):** extensive evidence reviewed and case prepared by solicitor. Senior counsel (QC) often presents.

# Annex C - Explanatory notes

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## **Uses of the statistics**

These statistics can be used to understand and monitor changes in the volumes of different types of activity across the legal aid system, and the value of payments associated with that activity.

Users of these statistics include departmental teams responsible for coordinating responses and requests to FOIs and PQs, Ministers and officials with responsibility for developing policy, parliament in providing scrutiny of legal aid policy, and providers and recipients of legal aid.

## **Official Statistics**

This Statistical Release is published at 9.30am on a date which has been pre-announced on the Ministry of Justice website ([www.gov.uk/government/organisations/ministry-of-justice/about/statistics#publication-schedule](http://www.gov.uk/government/organisations/ministry-of-justice/about/statistics#publication-schedule)).

A list of officials who have received pre-release access to this Statistical Release up to 24 hours in advance of publication is also available on the Ministry of Justice website alongside the Statistical Release itself ([www.gov.uk/government/collections/legal-aid-statistics](http://www.gov.uk/government/collections/legal-aid-statistics)).

## **Next publication**

The next edition of Legal Aid Statistics will be published on Thursday 26 March 2015.

## Annex D - 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:

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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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