



Ministry
of Justice



Legal Aid
Agency

Legal Aid Statistics in England and Wales

October to December 2015

Ministry of Justice Statistics bulletin

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

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Introduction

Legal Aid Statistics in England and Wales is published every quarter, presenting the key statistics on activity in the legal aid system. This edition comprises the first release of official statistics for the three month period from October to December 2015 and also provides the latest statement of all figures for previous periods and longer term trends.

Information published in this release

The *Legal Aid Statistics Quarterly: October to December 2015* release, published at www.gov.uk/government/collections/legal-aid-statistics, consists of the following documents:

	Legal Aid Statistics PDF	This bulletin, which provides key figures, graphs, explanation and commentary
	Legal Aid Statistics main tables MS Excel Spreadsheet	A set of main tables, which gives more details and full time series for each area
	Legal Aid Statistics Embedded figures MS Excel Spreadsheet	Contains the underlying data from which the charts and graphs in Legal Aid Statistics are created
	Legal Aid Statistics CSV guidance MS Excel Spreadsheet	Contains an index to the detailed csv file of Underlying data and guidance on how to work with the CSV file using pivot tables.
	Legal Aid Statistics underlying data MS comma separated values	A more detailed set of underlying data, provided in the form of a csv (comma separated values) file, to facilitate detailed analysis using pivot tables, and re-use of the data using a variety of software packages.

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

The next edition of Legal Aid Statistics will be published on Thursday 30 June 2016

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

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

Measuring activity in the legal aid system

Workload

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

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

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

Expenditure

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

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

- For more complex work, for example many crime higher and civil representation cases, a portion of the work on a case that is completed and paid for in a given period may have taken place over previous periods, but on the closed-case basis its

entire value will be included within the expenditure figures for the period in which the case closes.

- Similarly, the value of any work that is done in a given period on cases that have not yet been completed or paid for will not be included in the closed-case expenditure figures for that period.

The combined effect is that expenditure figures on the closed-case basis lag behind those presented on an accruals basis (such as those in the LAA's Annual Report and Accounts), so any trends in expenditure will emerge later, particularly for more complex areas of legal aid work.

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

User feedback – including consultation on provider statistics

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

Currently we are consulting in particular on the format and content of the annual section on legal aid providers. If you are interested in this topic, please read the consultation from page 38 of this document, or follow this link to complete the dedicated survey:

www.smartsurvey.co.uk/s/LY8AH/

Key findings

Criminal legal aid

1. The decline in **crime lower** workloads of recent years has continued in the context of falling overall crime rates, and the latest quarter saw a 7% fall in completed work compared to the same period in the previous year (see figure 3).
2. Expenditure on crime lower has declined more than workloads, down 14% compared to the same period of the previous year (see figure 4). This reflects the introduction in March 2014 of a reduction of 8.75% to the fees paid for most crime lower legal aid work.
3. The volume of work completed in **crime higher** in the last quarter was down 12% on the same period of the previous year (see figure 10).
4. The value of work completed in crime higher was 6% lower in October to December 2015 than in the same period of the previous year. This is a return to the longer-term trend after a higher than normal quarter in July to September 2015.

Civil legal aid

5. The implementation of the LASPO Act in April 2013 resulted in large reductions in **legal help** workload. Trends have since levelled out overall at around one-third of pre-LASPO levels, although in the last quarter new matter starts were 11% lower than in the same period of 2014.
6. Workloads in **civil representation** also fell substantially following the LASPO Act, though by a smaller proportion than legal help. They now appear to be stable overall at around two-thirds of pre-LASPO levels, although the number of certificates granted in the last quarter was up 12% compared to the same period of the previous year.
7. In response to feedback from users, in this edition we have introduced a second way of presenting figures on the granting of certificates for civil representation, to enable the calculation of the proportion of applications in a given period that were granted. See the civil legal aid chapter for more details.
8. After sharp falls following LASPO, the number of mediation assessments appears to be stabilising at around half of pre-LASPO levels (see figure 16). Mediation starts and agreements stand at around 60% of pre-LASPO levels.

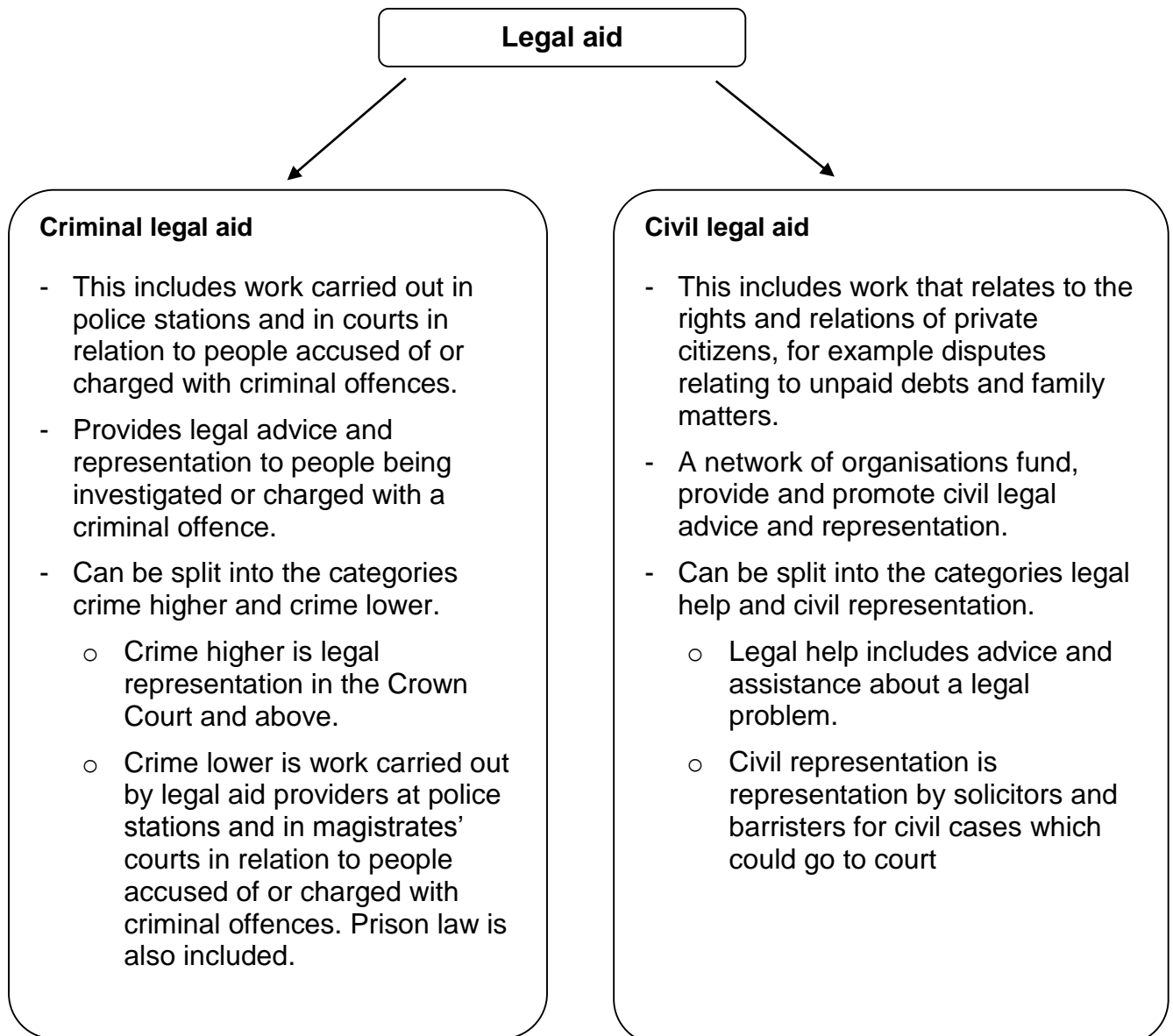
Exceptional Case Funding

9. The number of **ECF** applications received this quarter was similar to the equivalent period in 2014. Excluding those awaiting a decision, over half of all applications were granted; this is the highest number and proportion of grants since the scheme began.

Analysis and commentary

Summary

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



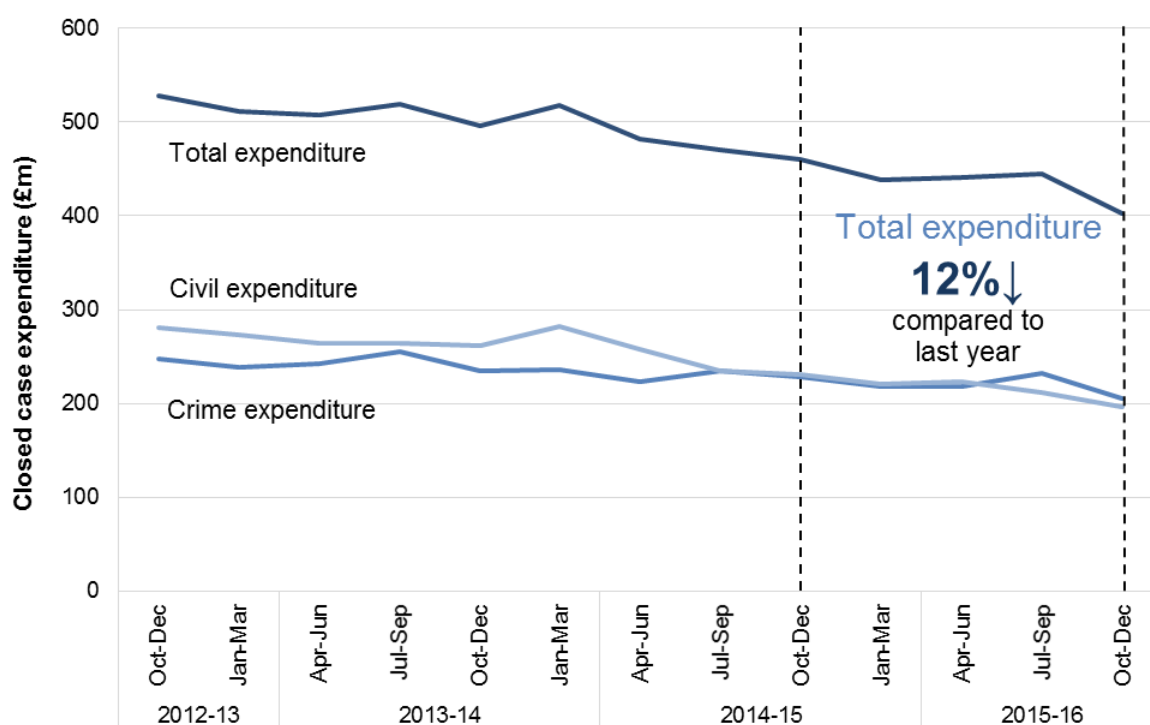
It is difficult to summarise workloads across the legal aid system meaningfully within a single number because of the diversity of services being provided, so users of these statistics are best advised to look at trends in workload for each area of legal aid separately.

Perhaps the best way to summarise the entire system in a broad sense is to look at expenditure. These statistics present expenditure in terms of the value of payments made to legal aid providers for work completed in each period, which is different from the way expenditure figures are presented for budgeting and accounting purposes (see page 4 for further explanation).

On this ‘closed-case’ basis, expenditure on work completed between October and December 2015 was just under £400m¹, a 12% reduction on the same quarter of 2014 and a 20% reduction on the same quarter of 2012 (see figure 1). Expenditure on civil legal aid has fallen further than that on crime over this period. These trends reflect changes to workloads, fees and the scope of legal aid over recent years. These changes are discussed in more detail throughout this statistical bulletin.

As shown in Figure 1 below,

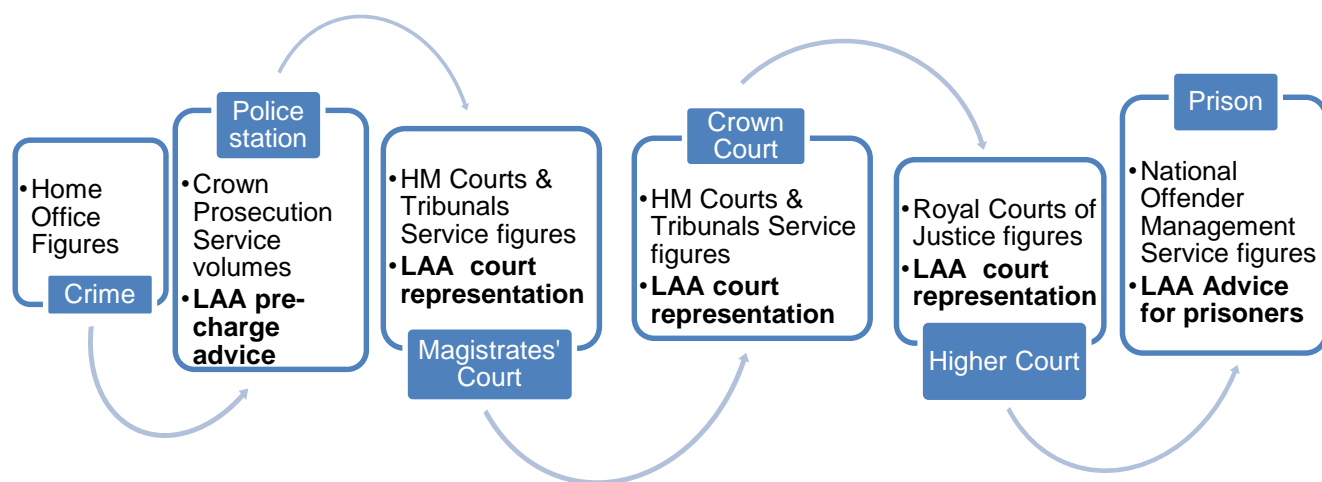
Figure 1: Value of payments made for cases completed in October 2012 to December 2015, by legal aid scheme



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

Criminal legal aid

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



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

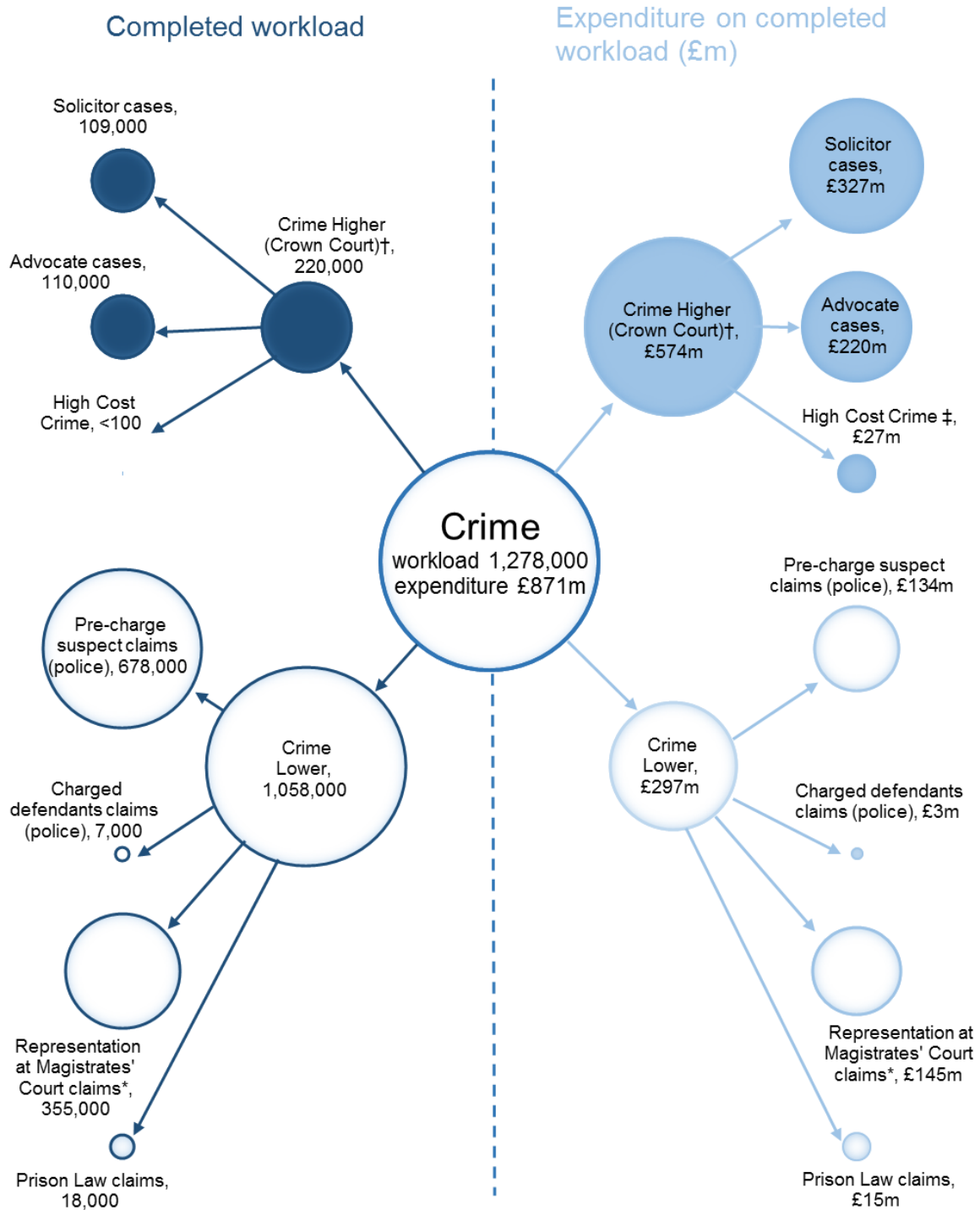
Figures are given in this report for each of the areas above and are categorised into Crime Lower and Crime Higher. Figure 2 below shows the relative size of each category and area both in terms of workload volumes and expenditure.

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

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

Workload in the wider criminal justice system has fallen in the last few years and some areas of criminal legal aid workload have also fallen over this period. The largest reductions in completed workloads between October to December 2015 and the same period in the previous year have occurred in crime lower, with reductions across all the main categories described above.

Figure 2: Volumes and expenditure within criminal legal aid area, January 2015 to December 2015



* includes court duty solicitor sessions

† This total does not include the higher courts

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

Figures are for the 12 months to December 2015

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

Crime lower

The decline in crime lower workloads in recent years has continued in the context of falling overall crime rates, and the latest quarter saw a 7% fall in completed work compared to the same period in the previous year (see figure 3).

Expenditure on crime lower has declined more than workloads, down 14% compared to the same period of the previous year (see figure 4). This reflects the introduction in March 2014 of a reduction of 8.75% to the fees paid for most crime lower legal aid work.

Figure 3: Number of cases completed within crime lower, Oct-Dec 2012 to Oct-Dec 2015

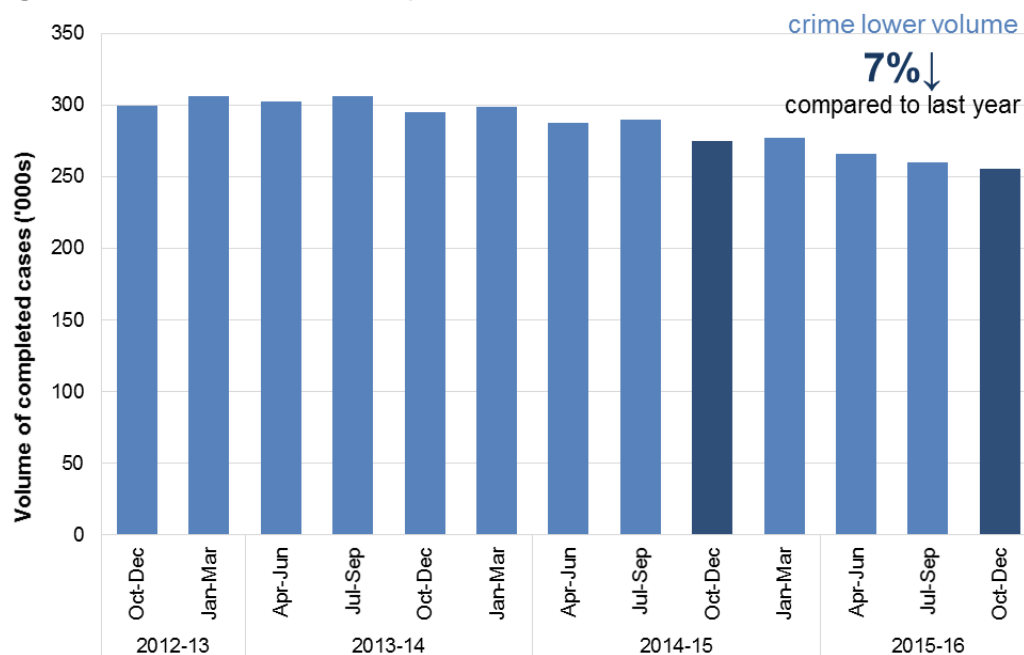
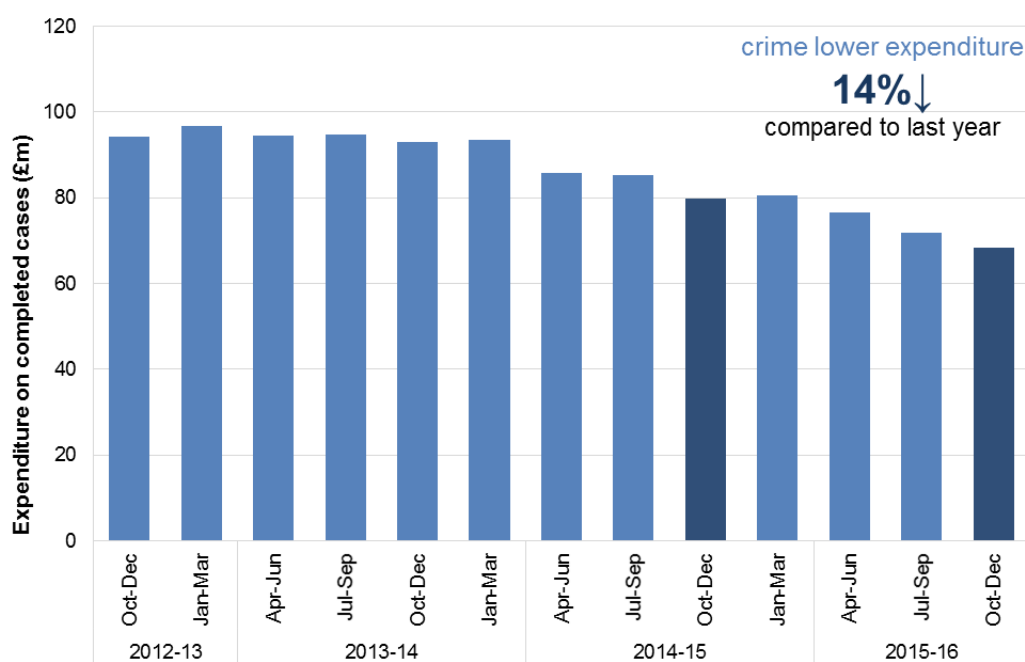


Figure 4: The value of completed crime lower cases, Oct-Dec 2012 to Oct-Dec 2015



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

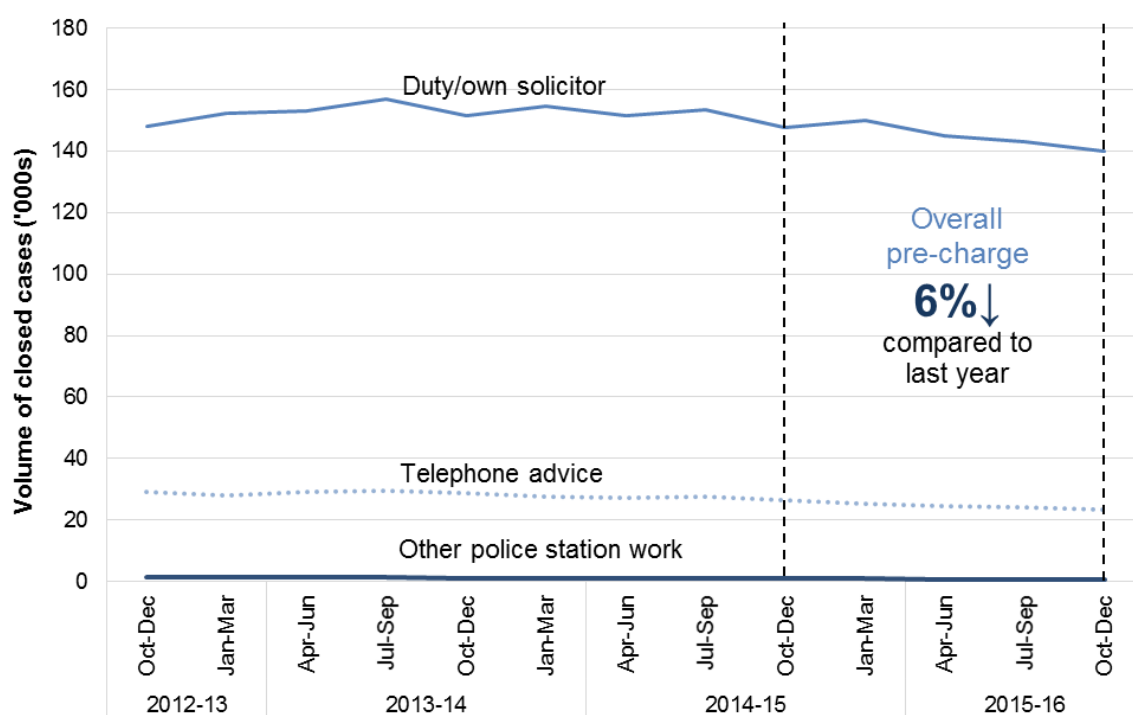
Pre-charge suspects (Table 2.1 and 2.2)

Pre-charge work made up almost two-thirds of the crime lower workload between October and December 2015 but less than half of crime lower expenditure. Anyone in England and Wales who is interviewed by the police or attends a police station can receive advice funded by legal aid either on the telephone or by a solicitor in attendance with the suspect. The LAA has limited control over the volume of police station claims. Changes to police numbers and priorities will lead to changes in the number of arrests, charges and cautions.

Pre-charge legal aid workload between October and December 2015 fell by 6% compared to the previous year (see figure 5). Over the last two years the trend has been gradually downward, but not by as much as crime lower as a whole or overall police recorded crime figures².

The majority of the pre-charge workload (85% in October to December 2015) consists of suspects receiving legal help with a solicitor in attendance at the police station.

Figure 5: Workload with pre-charge suspects, Oct-Dec 2012 to Oct-Dec 2015



Magistrates' court (Table 2.1, 2.2 and 3.1)

Legally-aided representation in the magistrates' court comprised around one-third of the crime lower workload between October and December 2015 and around half of crime lower expenditure. The volume of completed work in the magistrates' court fell by 8% in this quarter when compared to the previous year.

² www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/year-ending-september-2014/stb-crime-in-england-and-wales--year-ending-september-2014.html

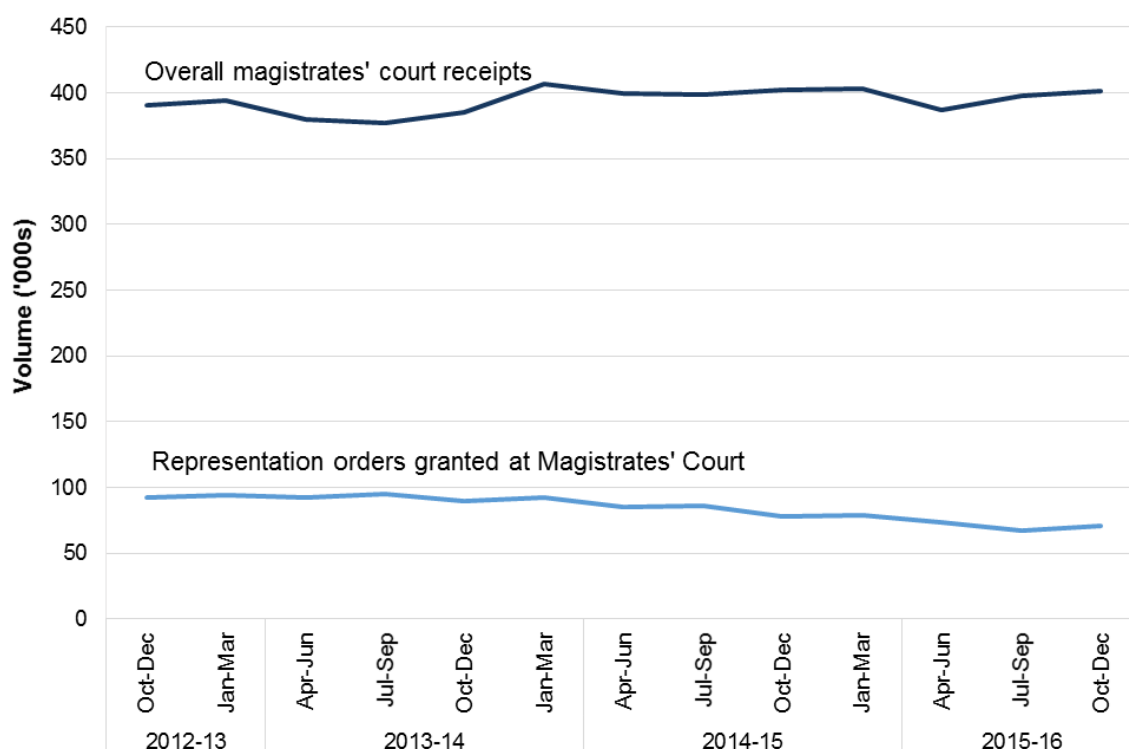
The number of orders granted for legally-aided representation in the magistrates' court fell by 9% in this quarter when compared to the previous year. This continues the existing downward trend of the last 2 years, and disruptive action taken by some criminal legal aid providers during July and August may also have reduced the figure for the July to September quarter of 2015 to some extent. The proportion of applications that are granted has changed little over recent years, at around 95% (table 3.1). The overall number of receipts in the magistrates' court³ (including those not involving legal aid) was more or less the same than in the same period of the previous year. Figure 6 shows the overall number of receipts and the number of representation orders granted in the period.

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

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

The category of committal for sentence in the magistrates' court applications and grants for representation orders has been removed in this edition because investigation has shown that these orders were also counted in the Crown Court and so the figures now show those orders and their final level of court only.

Figure 6: Magistrates' court trends - representation orders granted and receipts, Oct-Dec 2012 to Oct-Dec 2015



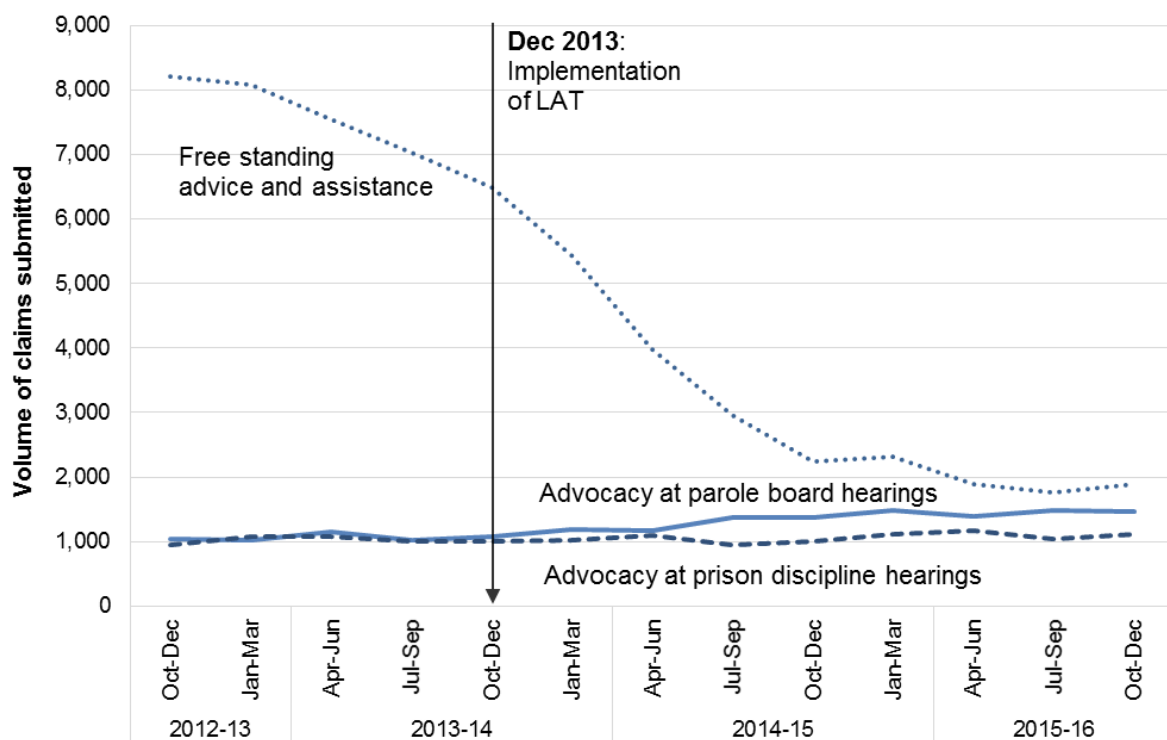
³ www.gov.uk/government/collections/criminal-court-statistics

Prison Law (Table 2.1 and 2.2)

Prison law made up less than 2% of the crime lower workload between October and December 2015, but around 5% of expenditure. In July 2010 changes were made to legal aid for prison law, including a new requirement for legal aid providers to apply to the LAA for prior approval before starting work on treatment cases. Following those changes, prison law workload began to decline (see figure 7).

In December 2013, under the Legal Aid Transformation (LAT) programme, changes were made to the scope of legal aid available for prison law⁴. These changes appear to have accelerated the existing downward trend in prison law workload over the following year, with free standing advice and assistance accounting for most of the decline. The trend has been more stable over the last year, with a drop of 3% in October to December 2015 compared to the same period the previous year. Similarly, expenditure on prison law over the same period has fallen by 4%.

Figure 7: Volume of workload within prison law, Oct-Dec 2010 to Oct-Dec 2015



⁴ www.justice.gov.uk/offenders/parole-board

Crime higher

Representations at Crown Court (Table 3.2)

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

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

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

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

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

The number of legal aid representation orders granted in the Crown Court fell by 9% in this quarter when compared to the previous year, continuing a decline that began around 2 years earlier. Orders relating to either way offences and committals for sentence have accounted for most of this decline (see figure 9).

The downward trend in orders is largely driven by a reduction in cases received in the Crown Court overall over this period⁵ (see figure 8). Over 99% of applications for legal aid in the Crown Court are granted, and this has changed little over recent years (table 3.2).

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

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

Following recent work to improve the accuracy of the statistics on applications for, and grants of, legal aid in the criminal courts and reduce the extent of regular revisions, the methodology for this area of the statistics has, from this edition, been changed. The new methodology uses not only data from the LAA's MAAT administrative system, but also information from court data systems to ascertain current court location. This change increases the figures for Crown Court representation orders in 2014/15 by 0.6%, and during the first two quarters of 2015/16 by 15%. The subsequent reduction in the magistrates' court representation orders was 0.2% in 2014/15 and 3% during the first two quarters of 2015/16.

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

⁵ www.gov.uk/government/collections/criminal-court-statistics

Figure 8: Representation orders granted and receipts in the Crown Court, Oct-Dec 2012 to Oct-Dec 2015

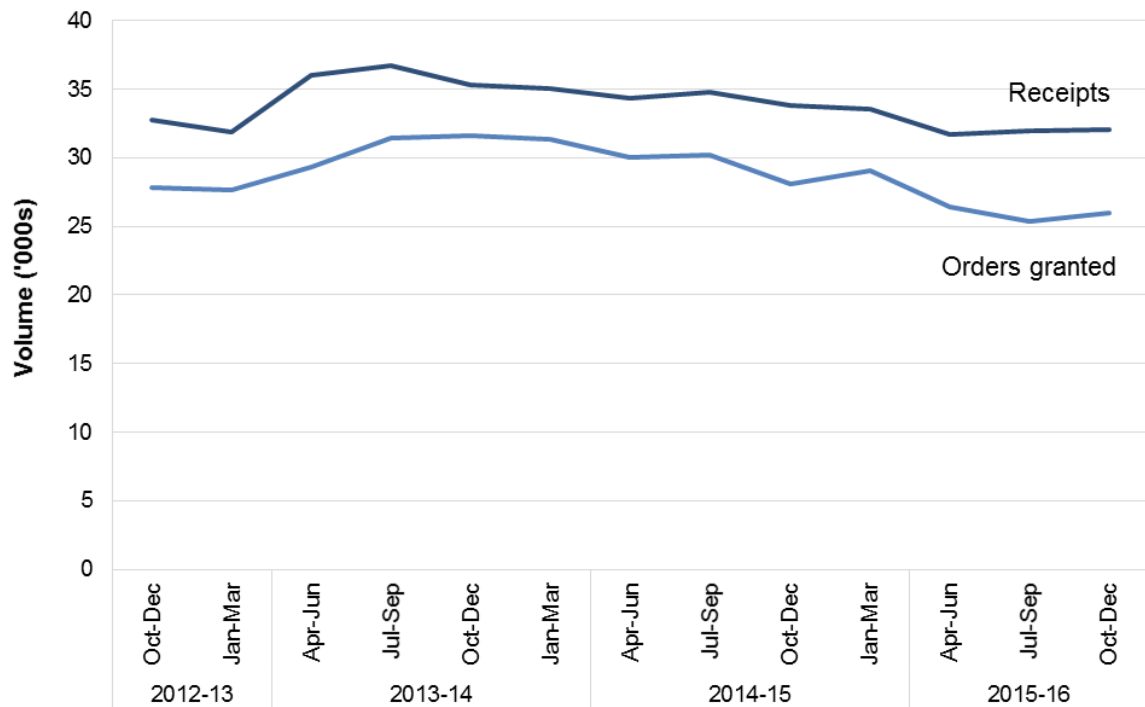
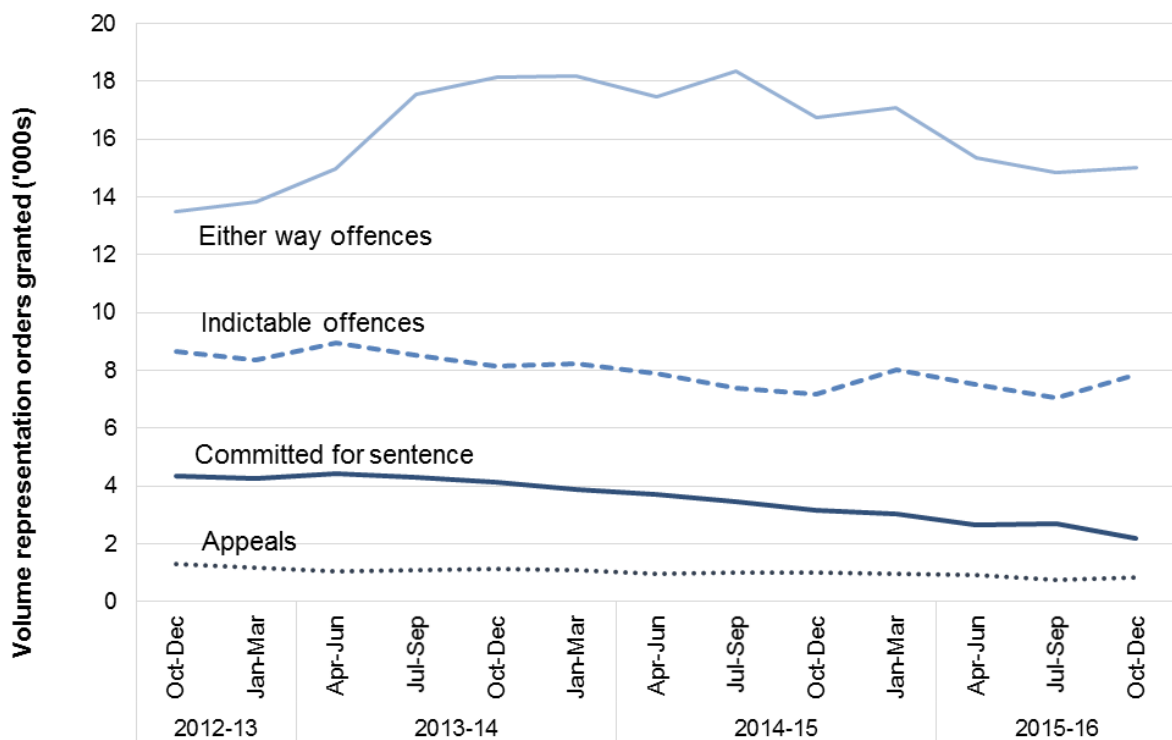


Figure 9: Representation orders granted in the Crown Court, Oct-Dec 2012 to Oct-Dec 2015, by case category

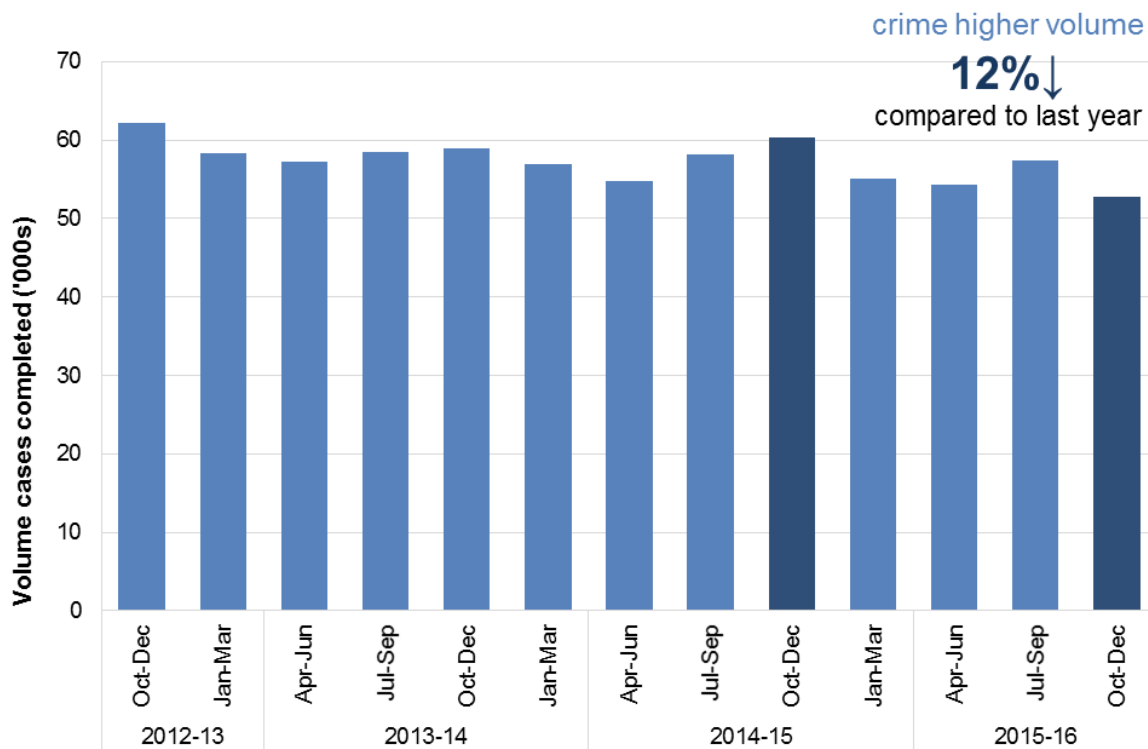


Volumes of cases completed in the crime higher category have declined slightly over the last three years, but the volume in the last quarter fell more sharply compared to the same period of the previous year (down 12%, see figure 10). This is partly due to a change in the mix of work being completed, with a slightly larger proportion of trials and a smaller proportion of guilty pleas in the last quarter than in the same period of the previous year.

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

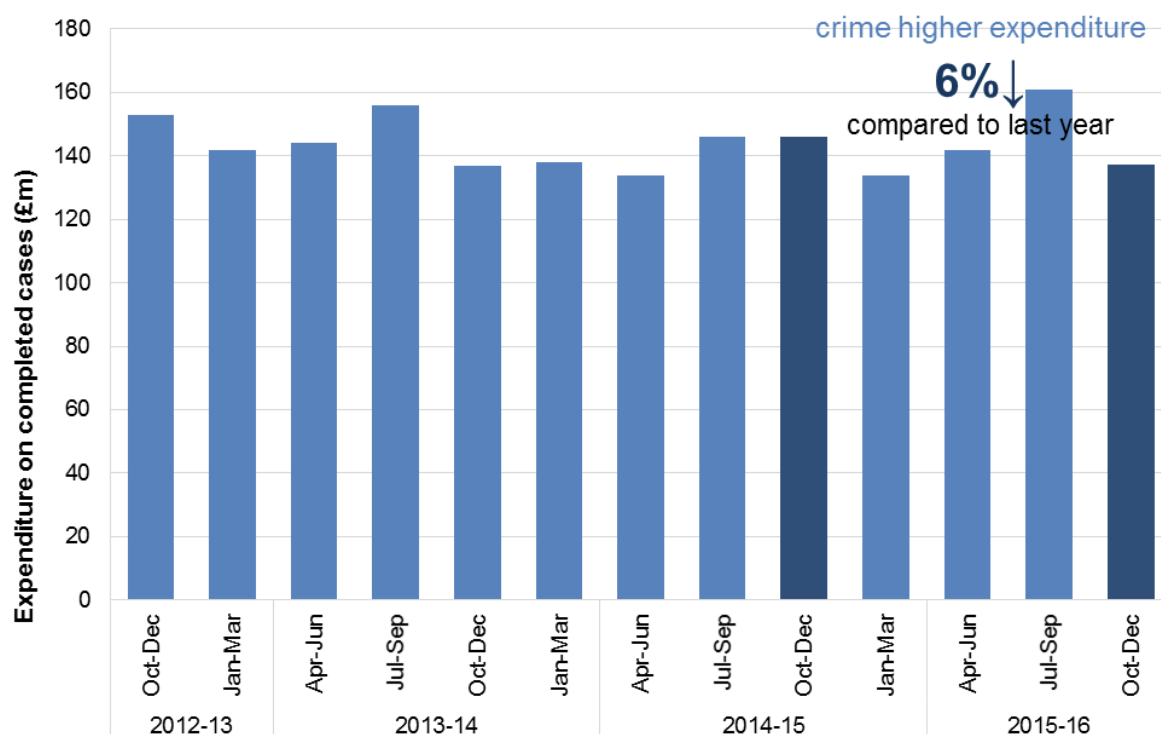
The trend in the value of payments for completed cases in crime higher (figure 11) has been generally similar to that of the volumes over the last 3 years but, following a rise in the previous two quarters, expenditure in Oct-Dec 2015 fell by 6% compared to the same period in the previous year.

Figure 10: Number of cases completed within crime higher (Tables 4.2 – 4.4), Oct-Dec 2012 to Oct-Dec 2015



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

Figure 11: The value of completed crime higher cases (*Table 4.2 – 4.4*), Oct-Dec 2012 to Oct-Dec 2015



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

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

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

Total expenditure on VHCCs between October to December 2015 was £6.3 million, a reduction of 35% compared to October to December 2014. Falling VHCC costs are due to changes in rates paid and also a reduction in the proportion of cases classified as a VHCC due to the threshold being increased from 40 to 60 days on 1 April 2013. VHCCs currently represent around 5% of the overall cost of legal aid in the Crown Court.

Civil legal aid

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



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

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

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

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

The implementation of LASPO in April 2013 resulted in large reductions in **legal help** workload and expenditure. Since this initial fall workloads have levelled out overall at around one-third of pre-LASPO levels. In the last quarter new matter starts were however 11% lower than in the same period of 2014 (see figure 12).

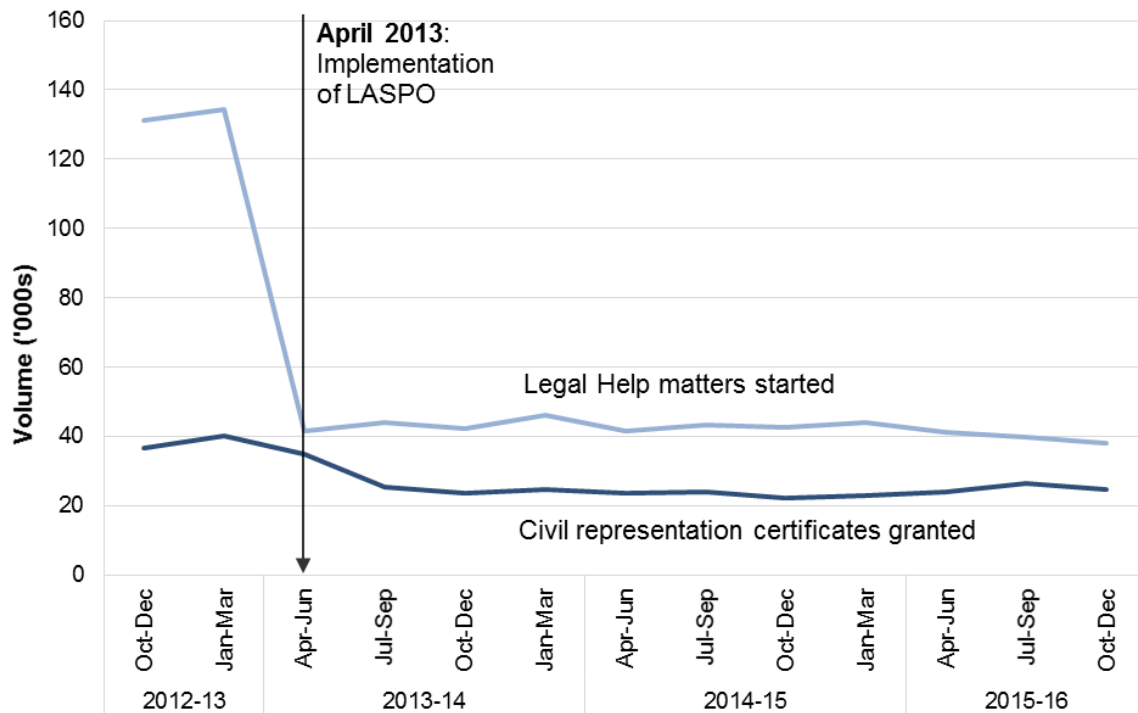
Unlike for civil representation, the decision to offer legal help or controlled legal representation to a client is generally devolved by the LAA to legal aid providers, who must apply means and merits tests to each potential client. LAA administrative systems do not therefore hold information on applications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

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

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

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

Figure 12: Trends in overall legal help/controlled legal representation and civil representation, Oct-Dec 2012 to Oct-Dec 2015

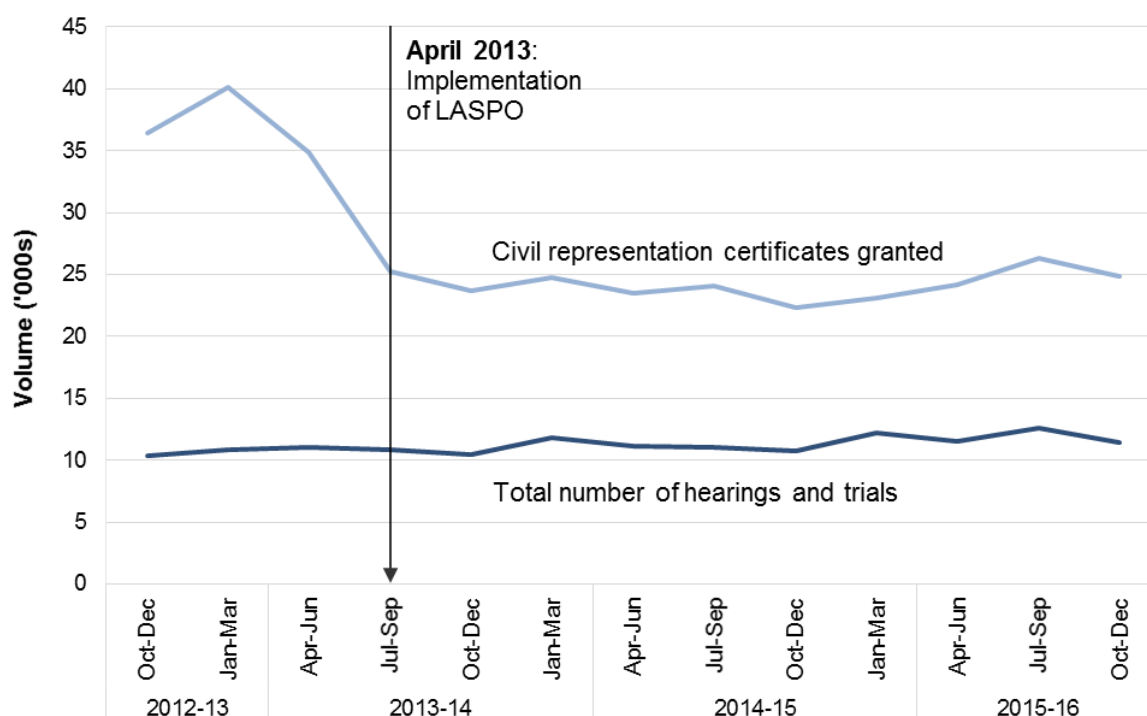


Civil representation and overall court volumes

Figure 13 shows the number of certificates granted for legally-aided civil representation (see table 6.2) and the number of hearings and trials overall from civil court data, with figures from the latest release of Civil Justice Statistics quarterly (table 1.6). The trends were broadly similar until the implementation of LASPO, when there were large reductions in civil representation workload. There are more legal aid certificates granted than hearings and trials that take place as many civil claims do not reach court.

Over the last 2 years, as civil representation workload has stabilised, the trends have once again been broadly similar with a slight rise in recent quarters reflecting increases in public law family cases.

Figure 13: Trends in civil representation and overall court workload - legal aid certificates granted and total number of hearings and trials, Oct-Dec 2012 to Oct-Dec 2015

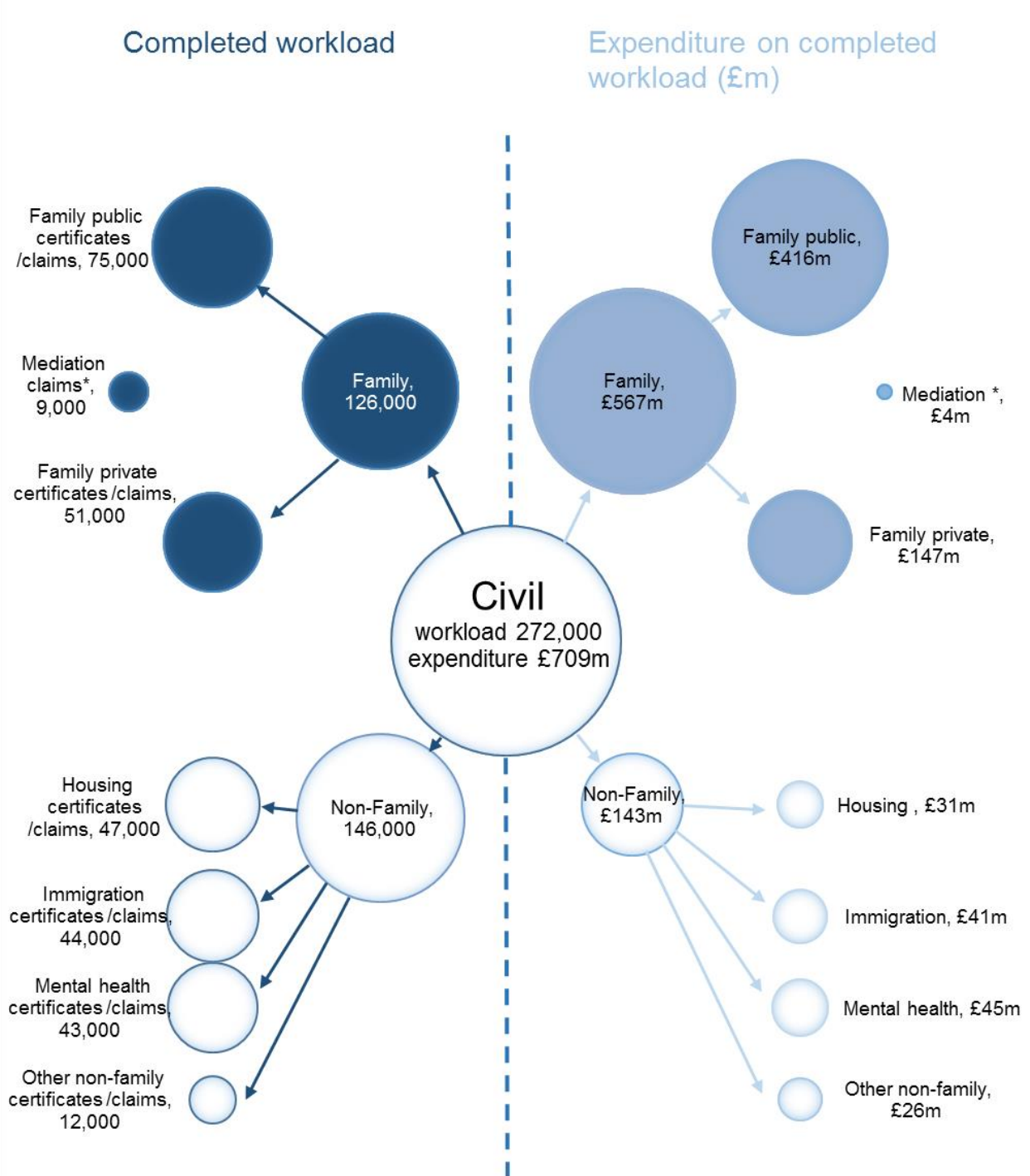


Civil legal aid by category of law (tables 5.1 - 6.9)

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

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

Figure 14: Civil legal aid volumes by category of law, January 2015 to December 2015



*Mediation figures are not included in the family total
 Figures are for the 12 months to December 2015

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

Family

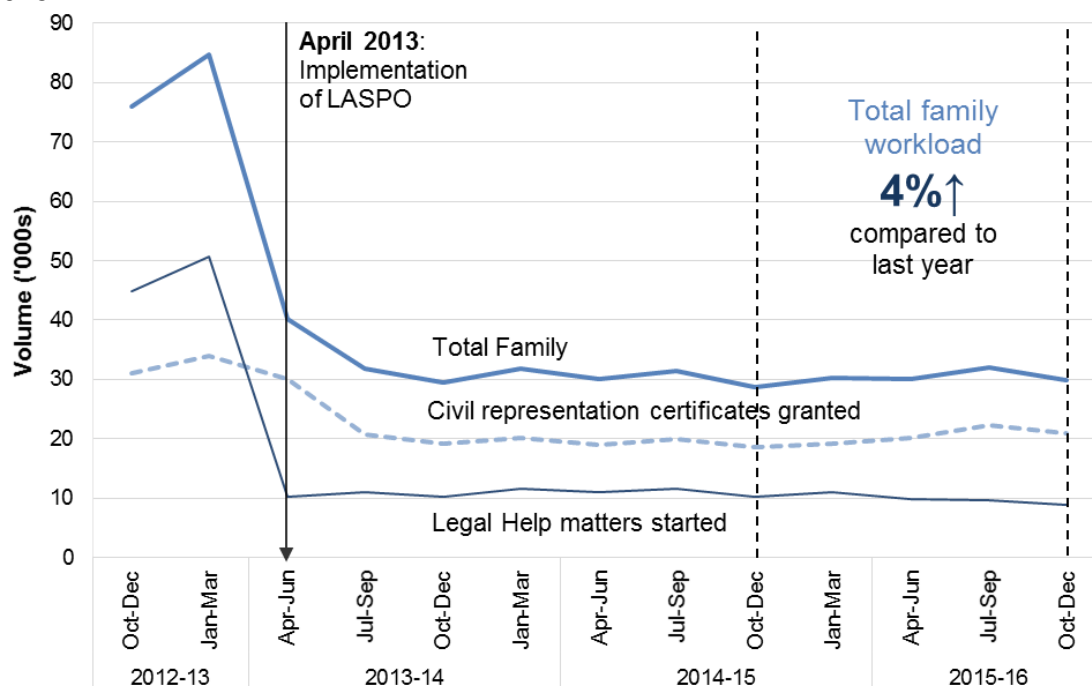
The category of family legal aid covers work on both private and public family law and includes work associated with the Children Act, domestic abuse, financial provision and family mediation.

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

The LASPO Act removed many areas of civil law from the scope of legal aid, including some areas of private family law, and there was a large decrease in family **legal help** workload following its implementation. This now appears to have stabilised, but new matter starts in October to December 2015 were 13% lower than the same quarter of 2014. **Civil representation** fell less sharply following LASPO, and the trend subsequently levelled out. In recent quarters this has increased, largely due to an increase in public law family certificates (figure 15).

Some areas of family legal aid, in particular domestic violence and public family law, were not affected by scope changes in the LASPO Act and so did not show large decreases in volume when the Act was introduced. In public family law the civil representation workload has increased recently, with 16% more certificates granted in Special Children Act and other public law Children Act proceedings in October to December 2015 than in the same period of the previous year (table 6.2). Legal help matters completed in family public law increased by 2% over this period (table 5.2). Public family workloads in civil representation and legal help are higher than before the LASPO Act was introduced.

Figure 15: Family workload: legal help and civil representation, Oct-Dec 2012 to Oct-Dec 2015



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

Family mediation

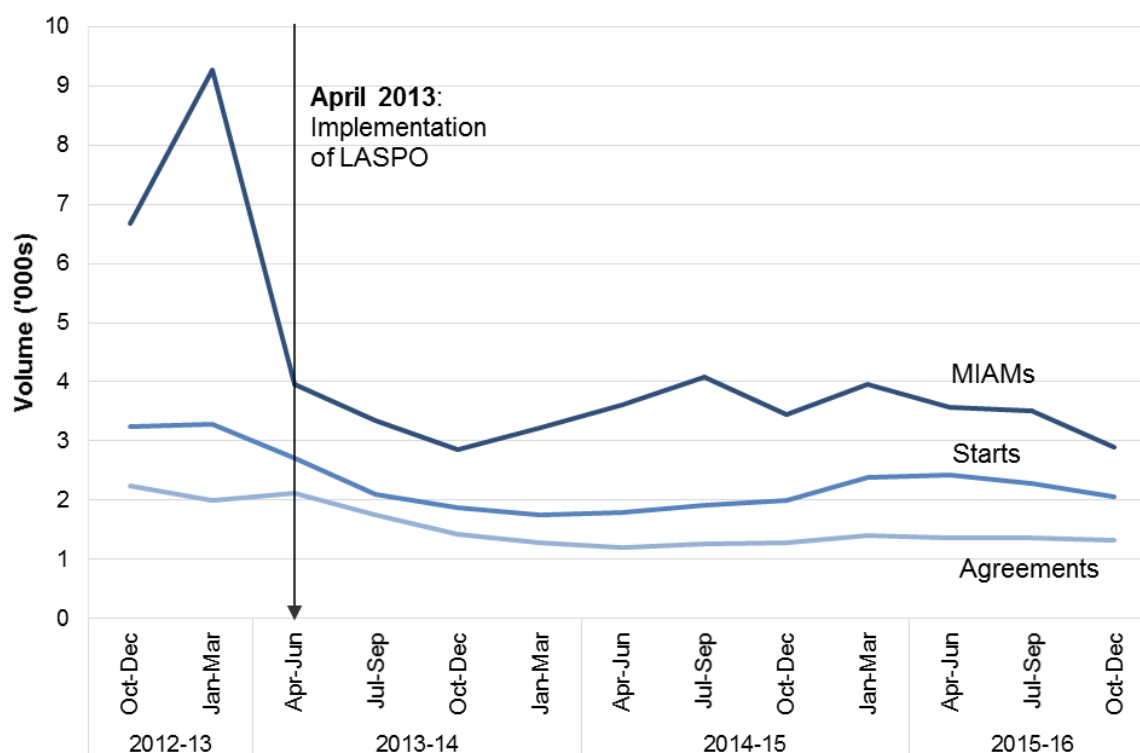
Family mediation (tables 7.1 – 7.2) involves an independent and impartial professionally accredited mediator discussing problems with a divorcing or separating couple. The process is cheaper and quicker than using the courts and it also allows for a more flexible approach.

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

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

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

Figure 16: Family mediation assessments, starts and agreements Oct-Dec 2012 to Oct-Dec 2015



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

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

Family mediation can be used to resolve issues to do with children or property and finance following divorce or separation, and the 'all issues' category describes mediations which deal with both areas. The children category consistently accounts for the majority of starts, comprising 66% of all mediation starts from October to December 2015 (this information is taken from the csv of underlying data published alongside this bulletin).

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

Mediations in the 'all issues' category can reach full agreement, where agreement is reached on all issues, or partial agreement, wherein an agreement has been reached on either children or property and finance, but not both. As such, successful agreements include both partial agreements and full agreements. Over the last year 63% of all mediation outcomes involved successful agreements. The rate of success varied between different categories of mediation, with the highest proportion of agreements (66%) in the children category (this information is taken from the csv of underlying data published alongside this bulletin).

Non-family

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

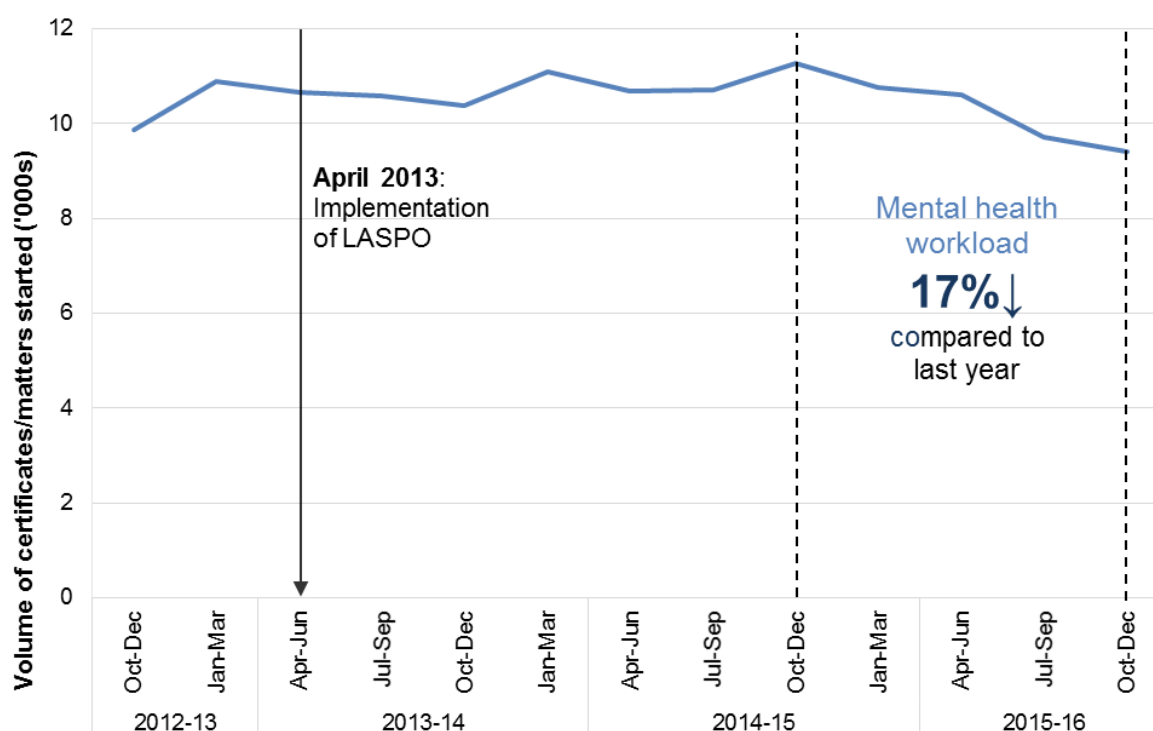
Mental Health

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

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

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

Figure 17: Workload in mental health, Oct-Dec 2012 to Oct-Dec 2015



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

Immigration

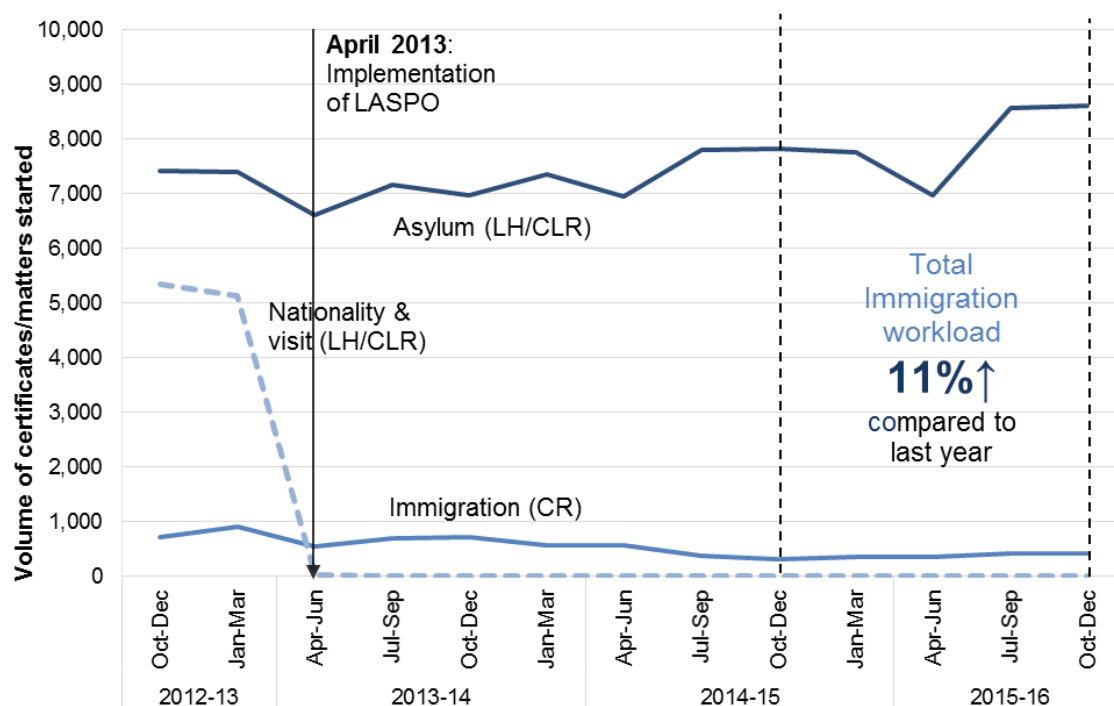
The LASPO Act, which came into effect on 1 April 2013 made changes to the scope of legal aid for immigration law, but some areas remained in scope. These include asylum, immigration-detention, victims of trafficking or domestic violence, and judicial review. Although a distinct level of funding, controlled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

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

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

The workload that remains in the immigration category consists largely of asylum-related work. Having fallen by 40% over the 5 years to 2013-14, new matter starts in the asylum category stood 11% higher in the October to December quarter than in the same quarter of the previous year (see figure 18).

Figure 18: Workload in immigration, Oct-Dec 2012 to Oct-Dec 2015



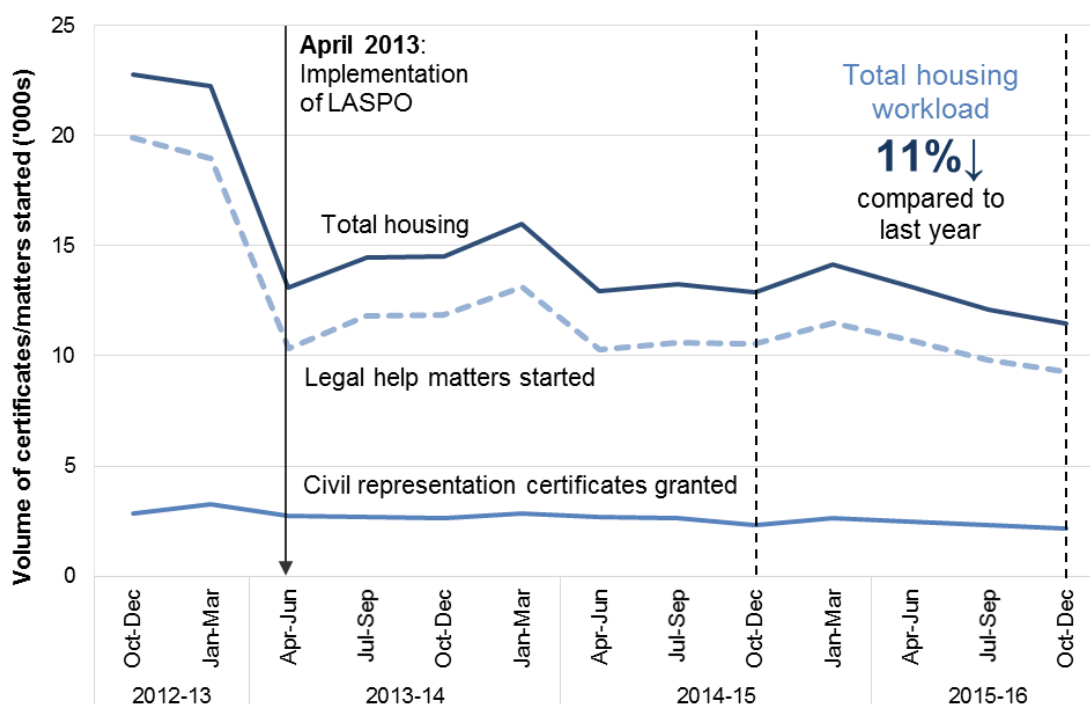
Note: workload has been calculated by adding legal help / controlled legal representation matters started and civil representation certificates granted.

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 and possession proceedings.

The volume of legally-aided housing cases halved between July to September 2012 and July to September 2013 (see figure 19). In the last quarter there was a 11% decrease compared to the same quarter the previous year. Workload figures in this category of law are driven by legal help, which comprises more than 80% of overall housing legal aid volume.

Figure 19: Workload in housing law, Oct-Dec 2012 to Oct-Dec 2015



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

Other non-family

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

Figure 20: Other non-family workload: legal help and civil representation, Oct-Dec 2014 to Oct-Dec 2015

	Oct-Dec 2014	Jan-Mar 2015	Apr-Jun 2015	Jul-Sep 2015	Oct-Dec 2015
Actions against the police etc.	736	700	719	658	649
Clinical negligence	149	56	111	80	114
Community care	965	1,191	1,257	813	818
Consumer	1	0	0	0	0
Debt	399	299	272	196	154
Discrimination	482	423	441	366	268
Education	411	477	436	431	387
Employment	4	2	2	0	3
Miscellaneous	107	78	188	210	171
Personal injury	3	1	12	10	13
Public law	558	520	522	607	637
Welfare benefits	112	75	63	53	63
Other Non-family	3,927	3,822	4,023	3,424	3,277

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

Civil legal aid subcategories

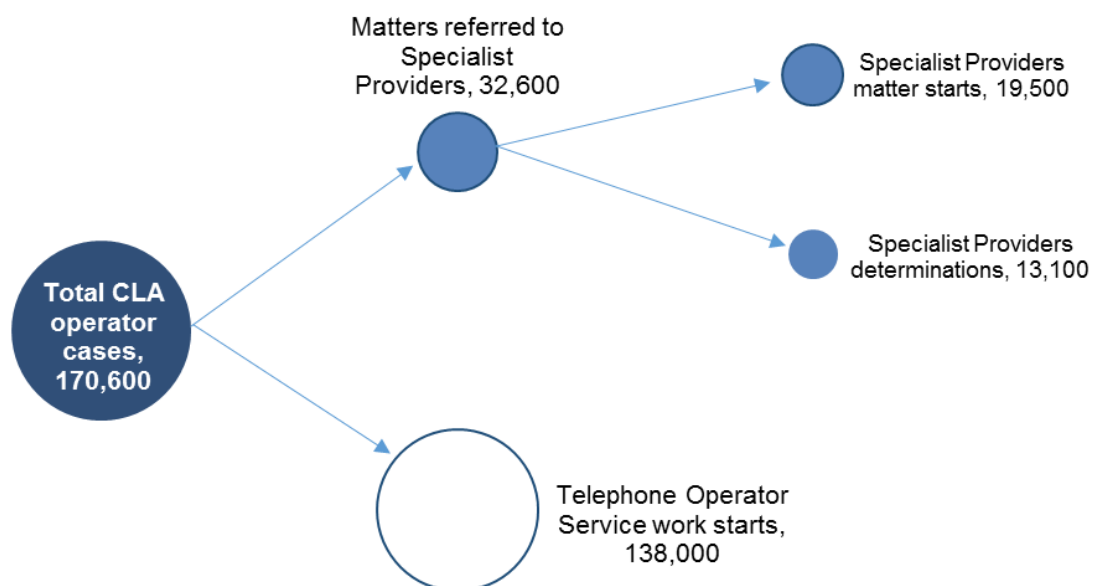
Legal help telephone service

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

Between October 2014 and December 2015, 19% of telephone operator cases were referred to the specialist telephone service for advice, where a specialist then assessed whether the matter should be started, or instead determined (for example because it is subsequently deemed out of scope, lacks merits or the client has failed to provide evidence).

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

Figure 21: Workload in telephone service, January 2015 to December 2015



Note: Figures have been rounded so may not sum to totals. Further detailed figures for specialist telephone advice can be found in the accompanying CSV file.

Judicial reviews

Legal aid for judicial reviews mainly takes the form of civil representation. It may relate to any category of civil law and can be awarded to those requiring assistance in challenging a government decision.

Of all civil representation applications granted, fewer than 5% relate to judicial review. The number granted in October to December 2015 was 16% higher than the same period of the previous year.

The CSV file of underlying figures published alongside this document additionally includes figures for applications and outcomes (showing whether the case is considered a Judicial Review).

Figure 22: Judicial Review applications granted by category, Oct-Dec 2014 to Oct-Dec 2015

Category	Oct-Dec 2014	Jan-Mar 2015	Apr-Jun 2015	Jul-Sep 2015	Oct-Dec 2015
Actions against the police etc.	0	2	4	4	1
Community care	136	132	131	145	129
Debt	0	0	1	0	0
Education	6	5	6	3	4
Housing	139	136	150	142	150
Immigration	286	314	314	386	403
Mental health	7	5	4	2	2
Miscellaneous	33	20	24	15	18
Other public law Children Act proceedings	1	0	6	0	3
Public law	249	208	243	301	284
Welfare Benefits	2	0	3	0	1
Judicial Review total	859	822	886	998	995

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

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

Between 1 April 2013 and 31 December 2015 the Legal Aid Agency received 20,121 such applications. During this same period 13,573 certificates were granted (see Figure 26).

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

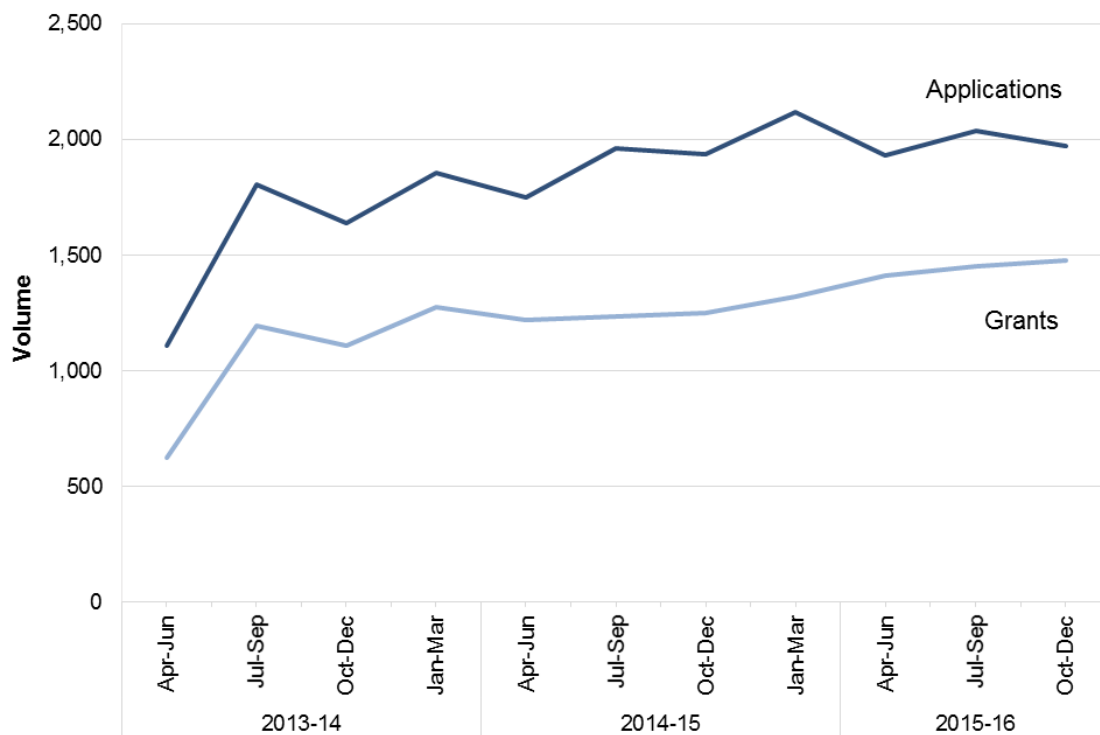
In response to feedback from users, in this edition we have introduced a second way of presenting figures on the granting of certificates for civil representation. In the usual

presentation, grants are shown against the period in which the decision was made and recorded (see table 6.9) – this can be referred to as ‘decision-based timing’. In the new presentation, grants are also shown against the period in which the application to which they relate was made – this will be referred to as ‘application-based timing’ (shown alongside applications in table 6.8). Each way has advantages and disadvantages for the user: the former shows more accurately the timing of new workload entering the system, while the latter enables the calculation of the proportion of applications in a given period that were granted. We would welcome further feedback from users on this addition via the contact details in Annex A.

There has been a steady upward trend both in applications and numbers of certificates granted, with the number granted during October to December 2015 (on decision-based timing) 18% higher than the same period of the previous year (see table 6.9).

The proportion of applications granted has remained steady at around 69% since the inception of this type of application, with the latest quarter at 68% (see table 6.8).

Figure 23: Applications, and certificates granted (decision-based timing) for civil representation legal aid in private family law cases on the basis of evidence of domestic violence or child abuse, Apr-Jun 2013 to Oct-Dec 2015



Exceptional case funding

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

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

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

An ECF determination can generally only be granted if:

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

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

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

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

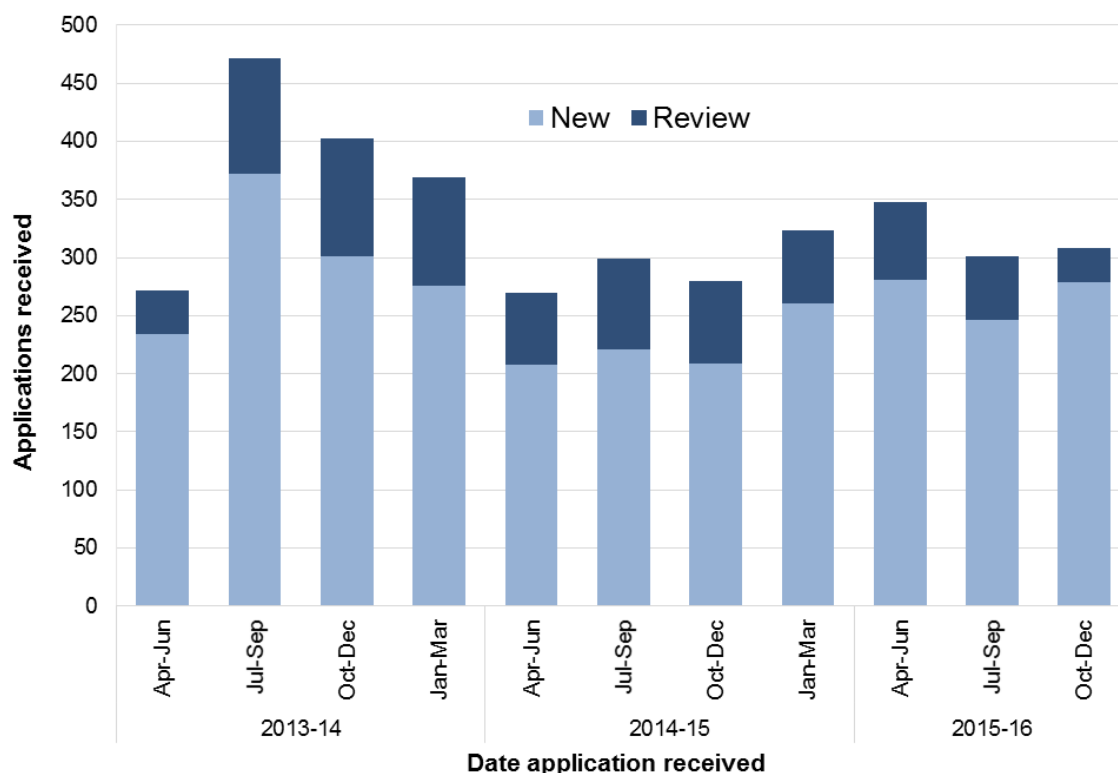
More information on ECF and the procedure for applying as an individual can be found on the gov.uk website www.gov.uk/legal-aid-apply-for-exceptional-case-funding

Applications

There were 308 applications for ECF received between October and December 2015. This is similar to the previous quarter and slightly higher than the equivalent period of 2014.

91% of ECF applications received from October to December 2015 were new. The remaining 29 applications were re-submitted for review; this is a case which has previously been rejected or refused ECF funding and has been resubmitted by the client for reconsideration. The proportion of applications received this quarter which were reviews was the lowest it has ever been (see Figure 27). This may be a result of the increasing proportion of applications that have been granted in recent quarters.

Figure 27: Volume of ECF applications received, new or review, Apr-Jun 2013 to Oct-Dec 2015.



For the 279 new applications, the average turnaround time for assessment during October to December 2015 was 11 working days, against a target of 20 (see figure 28). The average turnaround time for reviews in this period was 7 working days, against a target of 10. These figures do not take into account recent changes to targets for specific application types⁶.

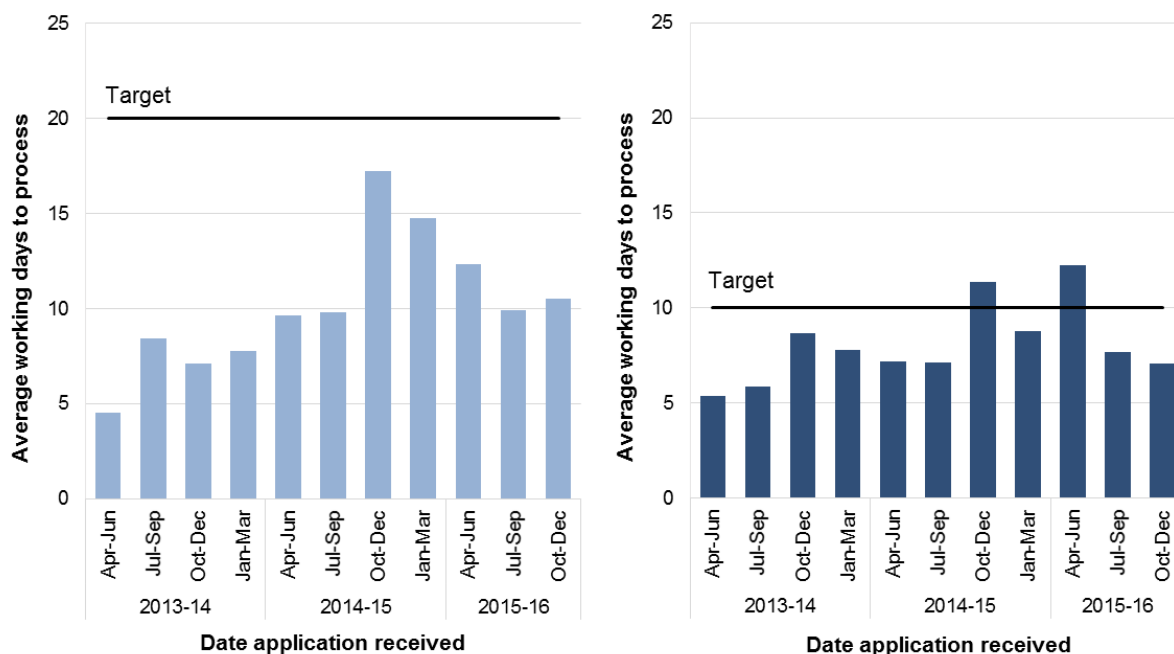
The average turnaround time excludes cases currently awaiting assessment as of 29 February 2016.

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

This quarter, 31 ECF applications (10%) were made directly by the client, which is the highest proportion in a quarter since the scheme began. The remaining 277 applications (90%) were submitted by legal aid providers. The increased volume of direct client applications may be a result of simplifications brought in to the ECF application form, implemented in response to the judicial review mentioned below.

⁶ From 1st August 2015, high profile family applications (both new and review) have a target of 10 working days and urgent cases (both new and review) have a target of 5. Urgent cases made up around 10% of the total applications received between October and December 2015 and there were no new or review high profile family cases received.

Figure 28: ECF application turnaround time, new and review, Apr-Jun 2013 to Oct-Dec 2015.



Determinations

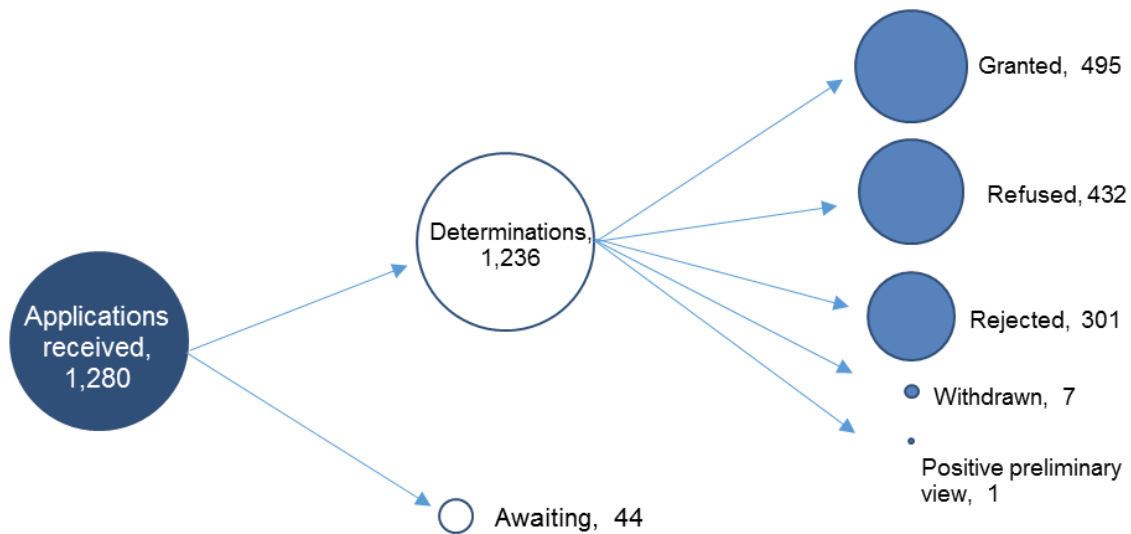
Applications that are not withdrawn by the client can receive three different determinations: rejected, refused or granted (PPV if submitted by an individual prior to 27 July 2015). For an application to be granted it must meet the three appropriate criteria detailed at the beginning of the chapter.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

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

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

Of the 308 ECF applications received between October and December 2015, 283 (92%) were determined by the LAA as of 29 February 2016, with the remaining 25 awaiting assessment. An additional 19 applications remain awaiting a determination from earlier quarters (see figure 29).

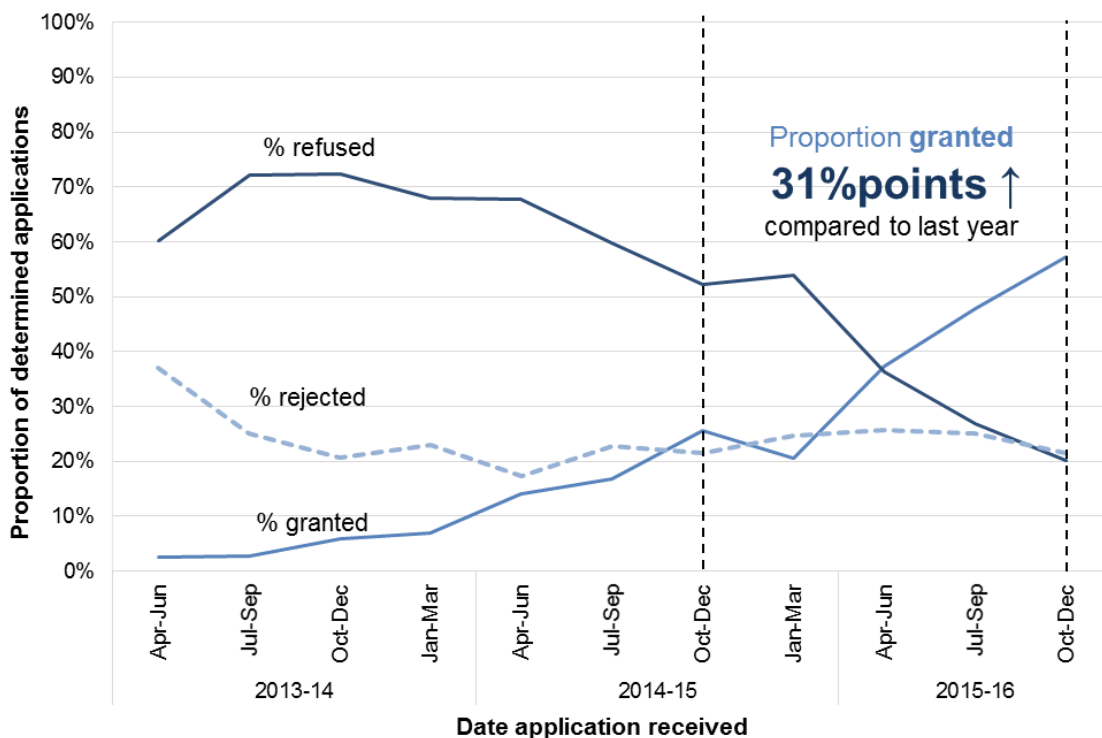
Figure 29: Current status of ECF applications received and determinations made, January 2015 to December 2015.



The number and proportion of ECF applications being granted has been increasing since the scheme was first introduced in April 2013 (see figure 30). Between October and December 2015 over half of all applications that had been determined were granted (57%). This is the third consecutive quarter where the volume and proportion of grants are the highest they've been since the scheme began.

In the same period, just over a quarter of applications were refused and around a quarter were rejected. The number and proportion of ECF applications being refused has generally been falling since 2013, whilst rejections have remained relatively steady.

Figure 30: ECF determinations by outcome, Apr-Jun 2013 to Oct-Dec 2015.



Changes in relation to court judgements

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

The impact of this can be seen in the figures, with a much higher proportion of ECF immigration applications granted since that judgement (see table 8.2). In the latest quarter, over three-quarters of all immigration applications determined so far were granted.

On 15 July 2015, judgement was also handed down in the case of *IS*; a judicial review challenging the operation of the ECF scheme. The court found that there was “unacceptable risk” that the ECF scheme was not able to provide legal aid in those instances where failure to do so would be a breach of the Human Rights Act 1998, or any rights of the individual to the provision of legal services that are enforceable EU rights, and that the Civil Legal Aid (Merits Criteria) Regulations 2013 were unlawful. This judgement is being appealed. Nevertheless, as a result, cases where the prospects of success are assessed as being borderline or poor and thus did not previously need to be considered for funding, must now be considered. The impact of this judgement may also have contributed to the increased proportion of grants this quarter.

Determinations by category of law

Of the ECF applications received between October and December 2015, immigration (36%), family (32%), and inquest (19%) remained the most requested categories of law (figure 31).

Over three quarters of all inquest applications from October to December 15 were granted, although 19 of the 25 applications from this quarter that are still awaiting a determination were inquests, so this figure may yet change.

Figure 31: ECF determinations by category of law, Oct-Dec 2015.

Area of law	Awaiting	Granted	Refused	Rejected	Withdrawn	Total
Immigration	3	85	12	10	0	110
Family	1	45	23	29	2	100
Inquest	19	29	6	3	0	57
Other	1	3	9	17	0	30
Housing/Land Law	1	0	7	2	1	11
Grand Total	25	162	57	61	3	308

Annual updates

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.

Appeals and representations

This section of legal aid statistics contains figures on:

- Funding appeals- these are appeals against determinations made by the LAA. They include reviews and full appeals against determinations on whether a client qualifies for legal aid, scope decisions or the extent of funding granted for a case.
- Representations- when legal aid funding is granted to an individual, their opponents or other third parties may make representations against the grant of legal aid or continuation of funding. Representations may be made concerning the legal merits of the case, the financial means of the applicant, or both.

This section is updated annually as only partial data is available on a quarterly basis. The most recent edition of this section can be found here:

www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015

Legal aid providers – including user consultation

Legal aid services in England and Wales are delivered through solicitor firms, Not-for-Profit organisations, telephone operators and barristers who are contracted by the LAA to do legal aid work.

In the January to March 2015 bulletin, published in June 2015, we introduced an annual section presenting information on the number of provider offices who have completed work and received associated payments from the LAA in any given quarter or financial year. The main document includes commentary and maps and tables 9.1 and 9.2 present summary figures. A CSV file of underlying data published alongside gives figures for each anonymised provider office for the volume of work completed, the type of work and the associated expenditure.

The most recent edition of this annual section can be found here:

www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015

User views invited

Our main aim in introducing this section was to enable users to understand changes in the legal aid market, but the figures also add to the evidence base and transparency more generally. Examples of what the figures can show include (for each financial year and quarter from Apr 2012 – Mar 2015):

- **how many provider offices** completed work in each scheme and area of legal aid;
- **how much work each** (anonymised) provider completed in each area of legal aid and how much they were paid in legal aid fees for it;

- **geographic location** of each provider office and – by proxy – the geographic distribution of legal aid work and expenditure pend (12 regions, 135 sub-regions)

Since we published it, the feedback we've received indicates that users find this section a valuable addition to the evidence base, but also that we should consider changing some aspects to enhance its usefulness. We therefore want to hear more from users about this before we produce the next update (covering 2015-16), which will be published on 30 June.

If you have an interest in this topic, please take 10 minutes to answer some or all of the following questions, and give any other views you have.

1. **Including provider firm/office names** - Currently, the provider offices in this published section are anonymised. Since last June, we have continued to see a level of public demand for volume and expenditure figures for *named* firms and offices through requests from a variety of users under the Freedom of Information Act. Standard legal aid contracts state that the LAA may disclose this type of information at any time, and such named data has been published in the past as part of tendering exercises.

When considering such requests for information, we typically conclude that for all types of provider the terms of the Act oblige us to disclose this information without exemption. Moreover, under the government transparency agenda the LAA is obliged to publish every transaction larger than £25,000 alongside the recipient's name.

In light of this, we propose to include the names of provider firms and offices as standard in future editions of the provider section, beginning with the next edition in June.

What is your opinion? Please give reasons.

2. **Geographic breakdown** – the figures are broken down into 12 regions and 135 sub-regions, which are based on LAA procurement areas.
Do you think this is the most helpful geographic breakdown or might others be better? Please give reasons

3. **Presentation** – this provider section contains a large amount of detailed data, and in the interests of conciseness only high-level trends and summary breakdowns are shown in the most accessible parts of the statistical release – the main document (pdf) and the main tables (Excel – see tables 9.1 & 9.2). The rest is provided in the form of a csv file which can be analysed using Excel pivot tables or a wide variety of other software. Please take a look at last [June's release](#) and tell us –
Do we bring out the most useful high-level figures in the document and tables? What is your experience of using the csv file?

There are several ways to give your views by contacting the Legal aid statistics team:

- email statistics@legalaid.gsi.gov.uk
- telephone 07469 579 287
- or complete the short survey at www.smartsurvey.co.uk/s/6U58M

Please respond **by Thursday 28 April**. The results of the consultation will be summarised in the next Legal aid statistics bulletin alongside the annual provider section itself on 30 June.

In December 2015 a paper was published presenting the findings from research undertaken by a Research and Data Working Group. The group was formed as a collaboration between

the Bar Council, Criminal Bar Association, Legal Aid Agency and Ministry of Justice. The aim of the paper is to improve knowledge of the demographic composition of junior barristers (all barristers excluding QCs) receiving legal aid fee income. These barristers are most affected by changes to fee rates or the structure of the scheme. The paper can be found here: www.gov.uk/government/publications/composition-and-remuneration-of-junior-barristers-under-the-advocates-graduated-fee-scheme-in-criminal-legal-aid

Clients and provider characteristics

This section of legal aid statistics shows the breakdown of client characteristics over the different areas of legal aid compared with the national breakdown from the latest population estimates from the Office for National Statistics.

The most recent edition of this section also shows breakdowns of provider characteristics derived from an online survey carried out by the LAA in January and February 2015.

The most recent edition of this annual section can be found here: www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015

Other criminal legal aid

This section covers areas of criminal legal aid that are not covered in the crime lower and crime higher categories. These include:

Discretionary and legacy claims

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

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

The Higher Courts: Court of Appeal and Supreme Court

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

Central Funds

This category relates to the reimbursement of defendants who have been acquitted after privately funding their legal representation and other associated defence costs such as expert fees and interpreters. Payments from central funds are normally triggered when a judge grants a Defence Cost Order (DCO) for legal aid at Magistrates, Crown or higher courts.

The most recent annual edition of this section can be found here: www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015

Annex A - Contact points for further information

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

Neil Murchison

Tel: 020 3334 3728

Email: neil.murchison@justice.gsi.gov.uk

Other enquiries about these statistics should be directed to:

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Head of Statistics

Legal Aid Agency
7th Floor, 102 Petty France
London SW1H 9AJ

Tel: 07469 579 287

statistics@legalaid.gsi.gov.uk

General information about the official statistics system of the UK is available from www.statisticsauthority.gov.uk/about-the-authority/uk-statistical-system

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