

GfK. Growth from Knowledge



National Audit Office
Solicitor Survey for criminal legal aid

Results Summary

Prepared by:



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1.0 INTRODUCTION

The following report is based on a quantitative survey of solicitors conducted across England and Wales on behalf of the National Audit Office, entitled Solicitor Survey for Criminal legal aid Study

1.1 Background

This report supports a Value for Money report undertaken by the National Audit Office [NAO] on The Procurement of Criminal Legal in England and Wales by the Legal Services Commission [LSC] which is being published at the same time as this report.

Criminal legal aid is provided at both police stations and at Magistrates' and Crown Courts by a network of approximately 1,800 solicitor firms in England and Wales, as well as by Higher Court Advocates and barristers.

The objective of this report has been to provide information on solicitors' firms in England and Wales from which the LSC procures criminal legal aid. The NAO wanted to evaluate current working practices on criminal legal aid, aspects of the way the LSC administers the criminal legal aid fund, and the impact of fee changes on firms.

1.2 Research Objectives

More specifically, the following objectives were identified for this research. To:

- Profile the type of organisations currently undertaking criminal legal aid;
- Understand the type of criminal legal aid work undertaken and what proportion this represents of total work undertaken by firms;
- Quantify the key monetary aspects of undertaking criminal legal aid such as the turnover and profitability of firms;
- Explore current working relationships with the LSC; and
- Understand the impact of fees/tender processes on future intentions to undertake criminal legal aid work

2.0 RESEARCH APPROACH

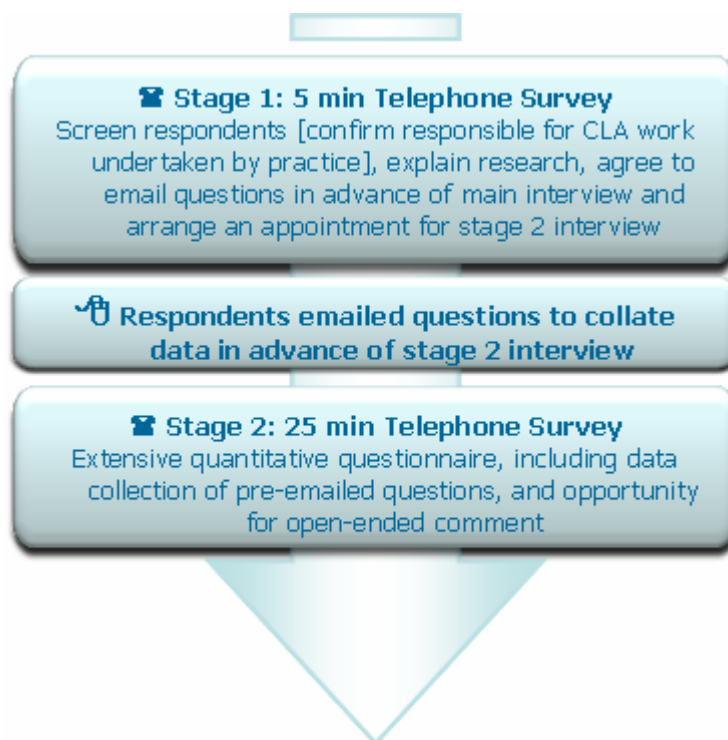
2.1 Methodology

The solicitor survey was conducted using telephone interviews, to:

- maximise participation from the finite population of firms conducting criminal legal aid
- allow criminal legal aid solicitors to respond openly to key issues concerning them
- allow criminal legal clarification of any complex questions/issues to take place

The detail required in some areas necessitated the collation of some statistics [e.g. on profit margins; turnover of staff; staffing levels; etc.] by the solicitors participating, in advance of the interviews. A two-stage interview approach was adopted:

Fig. 1: Summary of Research Approach



A pilot study of 15 completed interviews [stages 1 & 2] was conducted between 23rd and 29th of April to assess how easily/quickly respondents could collate the necessary company information, and to help refine the questions being asked.

The main stage interviewing took place between the 30th April and 29th May 2009, with 354 interviews completed, resulting in a total sample size for analysis of 369 interviews.

2.2 Sample

The LSC provided a list of 1,800 firms currently conducting criminal legal aid in England and Wales. This list was then cross-referenced with the Law Society's REGIS database, to obtain full contact details [i.e. telephone number; managing partner; practice size by number of solicitors]. This process resulted in 1,626 records for possible contact, from which 369 interviews were achieved.

Interviews were conducted with the individual most responsible for the criminal legal aid work undertaken by the practice. In most instances, this was a managing partner, other senior partner, or practice manager.

During data processing, the total results were weighted by the size of practice [as defined by the number of solicitors], to ensure that the results were representative of the actual profile of criminal legal aid firms [as defined by the LSC/REGIS records]. The table below shows the profile of the sample, in terms of actual interviews achieved and the impact of the weighting:

Figure 2. Sample Profile

| Size of Firm: No. Qualified Solicitors | Interview Profile | | Weighted Profile | |
|---|-------------------|------|------------------|------|
| 1 [sole practitioners] | 36 | 10% | 47 | 13% |
| 2-5 | 167 | 45% | 192 | 52% |
| 6-12 | 94 | 26% | 92 | 25% |
| 13-40 | 64 | 17% | 33 | 9% |
| 41+ | 7 | 2% | 4 | 1% |
| Size of Firm: Revenue | | | | |
| Under £249,999 | 79 | 21%* | 94 | 25%* |
| £250,000- £499,999 | 70 | 19% | 78 | 21% |
| £500,000- £999,999 | 77 | 21% | 81 | 22% |
| £1m+ | 95 | 26% | 67 | 18% |
| Location of Firm | | | | |
| Rural | 134 | 36%* | 139 | 38%* |
| Urban | 219 | 59% | 215 | 58% |
| Total Sample | 369 | | | |
| * Remaining % = not stated responses [don't know/refused] | | | | |

2.3 Questionnaire

The main questionnaire took approximately 25 minutes to complete, and covered the:

- number of years firms had been trading and the size and structure of firms
- numbers and types of legal practitioners working on criminal legal aid cases *
- age and ethnicity profiles of employees *
- use of solicitor-advocates and barristers
- types of criminal legal aid work undertaken
- firm's turnover and proportions attributed to criminal legal aid work *
- profit from criminal legal aid work *
- firms' experience of the LSC's Peer Review process
- level of satisfaction with the LSC and the criminal legal aid allocation process
- firm's future intentions in respect of criminal legal aid work and the potential tendering process

** data that respondents were asked to collate ahead of the main interview*

2.4 Notes on Reporting

- **Reliability of results:** Based on the total sample size of 369, confidence intervals at a 95 per cent confidence level were:
 - for a 50 per cent result, the +/- would be 5.1 percentage points
 - for a 10 per cent or 90 per cent result, the +/- would be 3.1 percentage points

Thus, for a 90 per cent result, we can be 95 per cent confident that the actual result, even if we interviewed the entire audience, would lie between 86.9 per cent and 93.1 per cent.

Furthermore, our final sample represents 21 per cent of the 1,800 firms identified by the LSC as conducting criminal legal aid, which is a significant proportion and supports the robustness of the data.

- The overall results were weighted to be representative of solicitor firms conducting criminal legal aid in England and Wales by practice size, as defined by LSC/REGIS records
- All sample sizes shown were the actual [unweighted] number of interviews conducted. All percentages shown for the total results were weighted results, unless otherwise stated.
- Where samples reported fall below 50 interviews, this data is highlighted and should be treated as indicative rather than representative. Please note that the sample size for the largest firms [41 solicitors or more] is small at only seven interviews, and has been included for completeness, but should be treated with caution
- Significance testing has been applied to all data and as such, significant differences between sub-groups were commented upon [i.e. by practice size, revenue size etc]

3.0 EXECUTIVE SUMMARY

The key findings from the NAO's Solicitor Survey for Criminal legal aid are outlined below. More in depth analysis can be found in the report sections which follow.

Firms and practitioners undertaking criminal legal aid

- Firms conducting criminal legal aid tend to be small, with an average of seven qualified solicitors. The proportion of solicitors working on criminal legal aid varied by practice size: from three-quarters in smaller firms [two to five solicitors] down to two-fifths in larger practices [13 to 40 solicitors]
- In the majority of firms, criminal legal aid work was carried out by senior practitioners, such as Partners and Senior Solicitors. The profile of criminal legal aid practitioners was ageing, with three-fifths of firms established for six years or more believing that the average age of criminal legal aid staff had increased in the last five years
- The majority of practitioners working in criminal legal aid were of White British ethnicity. While a quarter of firms employ British Minority Ethnic [BME] staff, this tended to be for the management of criminal legal aid cases, rather than being in owner or managerial roles

The types of criminal legal aid undertaken

- Firms universally undertook criminal legal aid cases at police stations, magistrates' courts and Crown Courts. However, Very High Cost Cases [VHCCs] were more the specialism of medium sized firms [six+ solicitors].
- Over two-fifths [45 per cent] of firms employed solicitor advocates; this increased to three-quarters among larger firms. Firms' employing solicitor advocates had higher revenues, a higher proportion of revenue from criminal legal aid work and were more involved in VHCCs.
- Almost two-fifths of firms had increased their use of solicitor advocates in the last five years; this was particularly the case for larger firms, urban based firms, and for those undertaking VHCCs
- Sixty one per cent of firms stated that they had not changed the way they instructed barristers. The profiles of firms instructing fewer barristers mirrors those using more solicitor advocates, suggesting that one practitioner may be used to 'replace' another

The financial position of criminal legal aid firms

- The average turnover of firms conducting criminal legal aid was £1.56 million a year. An estimated three-fifths of firms' turnover was from criminal legal aid, (approximately £0.93 million). A higher proportion of sole practitioners derived 100 per cent of their revenue from criminal legal aid work alone compared to larger firms which had more diverse work portfolios.
- The average criminal legal aid profit margins appeared strong [18.4 per cent], although this figure had declined in the last three years. One in six firms stated they had made no profit from their criminal legal aid work.
- Larger firms [those with 13 to 40 solicitors] tended to experience the lowest profit margins from criminal legal aid work, with an average of 11 per cent compared to 28 per cent among sole practitioners. Higher overhead costs and less specialism in criminal legal aid work among larger firms may have accounted for this difference.

- Eight out of 10 firms which conducted work other than criminal legal aid work considered their private work to be more profitable.
- Poor profitability was the main reason why only half of firms surveyed expected to conduct criminal legal aid work in the next five years; medium-sized firms were less content with their current profitability compared to sole practitioners, who were more likely to cite best value tendering and forthcoming retirement as reasons for not continuing with criminal legal aid work.

Peer review process

- Three quarters of firms had their criminal legal aid work peer reviewed. There were mixed opinions on the effectiveness of this process, with 34 per cent considering it effective and 37 per cent ineffective. Having a 'qualified, practitioner to practitioner' assessment is the main reason why this process was considered effective. Conversely, 'subjective, unrealistic assessment' was the most common reason why it was considered ineffective, followed by a failure to assess practitioners in court.

Opinions on the criminal legal aid process

- Police interventions were thought to be the main reasons why people failed to request criminal legal aid at police stations.
- In rating the effectiveness of four elements of the criminal legal aid allocation process, Court Duty Solicitor Sessions were considered most effective, followed by the Defence Solicitor Call Centre and the overall process of obtaining criminal legal aid representation.
- The CDS Direct was the least appreciated service of the Commission, although a significant proportion felt unable to comment, most probably because of its greater public-focus. A third of those who responded cited this service as ineffective and based this opinion on the belief that it offered poor advice.
- Opinions of the cost drivers in the criminal justice system were diverse, although increasing Government legislation is thought to have had the most impact on costs, followed by the Crown Prosecution Service and police inefficiencies.

Relationship with the Legal Services Commission

- Overall, firms were 'satisfied' with their LSC Account/Relationship Managers, giving them an average rating of 6.8 out of 10. Two-fifths of firms considered the LSC to be 'unhelpful' in supporting them to deliver criminal legal aid, mainly due to the pricing of criminal legal aid, general ineffectiveness and a perceived poor understanding of the legal system.
- There were some suggestions that increased positive interactions between the firms and LSC managers might encourage continuation with criminal legal aid work, as those 'very likely' to continue with criminal legal aid work were more inclined to be satisfied with their LSC manager and to have found the LSC helpful; conversely those 'unlikely' to continue with criminal legal aid work were in less frequent contact with their LSC managers.
- Overall, respondents considered that the introduction of fixed, standard and graduated fees had had a negative impact on the *quality* of work that they undertook [59 per cent]. While half believed that such fee changes have had no impact on the *quantity* of this work, over two-fifths [43 per cent] considered that the changes had also had a negative impact.

- While some respondents had strong opinions on the likely impacts of Best Value Tendering, two-thirds of firms believed that they would still tender for criminal legal aid work if the LSC introduced this process, while a fifth considered that they would be unlikely to do so.

Summary by size of practice

- Despite sole practitioners’ obtaining more substantial profit margins from criminal legal aid, they were among the least likely to expect to be practising in this area in five years time. One reason was that sole practitioners were more likely to be older, senior practitioners that were closer to retirement age, but there was also a more negative reaction to the proposed system of Best Value Tendering among this group.
- Larger firms conducting VHCCs were affected by higher overheads because they were more likely to employ more costly senior practitioners, including solicitor advocates and barristers, to work on these cases. This could reduce their profit margins and might result in the appeal of undertaking criminal legal aid work diminishing over time.

1 Solicitor

- Turnover: £0.15m
- Turnover from CLA : 79.4%/ £0.12m
- CLA Profit: 29%/ £0.03m
- 44% experiencing a decline in % turnover from CLA
- 58% claim CLA work less profitable than private work
- Change in CLA profit in last 3 years: -1.8%
- 17% take on VHCC
- 33% employ Solicitor Advocates- 17% have seen their usage increase in the last 5 years
- 22% solely focus on CLA work
- Likelihood to conduct CLA work: 44% unlikely

2-5 Solicitors

- Turnover: £0.5m
- Turnover from CLA : 65%/ £0.32m
- CLA Profit: 20%/ £0.06m
- 46% experiencing a decline in % turnover from CLA
- 69% claim CLA work less profitable than private work
- Change in CLA profit in last 3 years: -3.2%
- 16% take on VHCC
- 39% employ Solicitor Advocates- 34% have seen their usage increase in the last 5 years
- 19% solely focus on CLA work
- Likelihood to conduct CLA work: 25% unlikely

6-12 Solicitors

- Turnover: £2.43m
- Turnover from CLA : 51%/ £1.23m
- CLA Profit: 12%/ £0.15m
- 44% experiencing a decline in % turnover from CLA
- 73% claim CLA work less profitable than private work
- Change in CLA profit in last 3 years: -3.2%
- 37% take on VHCC
- 54% employ Solicitor Advocates- 45% have seen their usage increase in the last 5 years
- 12% solely focus on CLA work
- Likelihood to conduct CLA work: 27% unlikely

13-40 Solicitors

- Turnover: £4.81m
- Turnover from CLA : 35%/ £1.69m
- CLA Profit: 11%/ £0.19m
- 53% experiencing a decline in % turnover from CLA
- 88% claim CLA work less profitable than private work
- Change in CLA profit in last 3 years: -4.3%
- 36% take on VHCC
- 73% employ Solicitor Advocates- 50% have seen their usage increase in the last 5 years
- 2% solely focus on CLA work (10 specialist areas)
- Likelihood to conduct CLA work: 19% unlikely

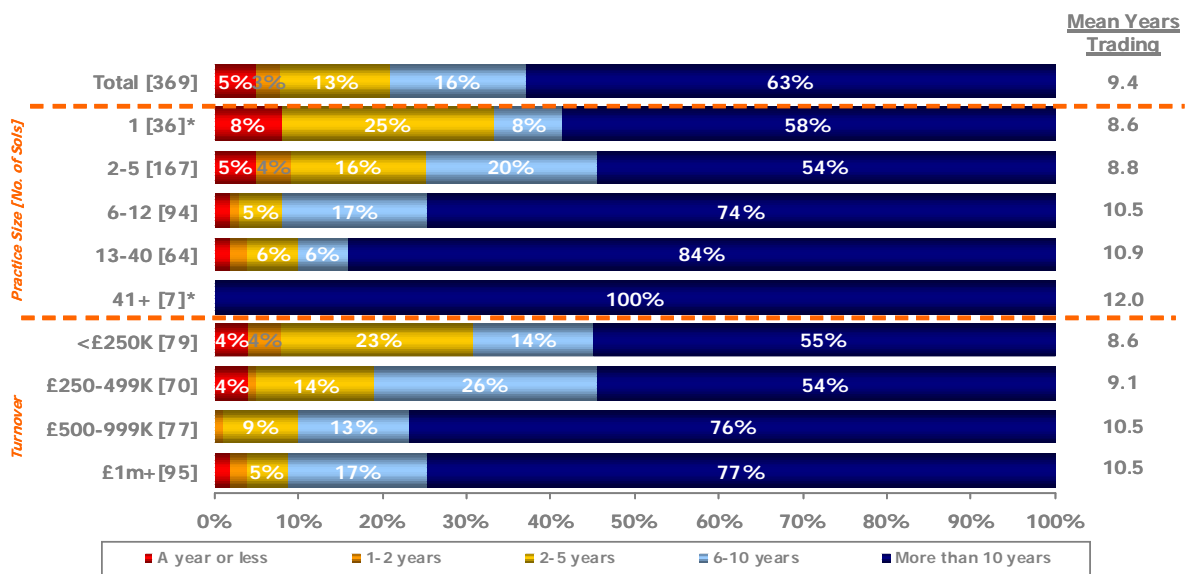
Firms with 41+ solicitors were not reported separately due to their small sample size [seven interviews]

4.0 PROFILE OF FIRMS UNDERTAKING CRIMINAL LEGAL AID WORK

4.1 Establishment of criminal legal aid firms

On average, firms undertaking criminal legal aid had been operating for 9.4 years, with just under two-thirds [63 per cent] trading for more than a decade. Smaller firms with fewer than five qualified solicitors tended to be less well established: around half [54 per cent] of smaller firms with two to five solicitors had been in business for more than 10 years, compared to over three-quarters of medium/large firms with over six solicitors.

Figure 3: Q1. How long has your firm been operating?



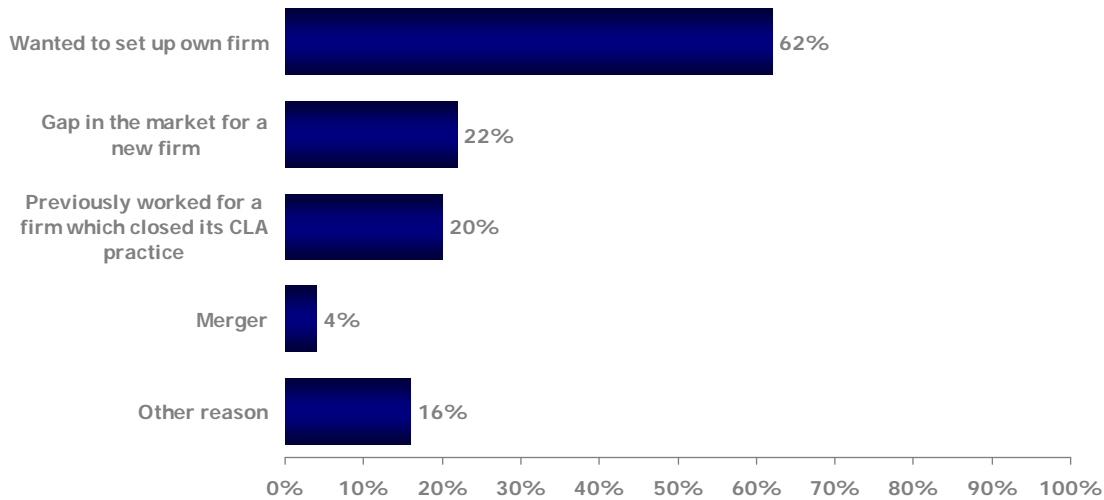
Base: All respondents [unweighted 369] *Small sample sizes

The group of firms who cited ‘criminal law’ [not just legal aid funded criminal law] as a specialist area for their practice contained a higher proportion which had established within the last year compared to the norm [12 per cent cf. five per cent overall]. This may be because a higher than average proportion of those ‘criminal law’ focused firms were sole practitioners.

4.1.1 Reasons why the firm was established

New firms, established in the last five years were most commonly set up due to an individuals’ desire to work for themselves [Figure 4]. However, a fifth (also) cited fulfilling a gap in the market and/or closure of their previous criminal legal aid practice as key reasons for establishing the business. This was approximately four per cent of all criminal legal aid firms interviewed.

Figure 4: Q2. Which of the following best describes why your law firm was set up?



Base: all law firms operating for five years or less [unweighted 68]

Verbatim comments

We were all partners in another firm but wanted to go it alone (Urban firm, 6 to 12 qualified solicitors)

I was a partner in a bigger firm that did crime and a decision was taken for the crime department to break away (Rural firm, 6 to 12 qualified solicitors)

4.2 The number of qualified solicitors

Criminal legal aid firms that took part in this research had an average of seven qualified solicitors. [Figure five]. On average, 3.4 solicitors in these firms were working on criminal legal aid cases, representing around half of the workforce in most firms. The larger the firm, the more diluted the types of work undertaken with criminal legal aid solicitors representing a smaller proportion of the workforce: 74 per cent of solicitors in practices with two to five solicitors work on criminal legal aid.

Figure 5: Q3. How many fully qualified solicitors work within your firm? Q4. Of these how many of your firms' qualified solicitors currently conduct criminal legal aid work?

| Audience | Mean Number of Qualified Solicitors in Firm | Mean Number of Solicitors Working on CLA |
|------------------------------|---|--|
| Total [369] | 7.0 | 3.4 |
| Practice Size [Sols]: | | |
| 1 [36]* | 1.0 | 1.0 |
| 2-5 [167] | 3.5 | 2.6 |
| 6-12 [94] | 8.0 | 4.7 |
| 13-40 [64] | 19.2 | 8.0 |
| 41+ [7]* | 127.9 | 6.7 |
| Revenue: | | |
| <£249K [79] | 2.4 | 1.9 |
| £250 - £499K [70] | 4.0 | 2.9 |
| £500 - £999K [77] | 5.7 | 3.8 |
| £1m+ [95] | 19.6 | 6.2 |
| LSC designated area: | | |
| Rural [134] | 5.4 | 2.7 |
| Urban [219] | 8.0 | 3.9 |

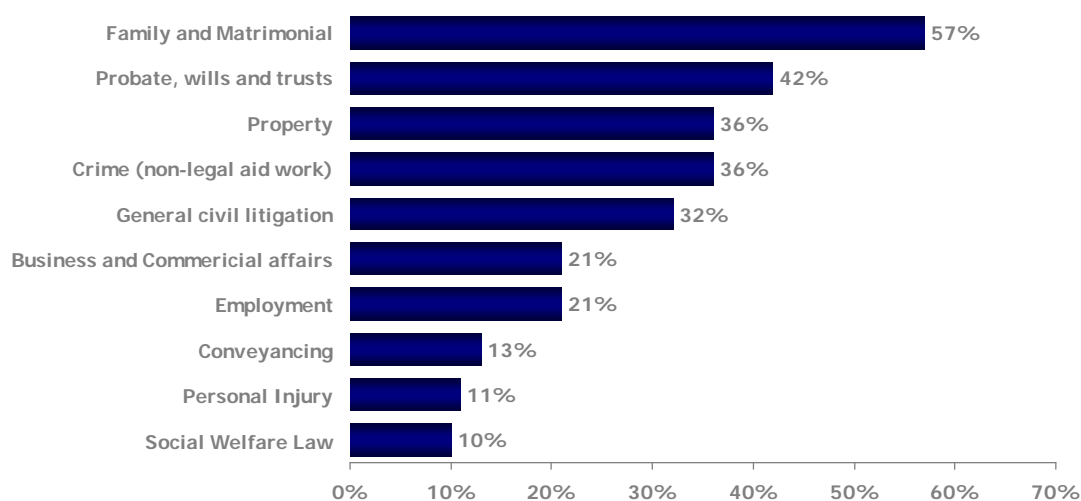
**The means are calculated by combining the results from those that gave an exact (e.g. 4) or a pre-coded response (e.g. 2-5), where mid-points are assigned to each pre-code (in this example the mid-point would be 3.5)

Base: All respondents [unweighted 369] *Small Sample Size

4.3 The work of legal practices

Criminal legal aid was the sole practice area for 16 per cent of the firms surveyed. This rose to 22 per cent among sole practitioners, compared to just two per cent of firms with 13 to 40 solicitors. Firms practising in other areas as well as criminal legal aid were most inclined to work in family and matrimonial law and probate, wills and trusts; a likely reflection of their smaller, more 'high street' practice profile [Figure 6].

Figure 6: Q36. Other than criminal legal aid work, what type of legal work does your firm specialise in?



Base: All where not all turnover is from criminal legal aid work [unweighted 318]

Perhaps not surprisingly, the larger the firm the more likely they were to diversify and to undertake all types of legal work.

Figure 7: Q36. Other than criminal legal aid work, what type of legal work does your firm specialise in? Top mentions.

| Audience | % of firms solely practising CLA work | All those not 100% CLA focused [318] | | | | | | |
|-------------------------------|---------------------------------------|--------------------------------------|-------------------------|----------|----------------------------|--------------------------|-------------------------------|------------|
| | | Family & Matrimonial | Probate, Wills & Trusts | Property | Crime (non legal aid work) | General Civil Litigation | Business & Commercial Affairs | Employment |
| Total [318]** | 15% | 57% | 42% | 36% | 36% | 32% | 21% | 21% |
| Practice Size [Sols]: 1 [28]* | 22% | 32% | 18% | 14% | 46% | 7% | - | 4% |
| 2-5 [136] | 19% | 50% | 42% | 32% | 30% | 27% | 12% | 16% |
| 6-12 [83] | 12% | 70% | 46% | 43% | 39% | 40% | 36% | 28% |
| 13-40 [63] | 2% | 79% | 56% | 54% | 44% | 51% | 40% | 37% |
| 41+ [7]* | - | 100% | 86% | 100% | 57% | 86% | 100% | 86% |

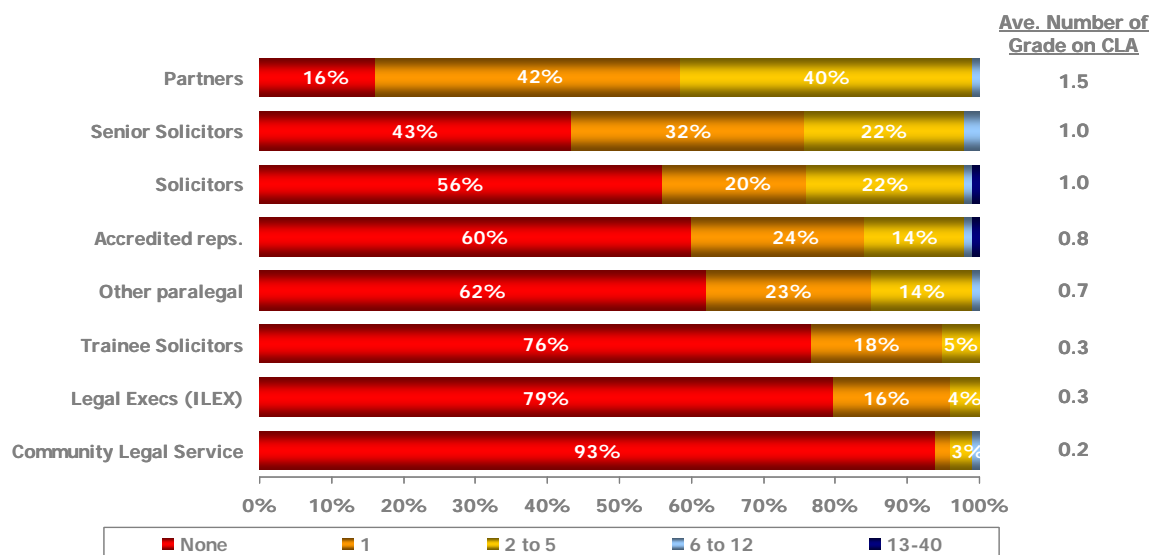
Results were significantly different to the total sample, based on significance testing at the 95 per cent confidence level. Statistical tests for the 41+ solicitor band have not been shown due to the very low sample size for this group

Base: All firms where not all turnover was from criminal legal aid work [unweighted 318]. Total firms solely practising criminal legal aid was based on all respondents [unweighted 369] *Small Sample Size

4.4 Criminal legal aid practitioners

In the majority of firms, criminal legal aid work was carried out by senior practitioners. Partners were most likely to be found working in this area, followed by senior solicitors and solicitors.

Figure 8: Q5A. How many types of practitioner do you have working on your criminal legal aid work?



Base: All respondents [unweighted 369]

In general, the larger the firm the more likely they were to employ each type of practitioner on their criminal legal aid cases. As to be expected, the average number of each type of practitioner employed also increased with the size of the practice. For example, the average number of partners' working on criminal legal aid in firms with two to five qualified solicitors was 1.4, which increased to 2.6 among larger firms [those with 13+ solicitors].

Figure 9: Q5a. How many of each practitioner type do you have working on your criminal legal aid work?

| % of Firms Employing Each Practitioner Type on CLA work | TOTAL [369] | Practice Size [No. of Solicitors] | | | | |
|---|----------------|-----------------------------------|-------------------------------------|--------------------|---------------|-------------|
| | | 1 [36]* | 2-5 [167] | 6-12 [94] | 13-40 [67] | 41+ [7]* |
| Partners | 84% | 64% | 86% | 87% | 91% | 100% |
| Senior Solicitors | 57% | 25% | 53% | 72% | 78% | 57% |
| Solicitors | 44% | - | 36% | 66% | 78% | 71% |
| Accredited Representatives | 39% | 11% | 43% | 41% | 58% | 57% |
| Other Para Legals | 38% | 22% | 34% | 51% | 48% | 14% |
| Trainee Solicitors | 24% | 3% | 20% | 30% | 53% | 43% |
| Legal Execs [ILEX] | 21% | 6% | 19% | 26% | 37% | 71% |
| Community Legal Service | 5% | - | 6% | 5% | 8% | 14% |
| Other Practitioner Types | 11% | 14% | 10% | 10% | 19% | - |
| <i>Top mention of 'other' practitioner types</i> | | <i>Sole principals</i> | <i>Secretary / Typist / Cashier</i> | <i>Consultants</i> | <i>Other</i> | - |

Base: All respondents [unweighted 369]

11 per cent of firms had 'other' types of practitioners working on criminal legal aid work at their firm; the most commonly mentioned being: sole principals [21 per cent]; consultants [18 per cent]; secretaries/typists/cashiers [14 per cent]; and practice/office managers [10 per cent]. In firms where these 'other' legal practitioners were employed, there tended to be just a single employee of this type.

Figure 10: Q5. How many other staff do you have working on your criminal legal aid work?

| 'Other' Types of Employee on CLA | Sole Principal | Consultant | Secretary / Typist / Cashier | Practice/ Office Manager | Senior Case Officer | Barrister | Other |
|----------------------------------|----------------|------------|------------------------------|--------------------------|---------------------|-----------|-------|
| Mean No. of Emp Type | 1.0 | 1.6 | 1.5 | 1.0 | 1.7 | 1.3 | 1.7 |

Respondents were asked to specify the 'other' staff they have working on criminal legal aid cases, and how many of these staff types they have in total; from which the mean shown in Fig.10 is calculated

Base: All respondents with other staff [unweighted 43]

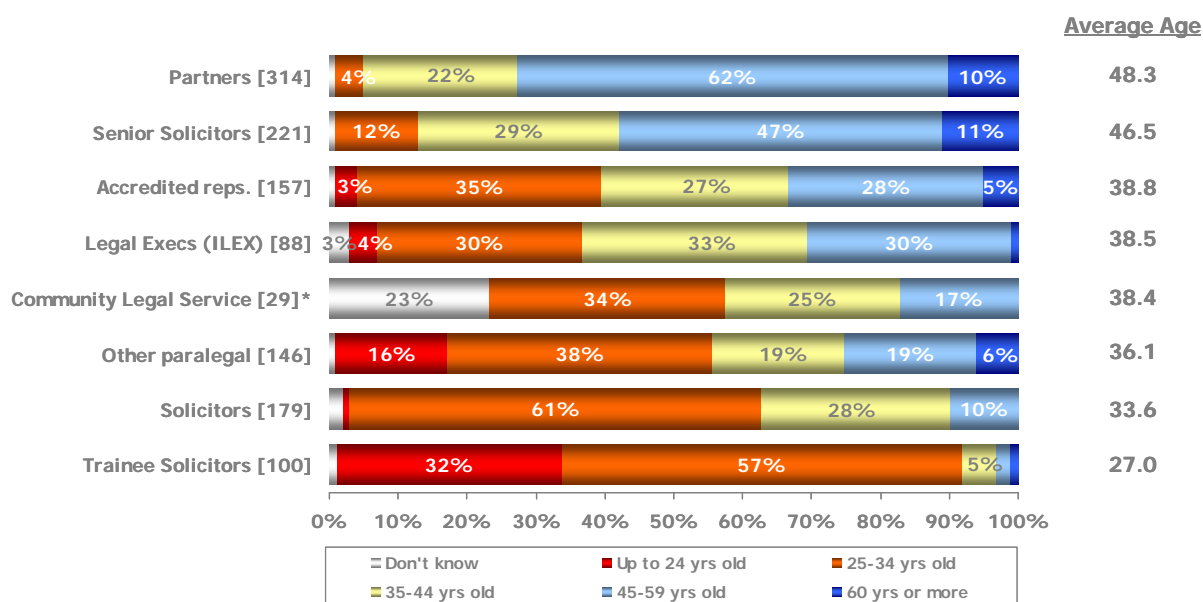
4.5 The age of criminal legal aid practitioners

4.5.1 Age by practitioner type

The average age of practitioners working in criminal legal aid tended to reflect an individual's seniority and experience. Of the main practitioner types asked about, Partners appeared to be the oldest, with an average age of just over 48 although a high proportion [42 per cent] were aged 50 or over. Predictably, Trainee Solicitors were the youngest practitioners, with an average age of 27.

Of the 'other' practitioner types mentioned by respondents, Senior Case Officers and Sole Principals were the eldest, at 58 and 55 years old, respectively.

Figure 11: Q5b. What would you say is the average age of each practitioner type working on criminal legal aid in your practice?



Base: All having each type of criminal legal aid practitioner [unweighted: as shown in brackets] *Small Sample Sizes

| 'Other' Types of Employee on CLA | Sole Principal | Consultant | Secretary / Typist / Cashier | Practice/ Office Manager | Senior Case Officer | Barrister | Other |
|----------------------------------|----------------|------------|------------------------------|--------------------------|---------------------|-----------|-------|
| Average Age of Emp Type | 55.4 | 49.4 | 50.1 | 45.5 | 58.0 | 45.4 | 37.0 |

Sole practitioners and those firms with smaller revenues were more likely to have older, senior practitioners working in criminal legal aid compared to larger firms and those with larger revenues [26 per cent of Sole Practitioners criminal legal classifying themselves as Partners were aged 60 to 64 compared to just nine per cent of firms' Partners overall].

Figure 12: Q5b. What would you say is the average age of <practitioner, e.g. Partners> working on criminal legal aid in your practice?

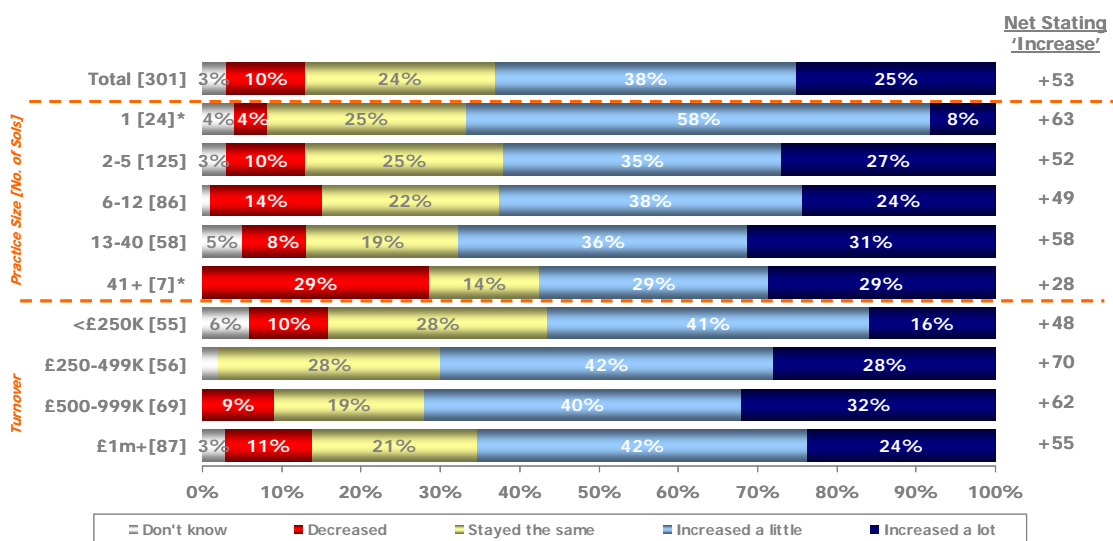
| Audience | Partners [314] | Senior Solicitors [221]* | Accredited Reps [157]* | Legal Exec. (ILEX) [88]* | Community Legal Service [29]* | Other Paralegal [146]* | Solicitors [179]* | Trainees [100]* |
|----------------------------|----------------|--------------------------|------------------------|--------------------------|-------------------------------|------------------------|-------------------|-----------------|
| Total | 48.3 | 46.5 | 38.8 | 38.5 | 38.4 | 36.1 | 33.6 | 27.0 |
| Practice Size [Sols]: | | | | | | | | |
| 1 | 51.5 | 51.6 | 42.0 | 37.5 | NA | 36.1 | NA | 25.0 |
| 2-5 | 48.1 | 47.1 | 41.3 | 40.8 | 39.6 | 37.6 | 34.4 | 28.0 |
| 6-12 | 47.9 | 45.1 | 35.6 | 34.9 | 39.0 | 34.5 | 33.4 | 26.8 |
| 13-40 | 46.7 | 45.7 | 35.1 | 40.1 | 34.4 | 35.9 | 32.5 | 25.3 |
| 41+ | 50.1 | 47 | 37.3 | 33.2 | 28.0 | 32.0 | 31 | 26.7 |
| Revenue: | | | | | | | | |
| <£249K | 50.5 | 48.9 | 41.9 | 38.7 | 38.3 | 37.6 | 35.8 | 30.0 |
| £250 - £499K | 47.2 | 47.2 | 41.7 | 40.4 | 37.6 | 36.6 | 35.5 | 27.8 |
| £500 - £999K | 48.6 | 46.8 | 38.1 | 37.9 | 47.3 | 37.3 | 32.9 | 27.9 |
| £1m+ | 47.9 | 45.5 | 35.8 | 36.5 | 32.9 | 34.8 | 32.6 | 25.7 |
| LSC designated area: Rural | 47.9 | 49.2 | 42.9 | 39.0 | 41.2 | 39.1 | 34.4 | 28.2 |
| Urban | 48.5 | 45.0 | 36.5 | 38.1 | 36.8 | 34.9 | 33.3 | 26.6 |

Base: All having each type of criminal legal aid practitioner [unweighted: as shown in brackets] *Caution Small Samples within Breaks

4.5.2 Changes in age profile in the last 5 years

Just over three-fifths [63 per cent] of firms which had been established for six years or more, believed that the average age of their practitioners working on criminal legal aid cases had increased in the last five years.

Figure 13: Q6. In general, do you feel that the average age of your firm's criminal legal aid practitioners has increased, decreased or stayed the same as five years ago?



Base: All whose firms have been operating for 6 years or more [unweighted 301]. *Small Sample Sizes

Although based on small samples, the results suggest that the largest firms had a more balanced profile, with 29 per cent considering that the age of practitioners had reduced a little in recent years. This may reflect the higher number of more ‘junior’ practitioners, such as Legal Executives, working within these firms.

4.6 The ethnicity of criminal legal aid practitioners

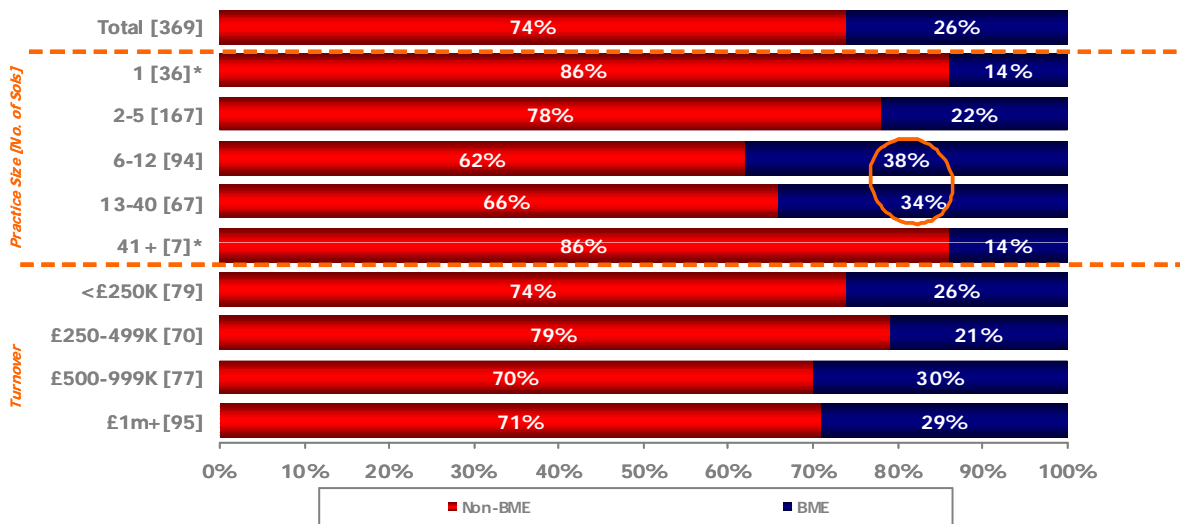
4.6.1 British Minority Ethnic [BMEs]

A quarter of firms responding had British Minority Ethnic [BME] staff working in criminal legal aid. Based on the 1,800 firms identified by LSC as contracted to conduct criminal legal aid, this equated to 468 practices in total.

Medium-sized firms [with six to 40 solicitors] were more likely to have BME practitioners working on criminal legal aid cases. Firms based in LSC designated ‘urban’ locations had greater BME representation at 37 per cent, compared to 12 per cent of practices located in rural settings.

The types of legal work undertaken also appear to impact upon BME representation, with 78 per cent of firms working in ‘immigration/asylum’ employing BME practitioners. Firms working on VHCCs were also more likely to have BME practitioners than the norm [44 per cent cf. 26 per cent overall].

Figure 14: Q37. How many criminal legal aid practitioners in your firm were there that come from the following ethnic groups?



Base: All respondents [unweighted 369]. *Caution Small Sample Sizes

Of all the BME groups, solicitors of Indian and Pakistani ethnicity most commonly worked on criminal legal aid cases, with an average of two practitioners of that ethnicity within each of these firms [Figure 15]. All those defining the ethnic background of solicitors working for their firm as 'White Other', 'Asian Other' etc, were asked to specify the 'other' ethnicity of these individuals.

Figure 15: Q37. How many criminal legal aid practitioners in your firm were there that come from the following ethnic groups?

| Ethnicity | % Practices with CLA solicitors of each Ethnicity | Mean number of solicitors of each Ethnicity* |
|-------------------------------|---|--|
| White British | 91% | 3.9 |
| Indian | 11% | 1.9 |
| White Irish | 10% | 1.3 |
| White Other | 9% | 1.3 |
| Pakistani | 6% | 2.0 |
| Caribbean | 6% | 1.3 |
| Mixed White & Black Caribbean | 4% | 1.4 |
| African | 4% | 1.9 |
| Mixed Other | 3% | 1.2 |
| Other Asian | 3% | 1.8 |
| Mixed White & Asian | 2% | 1.6 |
| Mixed White & Black African | 1% | 1.0 |
| Bangladeshi | 1% | 1.0 |
| Chinese | 1% | 1.0 |
| Other ethnic background | 1% | 1.0 |

*Base: All respondents [unweighted 369]. * The mean number of solicitors based on the number of practices that employed solicitors of each ethnicity*

Respondents were asked to identify which ethnic groups staff came from whom:

- owned or had a share in owning the firm;
- had a managerial role in the firm;
- managed criminal legal aid cases
- provided support services

While the sample sizes were very small for some ethnicities, indications were that BME practitioners were more likely to be 'managing criminal legal aid cases' rather than owning the practice or having a managerial role [Figure 16].

Figure 16: Q38. What ethnic groups do staff come from?

| Ethnicity: % of practices that have employees in each role | Sample Size * | Own or have a share in firm | Have a managerial role | Manage CLA cases | Provide support services |
|--|---------------|-----------------------------|------------------------|------------------|--------------------------|
| White British | 329 | 93% | 95% | 95% | 95% |
| Indian | 43 | 44% | 44% | 64% | 32% |
| White Irish | 40 | 44% | 41% | 62% | 28% |
| White Other | 35 | 36% | 36% | 74% | 22% |
| Pakistani | 22 | 49% | 42% | 66% | 45% |
| Caribbean | 27 | 18% | 24% | 58% | 41% |
| Mixed White & Black Caribbean | 14 | 18% | 35% | 44% | 39% |
| African | 15 | 38% | 38% | 49% | 58% |
| Mixed Other | 10 | - | 6% | 44% | 21% |
| Other Asian | 12 | 50% | 41% | 49% | 31% |
| Mixed White & Asian | 11 | 6% | 31% | 42% | 23% |
| Mixed White & Black African | 4 | 52% | 52% | 76% | 27% |
| Bangladeshi | 4 | - | - | 56% | 56% |
| Chinese | 6 | 71% | 62% | 90% | 25% |
| Other ethnic background | 4 | - | 36% | 53% | 36% |

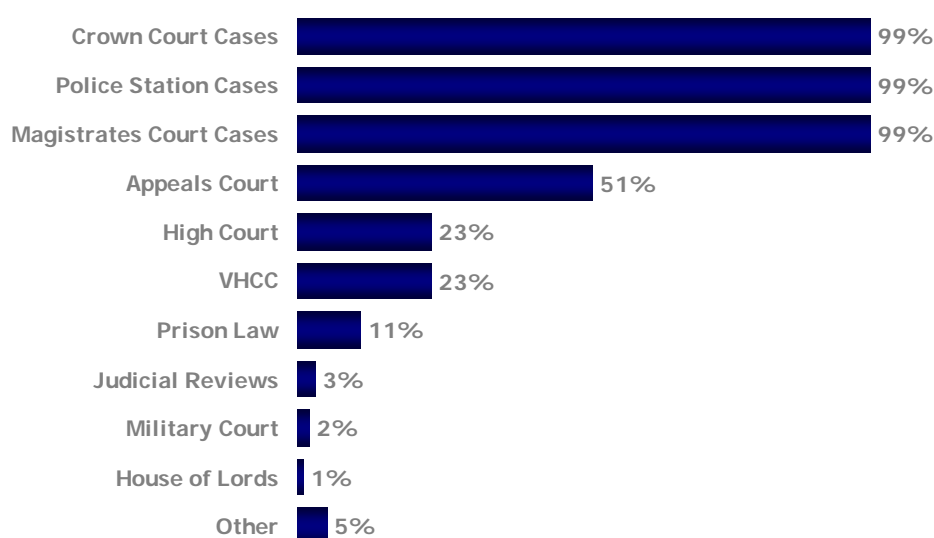
Base: All respondents working in firms with employees of each ethnicity [unweighted sample sizes in second column of table]. * Very Small Sample Sizes

5.0 THE TYPES OF CRIMINAL LEGAL AID WORK UNDERTAKEN

5.1 The types of criminal legal aid cases

Firms universally undertook criminal legal aid cases at police stations, the Magistrates' court and the Crown Court. Analysis revealed little differences in the take up of these cases according to practice size or firms' revenue levels. High Court and VHCCs were conducted by almost a quarter of practices but were most prevalent among larger firms. As Figure 18 highlights, firms with 13 to 40 solicitors were significantly more likely to be involved in High Court cases, as well as VHCCs, along with firms with six to 12 qualified solicitors.

Figure 17: Q10a. What kind of criminal legal aid cases does your firm undertake?



Base: All respondents [unweighted 369]

Figure 18: Q10a. What kind of criminal legal aid cases does your firm undertake?

| % conducting CLA case... | TOTAL [369] | Practice Size [No. of Sols] | | | | | Revenue | | | |
|--------------------------|-------------|-----------------------------|-----------|-----------|------------|----------|-------------|----------------|----------------|-----------|
| | | 1 [36]* | 2-5 [167] | 6-12 [94] | 13-40 [64] | 41+ [7]* | <£250K [79] | £250-499K [70] | £500-999K [77] | £1m+ [95] |
| High Court | 23% | 17% | 20% | 28% | 34% | 43% | 13% | 27% | 23% | 35% |
| VHCC | 23% | 17% | 16% | 37% | 36% | 43% | 13% | 21% | 31% | 37% |

Results were significantly different to the total sample, based on significance testing at the 95 per cent confidence level

Base: All respondents [unweighted 369]. *Small Sample Sizes

Those firms employing solicitor advocates were more likely to be conducting VHCCs [33 per cent compared to 15 per cent of firms not employing solicitor advocates], as well as Appeal Court cases [56 per cent cf. 45 per cent]. Urban based firms were more likely to be involved in VHCCs

VHCCS: Firm Profile Summary

- Average solicitors in firm: 12 (cf. seven overall)
- Average working on criminal legal aid: six (cf. 3.4 overall)
- 24 per cent of firms' revenue was 100 per cent from criminal legal aid (cf. 16 per cent overall)

5.2 Resources

Just 13 per cent of firms had declined criminal legal aid cases due to a lack of resource. There was no particular profile for these firms, with instances of turning down criminal legal aid work occurring across all practice sizes and types.

Those who declined criminal legal aid work due to lack of resource [n=48], were then asked what proportion of cases they had turned down in the last financial year. Overall, a minority of cases were affected, as 80 per cent had declined under 10 per cent of cases due to capacity issues [7.3 per cent average].

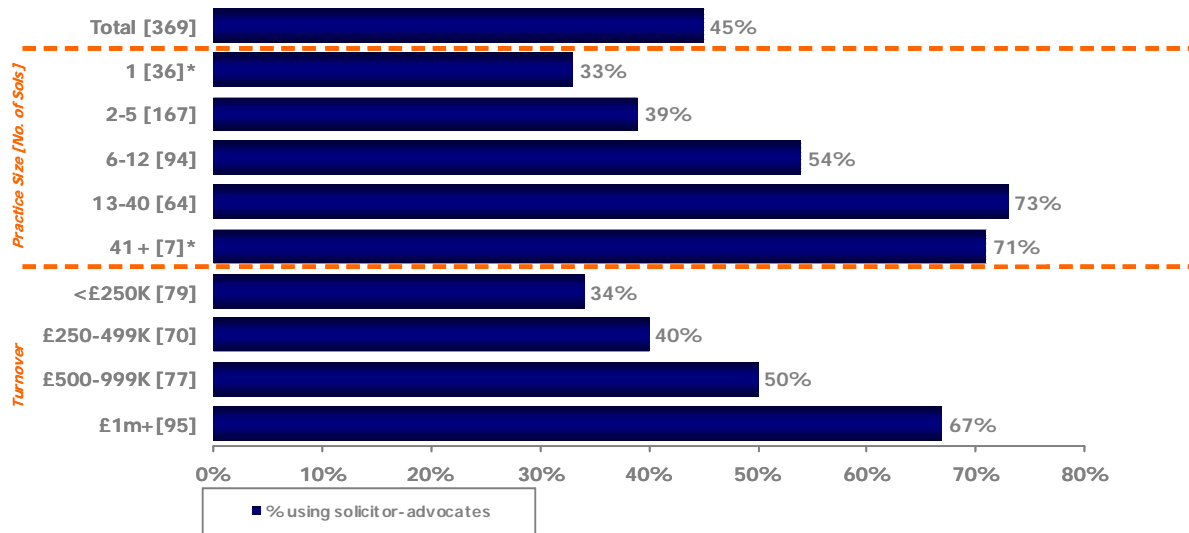
Indications were that the smaller the practice, the higher proportion of criminal legal aid cases they had turned down [12.5 per cent for sole practitioners cf. 3.8 per cent for firms with 13 to 40 solicitors], but the sample sizes were small.

5.3 Solicitor Advocates

5.3.1 The use of solicitor advocates

Over two-fifths of firms employed solicitor advocates [Figure 19]. Although larger firms were more inclined to employ these staff, a notable proportion of smaller firms were also doing so [a third of sole practitioners and two-fifths of small, two to five solicitor firms]. Similarly, firms with turnovers of over £1 million were much more likely to have solicitor advocates than those generating lower revenues. The average revenue for firms recruiting solicitor advocates was £2.15 million compared to £1.06 million for those firms without. As mentioned earlier, those firms conducting VHCCs were also more likely to employ solicitor advocates [64 per cent cf. 45 per cent overall].

Figure 19: Q7. Does your firm currently employ solicitor-advocates?



Base: All respondents [unweighted 369] *Small Sample Sizes

Having solicitor advocates on their staff might signify a firm's focus on, and commitment to, working in criminal legal aid, as those 'very likely' to be working in criminal legal aid in the next five years had a higher level of solicitor advocates [53 per cent cf. 34 per cent among those 'very unlikely' to conduct criminal legal aid in the next five years]. Similarly, 52 per cent of those firms 'very likely' to tender for criminal legal aid work should Best Value Tendering be adopted, had solicitor advocates.

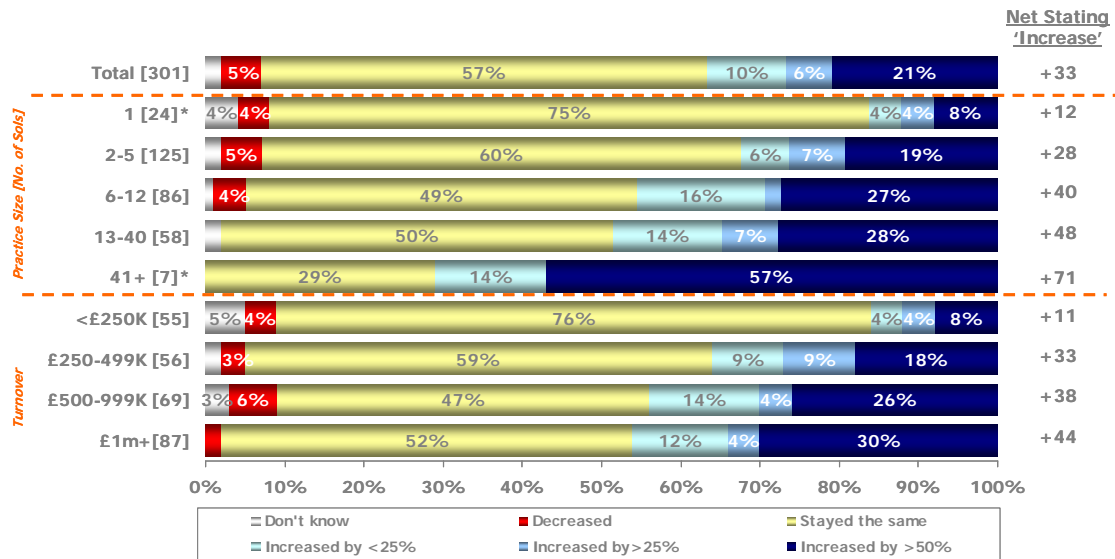
5.3.2 Change in the use of solicitor advocates

On balance, the use of solicitor advocates had increased in the last five years; with a net third of criminal legal aid firms experiencing an increase in their use [Figure 20]. An increase in the use of solicitor advocates was cited most by:

- Urban firms [42 per cent increase cf. 27 per cent in rural firms]; and
- Those firms conducting VHCC [57 per cent cf. 37 per cent overall]

For many firms the use of solicitor advocates had remained the same over the last five years [57 per cent]. This was particularly so among those firms with revenues under £250,000, and sole practitioners, three-quarters of whom considered the level of usage had not changed.

Figure 20: Q8b. Has your firm's use of solicitor advocates changes over the past five years?



Base: All firms operating for six years or more [unweighted 301]. *Small Sample Sizes

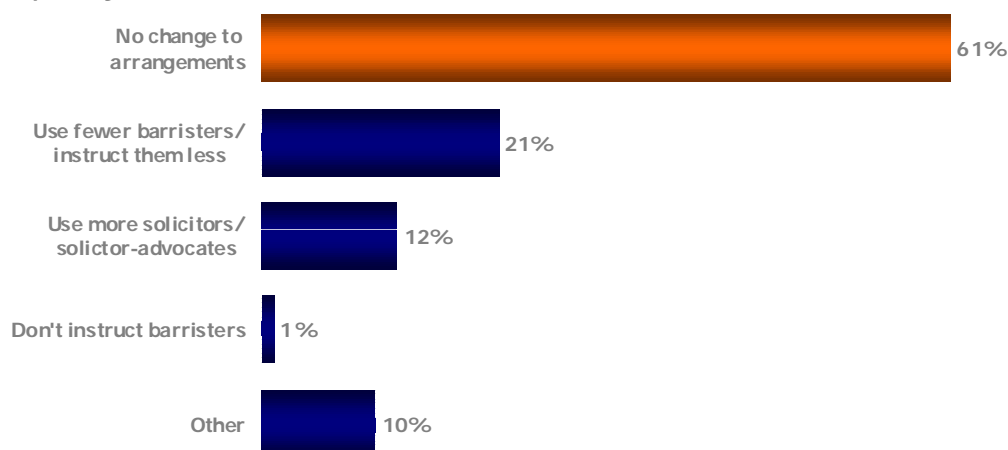
Solicitor Advocates: Firm Profile Summary

- In the main, firms using solicitor advocates tended to be larger, with higher revenues, higher proportions of revenue derived from criminal legal aid work, and were involved in VHCCs.
- Around seven out of 10 firms with 13+ solicitors employed solicitor advocates, compared to 54 per cent of practices with six to 12 solicitors, 39 per cent of those with two to five solicitors and 33 per cent of sole practitioners.
- Firms employing solicitor advocates tended to have higher turnover levels than their counterparts [£2.15 million cf. £1.06 million for the most recent financial year].
- Two-thirds of those working on VHCCs employed solicitor advocates [64 per cent cf. 45 per cent overall].
- Just over half [55 per cent] of firms experiencing an increase in the proportion of revenue from criminal legal aid work, used solicitor advocates (perhaps as a consequence of this increase), which contrasted with 39 per cent of those experiencing a decline in their revenues.
- Almost half [47 per cent] of those with increasing turnover derived from criminal legal aid cases considered that they were using more solicitor advocates now than five years ago [cf. 34 per cent of the total sample].

5.4 Instructing Barristers

Most practices had made no changes to the way in which they instructed barristers [61 per cent] although a fifth of firms stated that they were using fewer barristers now than five years ago, and just over a tenth cited an increased use of solicitor advocates as impacting on how they instructed barristers. Some of the decline in the use of barristers could be attributed to cost pressures, and the greater cost-efficiencies that can be afforded by using in-house solicitor advocates.

Figure 21: Q9. How, if at all, have the arrangements under which your firm instructs barristers changed in the past 5 years?



Base: All firms operating for 6 years or more [unweighted 301]

Verbatim comments

Our use [of barristers] depends on the court [the case is] being heard in, depends on type of cases, the longer the case; the more serious the case the more likely we were to use barristers. [We] use more in-house (solicitor advocates) because it is more profitable and provides continuity with the client, like in the USA where teams of lawyers work for the client and continuity is maintained. (Rural firm, two to five solicitors).

I haven't instructed outside counsel in the last 2 years. ... with the changes in the funding arrangements, it isn't cost effective to instruct outside counsel and our success rate is as high if not higher than the Bar. (Rural firm, two to five solicitors)

[Our] relationship with the barristers has changed in that [the] enormous fee cost pressure makes it increasingly difficult to maintain a close relationship. For example, we are no longer funded to send a representative to court with a barrister. (Urban firm, 13 to 40 solicitors)

We have moved to consolidate the use [of barristers]; we use fewer chambers, use barristers on more complex cases so use barristers less. We still use chambers on magistrates cases as it can be cheaper to use junior barristers rather than our own solicitor advocates, our use depends on how busy we were. (Urban firm, 13 to 40 solicitors)

The larger practices [13+ solicitors] were less inclined to instruct as many barristers as they had previously. Urban practices were also more likely to have seen a decline in the use of barristers [26 per cent cf. 14 per cent among rural firms]. Smaller practices [with less than five solicitors] and those practices with lower revenues [less than £250,000] had seen least the change in their use of barristers over time.

Figure 22: Q9. How, if at all, have the arrangements under which your firm instructs barristers changed in the past 5 years?

| % citing each | TOTAL [369] | Practice Size [No. of Sols] | | | | | Revenue | | | |
|------------------------------|----------------|-----------------------------|--------------|--------------|---------------|-------------|-----------------|-----------------------|-----------------------|--------------|
| | | 1 [24]* | 2-5 [125] | 6-12 [86] | 13-40 [58] | 41+ [7]* | < £250K [55] | £250- 499K [56] | £500- 999K [69] | £1m+ [87] |
| No change to arrangements | 61% | 71% | 65% | 55% | 52% | 57% | 72% | 57% | 64% | 56% |
| Use fewer barristers | 21% | 13% | 19% | 24% | 33% | 29% | 15% | 18% | 24% | 24% |
| Use more solicitor advocates | 12% | - | 12% | 12% | 24% | 14% | 4% | 16% | 11% | 17% |
| Don't instruct barristers | 1% | - | 2% | 1% | 2% | - | 2% | 2% | - | - |
| Other | 10% | 17% | 7% | 13% | 9% | - | 10% | 9% | 7% | 11% |

 Results were significantly different to the total sample, based on significance testing at the 95 per cent confidence level

*Base: All firms operating for 6 years or more [unweighted 301]. *Small Sample Sizes*

The profile of those firms using fewer barristers mirrored that of firms seeing an increase in the use of solicitor advocates and was generally the larger, higher revenue, urban based firms. A third of those firms employing solicitor advocates cited a decline in their use of barristers over the last five years [cf. 21 per cent overall]; suggesting that a 'replacement' of one practitioner type with the other was occurring.

6.0 FINANCIAL POSITION OF FIRMS UNDERTAKING CRIMINAL LEGAL AID

6.1 The turnover and proportion of revenues derived from criminal legal aid

On average, firms conducting criminal legal aid (among other areas of work in most cases) had a turnover of approximately £1.56 million a year. As to be expected, there were marked differences in turnover by practice size, with average turnover ranging from £150,000 for sole practitioners to over £20 million for the largest firms.

On average, an estimated three-fifths of firms' turnover was derived from criminal legal aid. This figure increased to 79 per cent among sole practitioners, whereas the larger the firm the lower the contribution made by criminal legal aid to overall revenues, due to them having a more diverse portfolio. (As already established criminal legal aid practitioners represent a smaller proportion of the total workforce in these larger firms).

This equated to an approximate average turnover from criminal legal aid of £0.93 million a year rising to £1.69 million for medium-sized firms (13 to 40 solicitors).

Figure 23: Q11. Approximately, what was your firm's annual turnover for the most recent full financial year?

| Audience | Turnover most recent financial year [millions] | Average % turnover from CLA work | Estimated average CLA turnover [millions] |
|------------------------------|--|----------------------------------|---|
| Total [369] | 1.56 | 59.7% | 0.93 |
| Practice Size [Sols]: | | | |
| 1 [36]* | 0.15 | 79.4% | 0.12 |
| 2-5 [167] | 0.50 | 64.8% | 0.32 |
| 6-12 [94] | 2.43 | 50.6% | 1.23 |
| 13-40 [64] | 4.81 | 35.1% | 1.69 |
| 41+ [7]* | 20.1 | 7.1% | 1.43 |

*Base: All respondents [unweighted 369] *Small Sample Sizes*

16 per cent of firms stated that their entire turnover was derived from criminal legal aid work. Larger firms were significantly less likely to generate revenue solely from criminal legal aid, compared to smaller firms:

- Sole practitioners = 22 per cent
- two to five solicitors = 19 per cent
- six to 12 solicitors = 12 per cent
- 13 to 40 solicitors = two per cent
- 41+ solicitors = Zero

A higher proportion of firms working on VHCCs were more likely to derive 100 per cent of their revenues from criminal legal aid [24 per cent cf. 16 per cent overall]. Firms with solicitor

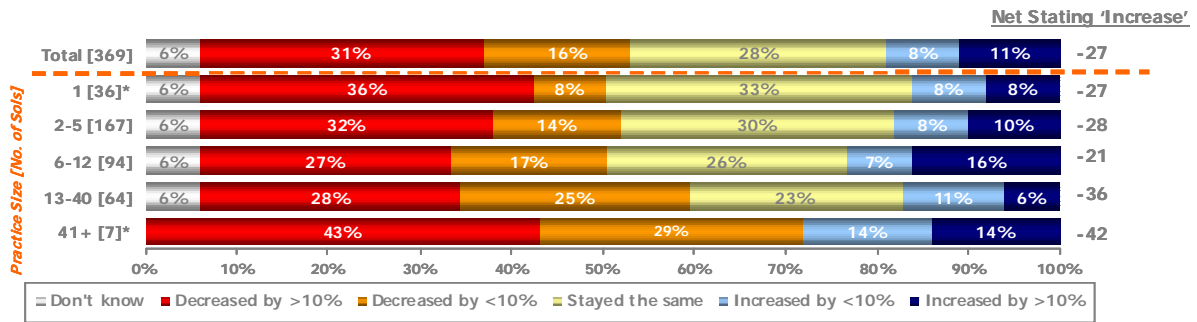
advocates generated a significantly higher proportion of their revenue from criminal legal aid work, compared to those without such staff [average of 67 per cent and 53 per cent respectively].

6.1.1 Changes in the proportion of turnover derived from criminal legal aid work

Just under half [46 per cent] of firms interviewed believed that the proportion of revenues derived from criminal legal aid had declined in the last two years. This was offset by the 19 per cent citing an increase, although this resulted in a net majority of around a quarter stating a decline [Figure 24].

Although not a robust sample size, indications were that the largest firms were more likely to have witnessed a fall in the proportion of revenues derived from criminal legal aid. Whether this was as a result of an increase in other work or a decline in criminal legal aid cases or value was not clear.

Figure 24: Q13a. Over the past two years, has the proportion of your firm's overall turnover it receives from criminal legal aid work changed?



Base: All respondents [unweighted 369] *Small Sample Sizes

Urban firms were more likely to cite a decline in the proportion of revenues generated from criminal legal aid [net -34 cf. -21 for rural firms]. Those firms which stated that they were 'very unlikely' to be undertaking criminal legal aid work in five year's time were more likely to cite a fall in the proportion of criminal legal aid revenues than the average [net -62 cf. -27 overall], illustrating that criminal legal aid work has become less attractive to some firms.

Firms with solicitor advocates were less likely to have seen a drop in the proportion of criminal legal aid generated revenues compared to those without solicitor advocates [net -16 cf. -37 respectively].

6.2 Profit from criminal legal aid

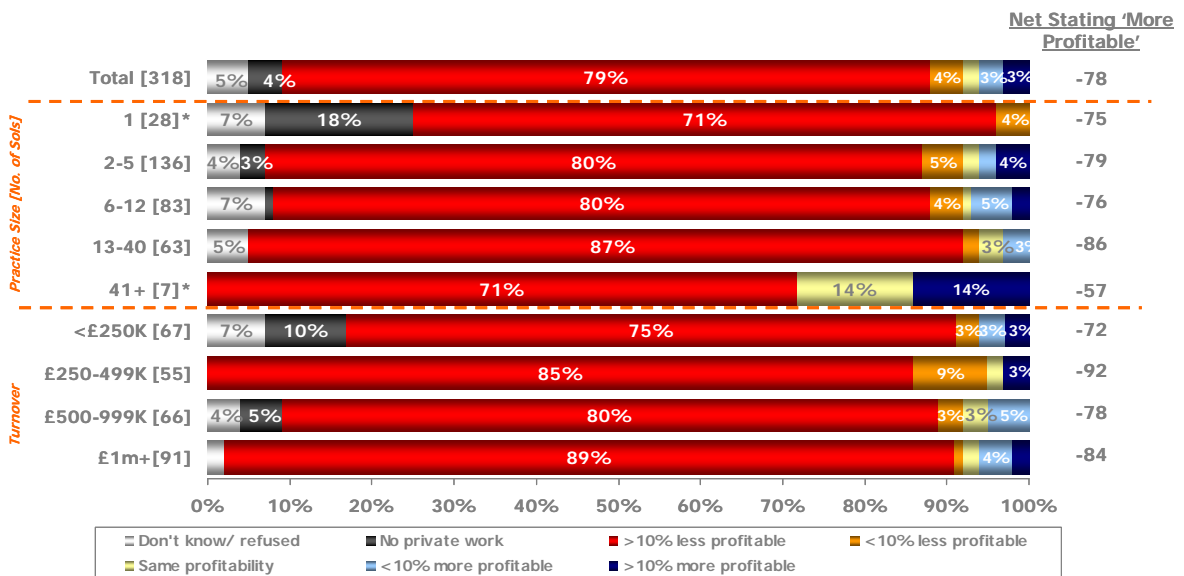
The following section looks at the profit margins associated with criminal legal aid work. These were not audited profit margins but were based on respondents' descriptions of their profits. Any extrapolations from the data should be treated with caution.

6.2.1 Comparisons with private work

The NAO have confirmed that profit is understood as meaning before notional salaries, interest on partner capital and notional rent are excluded. Of the firms who conducted legal work other than that funded by criminal legal aid, eight out of ten considered criminal legal aid work to be less profitable than their firm's private legal work: taking into account the six per cent who deemed it more profitable this resulted in a net of -78 per cent which considered criminal legal aid work to be more profitable [Figure 25].

Medium-sized firms [of 13 to 40 solicitors] and those with the largest turnovers [£1 million+] were most likely to find criminal legal aid work less profitable than private casework [a net results of -86 and -84 respectively].

Figure 25: Q14. How does the profitability of your firm's criminal legal aid work compare with the profitability of your firm's private work?



Base: All firms who conduct work other than criminal legal aid [318 unweighted] *Small Sample Sizes

While those working on VHCCs were slightly less inclined to view criminal legal aid as less profitable than private work [net of -72 cf. -78 overall], the overall consensus remained that criminal legal aid was less profitable [with 80 per cent of VHCC firms considering it so].

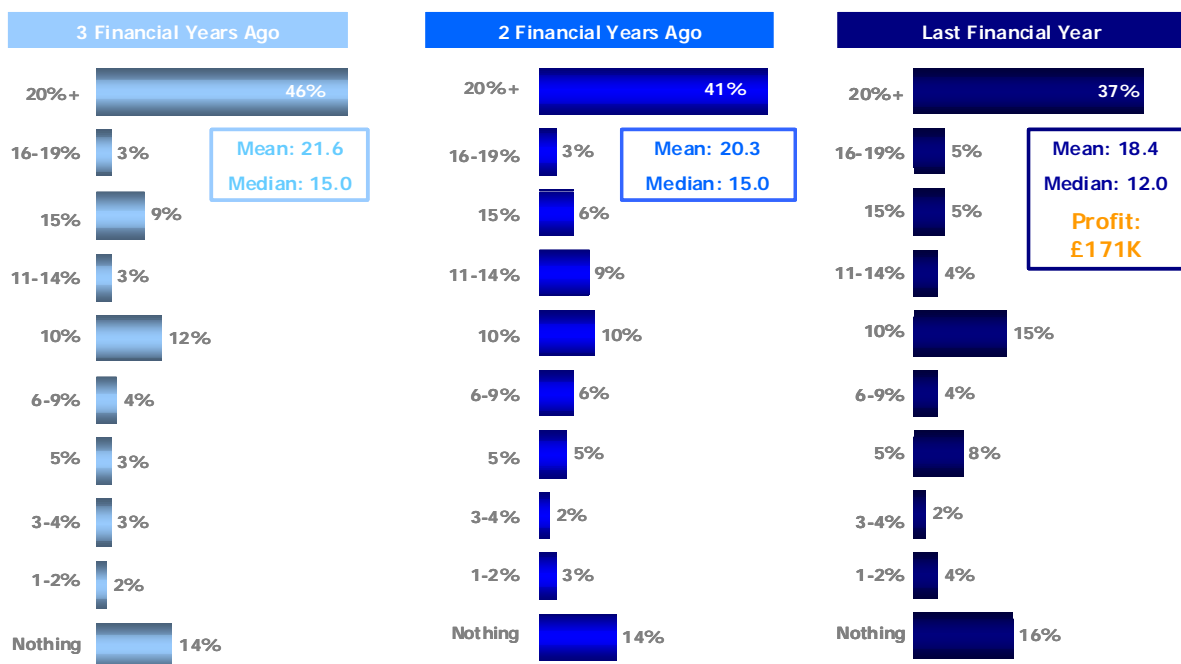
Those ‘very likely’ to be conducting criminal legal aid work in five year’s time were more likely to consider it a more profitable revenue stream than their private work [13 per cent cf. five per cent overall; net -62 cf. -78 overall].

6.2.2 Change in profit margins

Over a quarter of firms interviewed were unable or unwilling to disclose their criminal legal aid profit margins for the most recent financial year [and a further 11 per cent were unable to provide figures for either the previous year or for two years ago].

Among those firms that did provide data, it was clear that, in addition to the declining contribution criminal legal aid made to firms’ turnover, profit margins from criminal legal aid were considered to have fallen over the last three years [Figure 26]. On average, profit margins ran at 18.4 per cent last year, representing a 1.9 per cent decrease on the previous year and a 3.2 per cent fall on two years ago. The proportion of firms making 20 per cent profit or more from criminal legal aid had also fallen in recent years [by nine per cent in three years]. Around one in every six firms stated they were not making any profit from the criminal legal aid cases they undertook.

Figure 26: Q15a/b/c. What percentage profit did your firm make from its criminal legal aid work during your last full financial year? And the year prior to that? And three year’s ago?

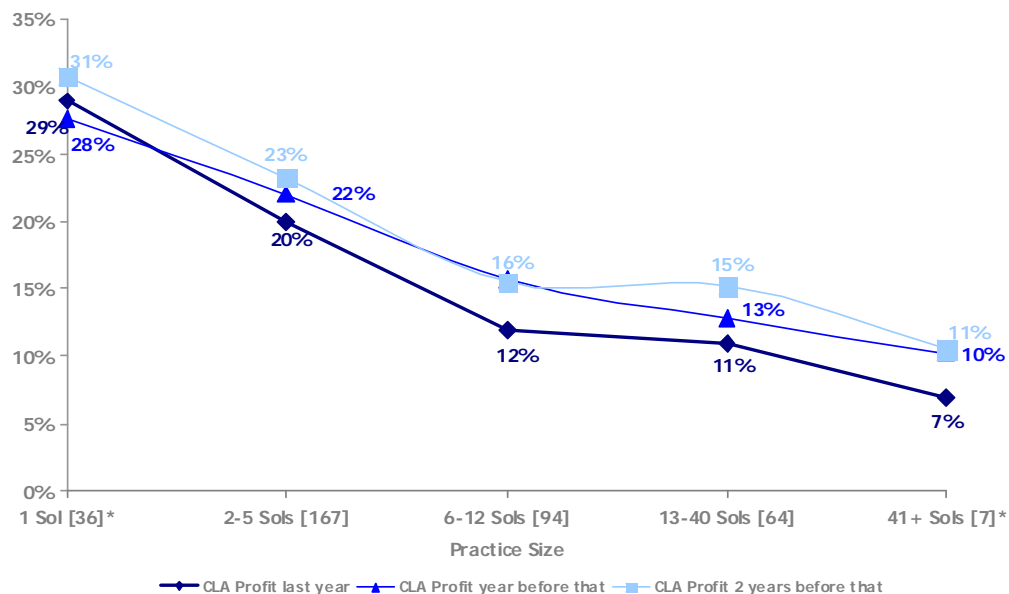


Base: All respondents providing a response [unweighted 264/244/224]

The stated profitability of criminal legal aid work was lowest among larger firms: sole practitioners cited a 29 per cent profit level on average, compared to an 11 per cent average profit cited by medium sized firms [13-40 solicitors]. This pattern remained the same over the three years.

Figure 27 below illustrates the general downward trend in profit margins regardless of practice size, as well as the gap in profit margins experienced by different sized firms.

Figure 27: Q15a/b/c. What percentage profit did your firm make from its criminal legal aid work during your last full financial year? And the year prior to that? And three year's ago?



*Base: All respondents providing a response [unweighted 264/244/224]. * Caution Small Sample Sizes*

There were a number of possible explanations why smaller firms appeared to be making more profit from their criminal legal aid work:

- Larger firms are likely to have higher overheads to operate the business and a higher salary bill for the increased number of senior level practitioners working on criminal legal aid.
- A higher proportion of smaller firms derive 100 per cent of their revenues from criminal legal aid [22 per cent of sole practitioners and 19 per cent of firms with two to five solicitors]. Having this more specialist focus, may have resulted in firms developing more efficient working practices, allowing increased profit margins to be achieved.

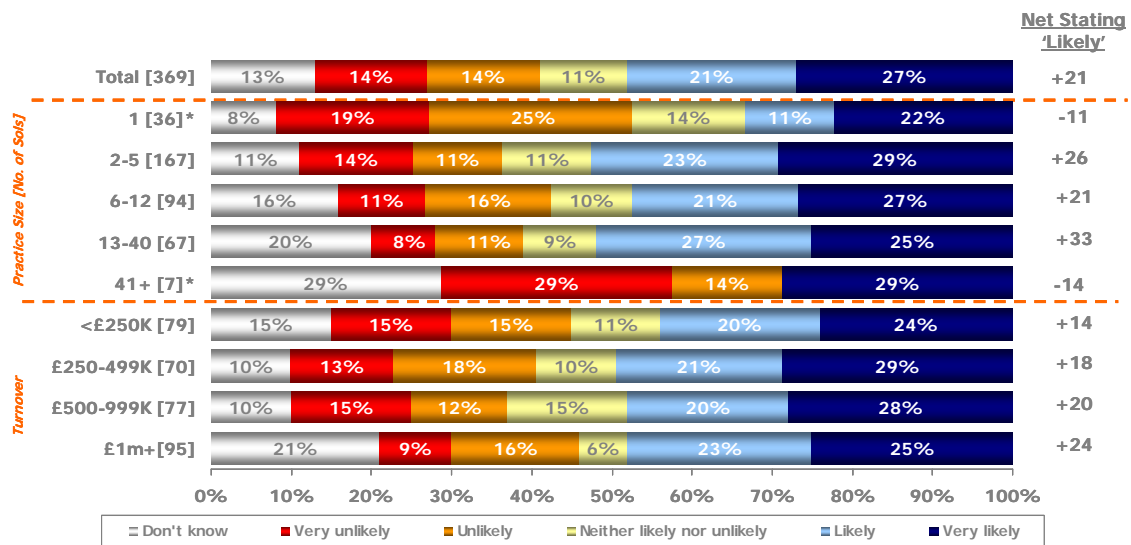
Profit levels were similar across all types of criminal legal aid cases, with no significant difference in the average profit level for VHCCs compared to those for Police Station, Magistrates' court or Crown Court instructions.

Those firms 'very likely' to still be conducting criminal legal aid work in five year's time, reported the highest average profit levels [24 per cent cf. 15 per cent for those firms that were 'very unlikely' to be conducting criminal legal aid in five years].

6.3 The likelihood to conduct criminal legal aid in the future

While almost half [48 per cent] of those interviewed expected their firms to be conducting criminal legal aid work in the next five years, this reduced to a net of +21 per cent when removing those who were ‘unlikely’ to continue. Based on the 1,800 practices currently identified by the LSC as contracted to conduct criminal legal aid, this would result in approximately 500 firms being likely to stop handling criminal legal aid cases, with a further 400 being undecided [stating ‘don’t know’ and ‘neither/nor’ responses].

Figure 28: Q16. How likely or not is it that your firm will still be conducting criminal legal aid work in the next 5 years?



Base: All respondents [unweighted 369] * Caution Small Sample Sizes

Those who stated they were ‘very likely’ to be conducting criminal legal aid in the next five years were:

- More likely to be practices focusing solely on criminal legal aid work, and/or those now generating an increased proportion of their turnover from criminal legal aid cases compared to two years ago [45 per cent of this latter group were ‘very likely’ to continue with criminal legal aid in the next five years]
- often new practices established in the last year: 62 per cent of these firms were ‘very likely’ to continue [cf. 27 per cent overall] although this finding was based on a small sample.
- A third of those who employed solicitor-advocates were ‘very likely’ to continue conducting criminal legal aid work [cf. 23 per cent among those who don’t utilise these staff]
- Over two-fifths [42 per cent] of those that were ‘very satisfied’ with their LSC Account/Relationship Manager were ‘very likely’ to continue with criminal legal aid.

6.3.1 Reasons for not continuing criminal legal aid work

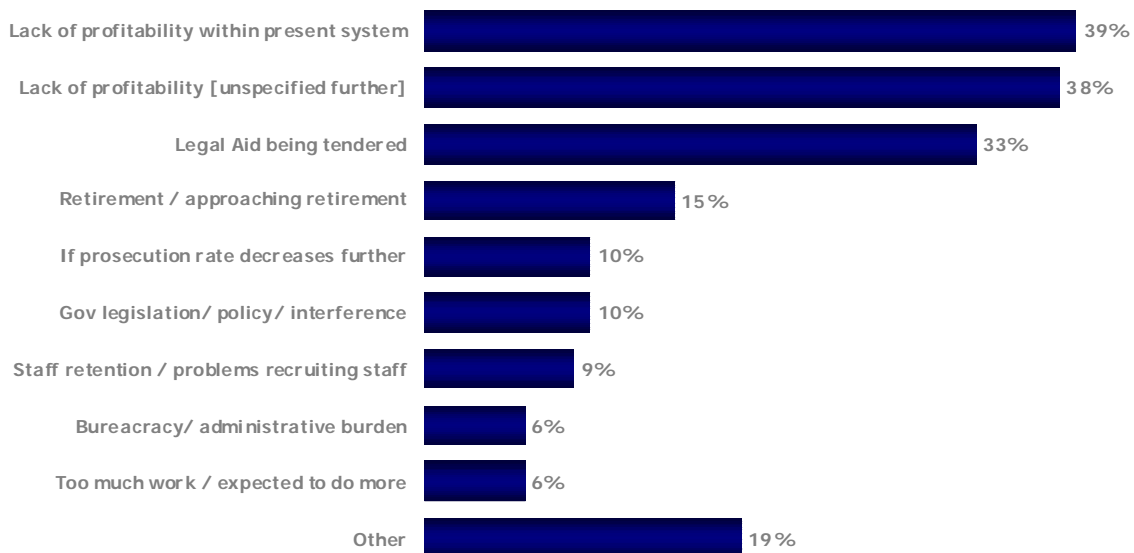
Poor profitability was the reason most commonly cited for a practice likely to stop undertaking criminal legal aid cases. The potential implementation of Best Value Tendering was also cited as a key reason for no longer undertaking criminal legal aid.

Although the sample sizes were small, indications were that a 'lack of profitability within the present system' was less of a concern for sole practitioners and more of a concern for those firms with 13 to 40 solicitors [31 per cent and 50 per cent within each respective group mentioning this reason]. This matches the previously reported differences in profit margins, whereby sole practitioners reported the highest profits, and medium to larger sized firms the lowest.

Sole practitioners were more likely to cite the proposed tendering of criminal legal aid cases as a reason to cease working in the field, with 50 per cent of the sole practitioners unlikely to continue with criminal legal aid mentioning this as the main reason. Reflecting the age profile highlighted earlier [see section 4.5], sole practitioners were also more likely to highlight upcoming retirement as a reason [25 per cent cf. 15 per cent overall].

Those firms with six to 12 solicitors were more likely to cite staff retention issues as a reason than other firms [20 per cent cf. nine per cent overall].

Figure 29. Q17. Why do you think your firm is unlikely to be conducting criminal legal aid work in five years time?



Base: All respondents stating that they were unlikely to conduct criminal legal aid work at Q16 [unweighted 99]

Verbatim comments

The tipping point has been reached where profitability is too low to sustain the overheads particularly in a recession. We've got the demographic where people are heading towards the end of their careers. (Rural Firm, two to five solicitors)

The likelihood is that because, under the best value tendering process, by 2011 our fees may be squeezed even further and this will make it even more unprofitable. Secondly we are in an area where bigger firms may take advantage of the market and our only way to compete will be to work further afield which is not economic because of the travelling cost. One of our fee earners is likely to have retired by then and recruiting criminal staff has become more difficult so it may not be worth the extra cost of building the department up. (Urban firm, six to 12 solicitors)

We have to work harder now for what we do and there is less work as well. They were tendering legal aid work and we don't want to get involved. (Urban Firm, two to five solicitors)

Because it's completely unprofitable, massively time consuming, enormously anti-social in terms of hours worked, to the extent we cannot continue to employ agents or reps. To the extent we could not realistically defray the cost of a full time police station rep...One is expected to keep abreast of a wall of new legislation creating a large number of new offences which we have to service in a declining income environment...The government...are oblivious to the...hole they are creating in ensuring people's civil liberties are properly represented. I honestly don't think it matters what I say on this survey because there is clearly a cost cutting agenda and the last thing the government is concerned about are people's democratic rights. (Urban firm, two to five solicitors)

7.0 THE PEER REVIEW PROCESS

7.1 The coverage of peer review

Three-quarters of firms surveyed had at some point had their criminal legal aid work peer reviewed. It appears that sole practitioners and small practices [two to five solicitors] were least likely to have been peer reviewed [39 per cent and 31 per cent respectively, against an overall norm of 26 per cent]. Firms that had a turnover of under £250,000 were least likely to have been peer reviewed [65 per cent cf. 84 per cent among firms with a £1 million+ turnover]. Similarly, those conducting VHCCs were more likely to have been peer reviewed [87 per cent], as were those who employed solicitor-advocates [82 per cent].

Figure 30. Q22. Has your firm's criminal legal aid work ever been peer reviewed?

| % stating whether firm's CLA work has been Peer Reviewed or not | TOTAL [369] | Practice Size [No. of Sols] | | | | |
|---|----------------|-----------------------------|--------------|--------------|---------------|-------------|
| | | 1 [36]* | 2-5 [167] | 6-12 [94] | 13-40 [64] | 41+ [7]* |
| Yes, CLA has been peer reviewed | 73% | 61% | 68% | 84% | 91% | 71% |
| No, CLA hasn't been peer reviewed | 26% | 39% | 31% | 14% | 9% | 29% |
| Don't know / not stated | 1% | - | 1% | 2% | - | - |

 Results were significantly different to the total sample, based on significance testing at the 95 per cent confidence level

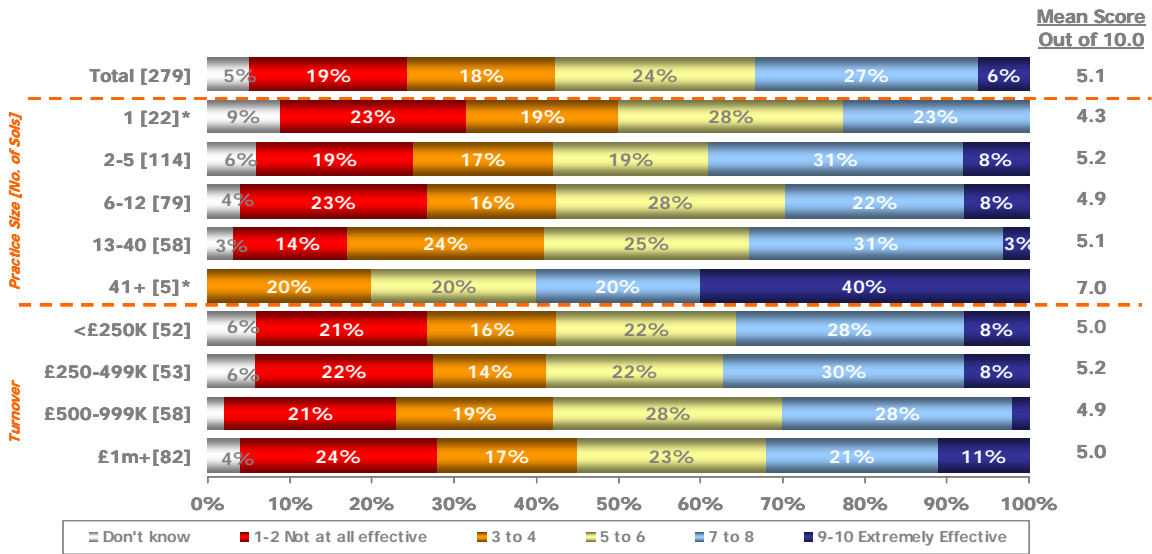
Base: All respondents [unweighted 369] *Small Sample Sizes

Over half of these peer reviews took place within the last year, and nine out of ten took place within the last two years.

7.2 The effectiveness of peer review

Firms were divided on the effectiveness of the peer review process, with 34 per cent believing it to be 'effective' [scoring it seven to 10 out of 10] and 37 per cent considering it 'ineffective' [scoring it one to four out of 10].

Figure 31. Q24. On a scale of 1 to 10, how effective do you find the peer review process as a means of ensuring the quality of the criminal legal aid work conducted by your firm?

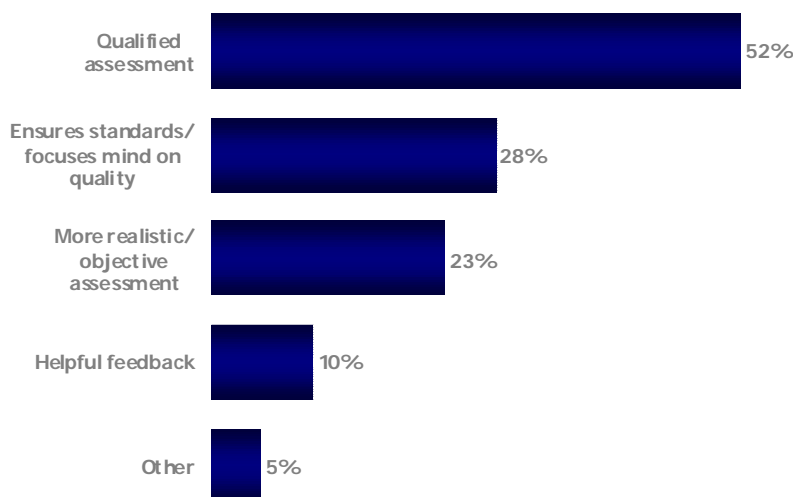


Base: All firms whose criminal legal aid work had been peer reviewed [unweighted 279] *Small Sample Sizes

7.2.1 Reasons why peer review is considered effective

The most commonly cited reason why the criminal legal aid peer review process was considered effective was that it is a 'qualified, practitioner-to-practitioner assessment' [52 per cent]. 'Maintaining standards' and offering 'an objective assessment' were other reasons mentioned by around a quarter of those considering the peer review process to be effective.

Figure 32: Q25a. Why do you consider the peer review process to be effective?



Base: All forms considering the peer review process to be effective [unweighted 95]

Verbatim comments

Because it's other practitioners looking at your work, so they are in the best position to comment on your work. We got helpful feedback last time. (Urban firm, 13 to 40 solicitors)

It involves your work being assessed by fellow practitioners rather than bureaucrats, which is how it used to be. It's better having qualified people assess you. (Urban firm, two to five solicitors)

It ensures complying with LEXEL LSC criteria reporting back to the client. It reviews timescales so that timescales are kept under constant review. I've used their forms for our internal file review procedures to sharpen up our practice. (Location undisclosed, 13 to 40 solicitors)

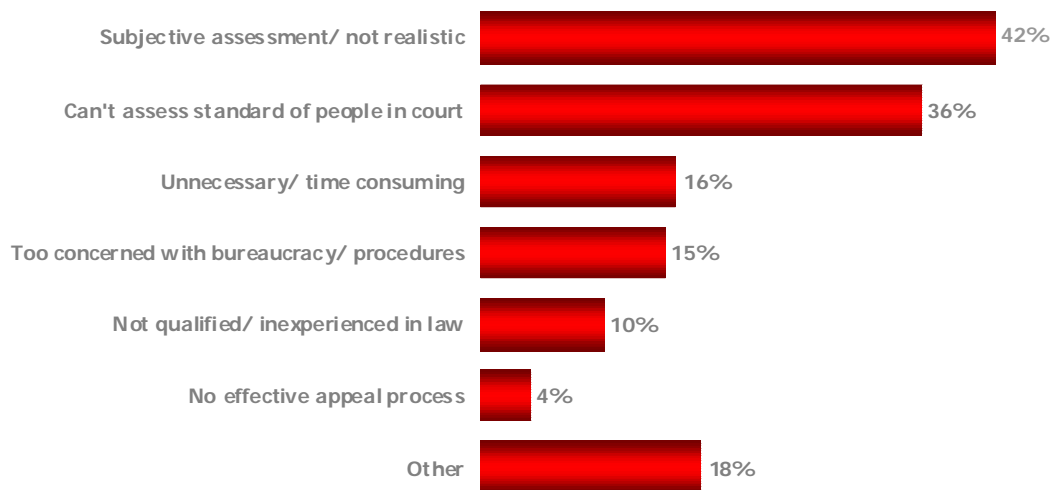
(The Peer Review process) keeps you on your toes, makes you know you've got your files in order, keeps you focussed. (Rural firm, sole practitioner)

It provides best practice and standards which we try to make standard in our office. (Urban firm, two to five solicitors)

7.2.2 Reasons why peer review was considered ineffective

The most commonly cited reason as to why the peer review process was considered ineffective was that it is a 'subjective, unrealistic assessment' [42 per cent]. A third of respondents mentioned that the peer review process does not take into account the situation in court, for example, how decisions have to be made quickly, nor the quality of the legal representatives.

Figure 33: Q25b. Why do you consider the peer review process to be ineffective?



Base: All considering peer review process ineffective [unweighted 104]

Verbatim comments

Subjective assessment on the basis of criteria that bear little relation to the day to day practice of a very busy and under funded legal aid lawyer. If they really want to assess it they should spend two days in the police stations and courts and see how it works. (Urban firm, two to five solicitors)

It concentrates on a tick boxing approach and the one thing it doesn't review, which is the fundamental of any criminal law advocate, is advocacy skills. They never test you in court, your performance in court, how

good you were and that is how we get our clients, by showing them our skills in court. (Rural firm, six to 12 solicitors)

It doesn't represent an accurate view of how businesses are run, as a result peer review gives a false impression of how files are run and realistically, for the money they pay, you cannot run files the way they want it run. (Rural firm, two to five solicitors)

It reviews the process rather than the outcome for the client and rewards fulfilment of the process rather than the overview of the efficiency of delivering and effective outcome for the client. (Urban firm, two to five solicitors)

8.0 OPINIONS ON THE CRIMINAL LEGAL AID PROCESS

8.1 Reasons for criminal legal aid not being requested

Interventions by the police or incorrect information from the police were considered to be key reasons why people did not request criminal legal aid at police stations. A third of respondents also highlighted concerns about the time it can take to receive legal advice as a reason for suspects not requesting legal aid.

Reasons given for criminal legal aid not being requested were not significantly different across the various sub-groups of the solicitor audience interviewed, with the opinion that the police may discourage requests for criminal legal aid being the top issue mentioned across all practice sizes and types.

Figure 34: Q20. What, in your experience, is the most common reason why people do not claim criminal legal aid at police stations?



Base: All respondents [unweighted 369]

Verbatim comments

Instances where the police...say that the duty solicitor will be delayed or is too busy or they will arrange their work in such a way to make the duty solicitor unable to deal with all cases at the same time. (Urban firm, sole practitioner)

Because if they have never been in trouble before, they think they have nothing to worry about. Alternatively, policemen tell defendants that having legal advice will cause delays and so they decide not to, because they want to leave the police station. (Rural firm, six to 12 solicitors)

People don't know the system. They think they've not done anything so they don't need representation and don't understand the law on self-implication. (Location undisclosed, 13 to 40 solicitors)

8.2 The effectiveness of the criminal legal aid allocation process

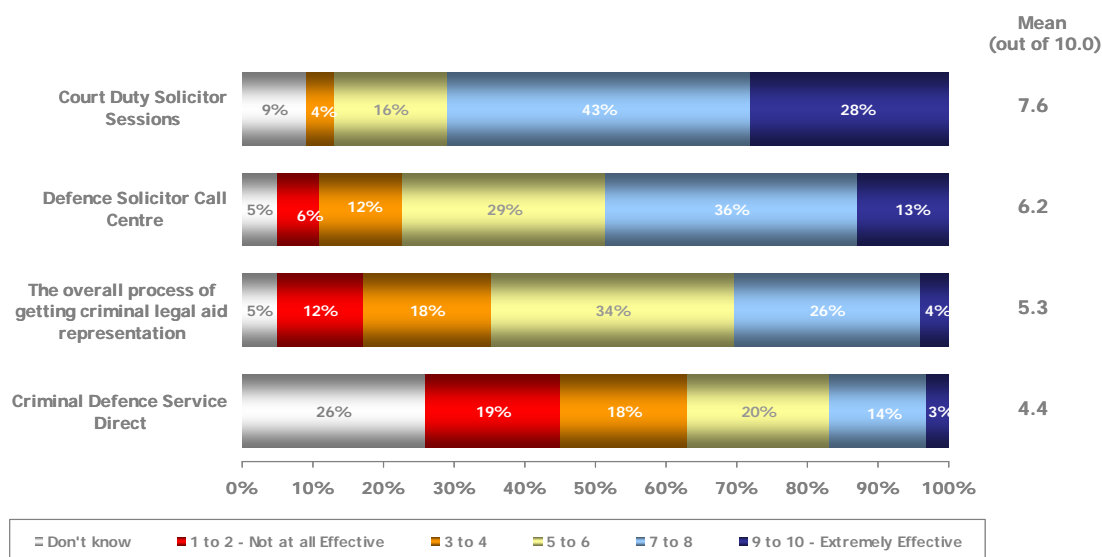
Respondents were asked to rate the effectiveness of four elements of the criminal legal aid allocation process:

- **CDS Direct:** the telephone helpline that provides non-means tested legal advice to members of the public suspected of criminal offences and detained by the police
- **Defence Solicitor Call Centre:** the call centre contacted by custody staff, who then transfer the call to either CDS Direct or deploy a Duty Solicitor, depending on the nature of the case
- **Court Duty Solicitor Sessions:** the system to provide qualified legal advice and assistance 24 hours a day to suspects or defendants at the police station or Magistrates' Court
- The **overall process** for obtaining criminal legal aid representation

Of these four elements, the use of Court Duty Solicitor Sessions was considered to be the most effective process, with 71 per cent labelling it as 'effective' [rating seven to 10 out of 10], resulting in a mean score of 7.6 out of 10.

CDS Direct was deemed the least effective, achieving a mean score of 4.4 out of 10 although a quarter of respondents were unable to comment on this service.

Figure 35: Q21a-d. Thinking now about how your firm is allocated criminal legal aid work, how effective or not do you think the following elements of the process were. If you can provide a rating of 1 to 10, where 10 is extremely effective and 1 is not at all effective.



Base: All respondents [unweighted 369]

There were few significant differences between the sub-groups [see Figure 36], with similar mean-score ratings achieved across the board. Smaller practices were more positive about the Defence Solicitor Call Centre than medium-sized firms: Sole practitioners rated this as 6.8 out of

10, and firms with firms with two to five solicitors rating it 6.4, compared to 5.8 and 5.9 scores given by those with six to 12 and 13 to 40 solicitors, respectively. Similarly, those firms with turnovers below £250,000 were more likely to rate this element higher [6.7 cf. 5.9 from those with £1 million+ turnovers].

Those respondents who were 'very likely' to continue practising criminal legal aid work in the next five years were more likely to rate all elements of the process positively as follows:

- Court Duty Solicitor Sessions 7.8 cf. 7.6 overall
- Defence Solicitor Call Centre 6.7 cf. 6.2 overall
- The overall process 6.1 cf. five.3 overall
- CDS Direct 4.8 cf. 4.4 overall

Figure 36: Q21a-d. Thinking now about how your firm is allocated criminal legal aid work, how effective or not do you think the following elements of the process were. If you can provide a rating of 1 to 10, where 10 is extremely effective and 1 is not at all effective.

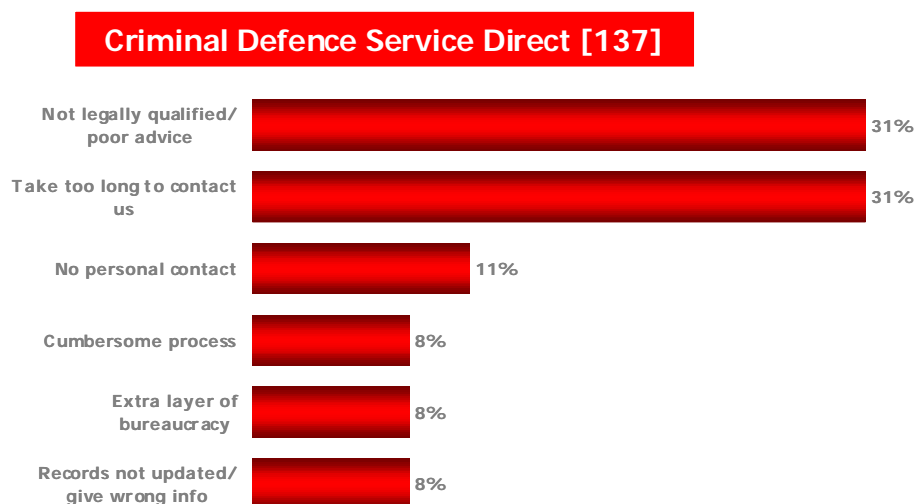
| Audience Mean Score out of 10.0 | Court Duty Solicitor Sessions | Defence Solicitor Call Centre | Overall process of getting CLA | Criminal Defence Service Direct |
|------------------------------------|----------------------------------|----------------------------------|-----------------------------------|------------------------------------|
| Total [369] | 7.6 | 6.2 | 5.3 | 4.4 |
| Practice Size [Sols]: | | | | |
| 1 [36]* | 7.8 | 6.8 | 5.5 | 5.0 |
| 2-5 [167] | 7.7 | 6.4 | 5.2 | 4.3 |
| 6-12 [94] | 7.4 | 5.8 | 5.3 | 4.4 |
| 13-40 [64] | 7.3 | 5.9 | 5.2 | 4.2 |
| 41+ [7]* | 8.0 | 6.3 | 5.1 | 5.2 |
| Revenue: | | | | |
| <£249K [79] | 7.9 | 6.7 | 5.2 | 4.4 |
| £250 - £499K [70] | 7.7 | 6.1 | 5.0 | 4.5 |
| £500 - £999K [77] | 7.4 | 6.3 | 5.4 | 4.6 |
| £1m+ [95] | 7.5 | 5.9 | 5.7 | 4.4 |
| LSC designated area: | | | | |
| Rural [134] | 7.7 | 6.4 | 5.6 | 4.3 |
| Urban [219] | 7.5 | 6.2 | 5.1 | 4.5 |

*Base: All respondents [unweighted 369] * Caution Small Sample Sizes*

8.2.1 Reasons why CDS Direct is considered ineffective

Just under a third of those firms which considered the CDS Direct to be ineffective, did so because they believed it was not legally qualified to offer advice or the advice offered was poor and/or ‘takes too long’ to contact the criminal legal aid firms.

Figure 37: Q21. What do you consider ineffective about CDS Direct?



Base: All respondents considering service element ineffective [unweighted 137]

Verbatim comments

A colleague who was a duty solicitor said a client he was representing had been told by CDS on a drink-drive case that he did not have to provide a specimen of breath and was charged with failing to provide one. CDS Direct is a cost-cutting measure that's not succeeded. It was said it would alleviate being woken in the middle of the night, but it doesn't. (Rural firm, two to five solicitors)

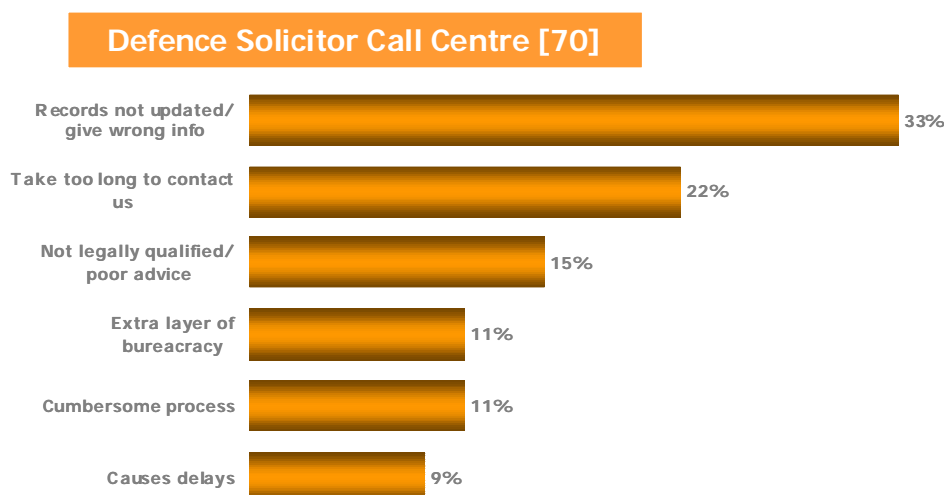
Two cases where clients have had severe mental health problems had been described by the CDS as having no welfare issues. (Rural firm, two to five solicitors)

The advice provided is not given by people who are qualified to give legal advice – it's a poor substitute for solicitors...there is no quality assessment process to assess the quality of advice given by CDS staff against the advice of the legal aid staff (Urban firm, 6 to 12 solicitors)

8.2.2 Reasons why Defence Solicitor Call Centre is considered ineffective

A third of those firms who considered the Defence Solicitor Call Centre to be ineffective did so because they believed it 'doesn't maintain up to date records' and, as a result, provided inaccurate information. Over a fifth [22 per cent] believed that it 'takes too long' to contact criminal legal aid firms for work allocation.

Figure 38: Q21. What do you consider ineffective about Defence Solicitor Call Centre?



Base: All respondents considering service element ineffective [unweighted 70]

Verbatim comments

They make mistakes in not giving sufficient information on the form. They also don't wait sufficient time, if they leave messages for us to call them, to reallocate cases, they reallocate cases much too quickly. They make unnecessary phone calls in the middle of the night, only to say clients are in court in the morning. Generally the system is unfair, because we don't have direct access to our clients. (Urban Firm, two to five solicitors)

They frequently contact us far too late and we are not able to assist people who need to be assisted... They are required to fax a letter through and often I do not get the fax and we do not know people are in court and miss the court date. (Rural firms, 6 to 12 solicitors)

They don't communicate with each other. Take too long to contact us. Call the wrong numbers, like out-of-hours numbers... Not legally qualified. Don't know the system. (Urban firm, 6 to 12 solicitors)

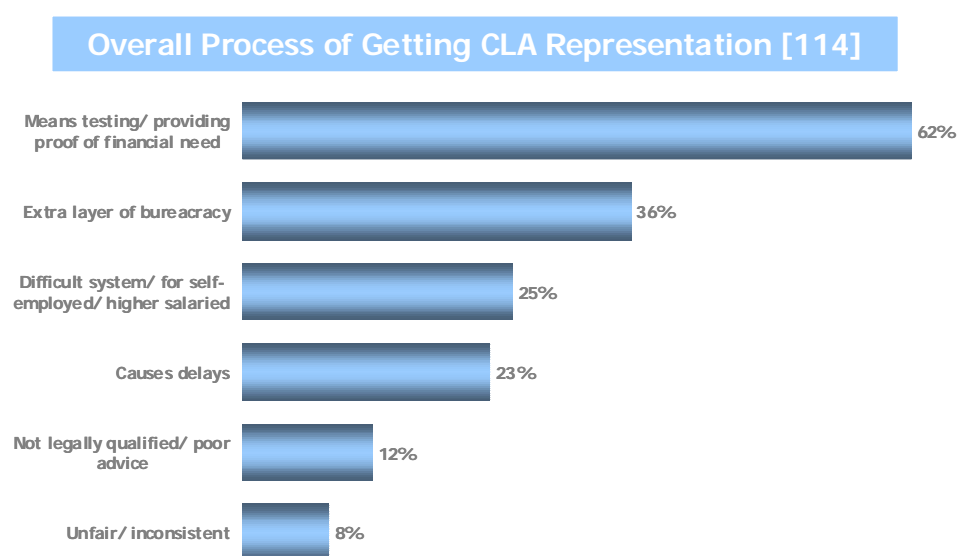
They seem not to grasp the out-of-hours number. They ring on an incorrect number. Despite constant reminders and updates they ask for people who don't work for me and ring on the same number and use names that are not used. (Location undisclosed, 13 to 40 solicitors)

We might hear about a case only on the Monday following a weekend which is too late to react, they won't tell you what the case was really about or give us latest contact information. (Urban firm, two to five solicitors)

8.2.3 Reasons why the overall process is considered ineffective

Over three-fifths [62 per cent] of those firms which considered the overall process of getting criminal legal aid representation ineffective cited ‘means-testing’ as an issue, with defendants having to prove their financial need, as a key issue. Over a third [36 per cent] highlighted that means testing creates an ‘extra layer of bureaucracy’, while a quarter highlighted that means testing posed particular difficulties for those defendants who are self-employed or are higher salaried individuals.

Figure 39. Q21. What do you consider ineffective about the overall process of getting criminal legal aid representation?



Base: all respondents considering service element ineffective [unweighted 114]

Verbatim comments

Means testing, it should be free at the point of demand. Everybody should be entitled to free legal aid in criminal court proceedings, subject to the Interest of Justice test. The courts should have the power to order the contribution. (Urban firm, two to five solicitors)

What is very difficult is that since they have introduced means testing, you have to submit a form to the court and if the person is on benefits and the information on the computer is correct, it's okay and only additional proof might be required. If the person is working and earning a low income, then the criteria the LSC has in place is so low that some people are refused criminal legal aid and that makes things very difficult. (Rural firm, 13 to 40 solicitors)

We have a great difficulty getting criminal legal aid because of...the tax office and the documents they want. We had a client in jail who was refused criminal legal aid because he could not prove his financial status, they wanted bank statements that he could not get because he was in jail, his business had closed down and he could not pay and it was [difficult] to prove that he was entitled to criminal legal aid. (Rural firm, six to 12 solicitors)

Form-filling, impossibility of the self-employed getting legal aid and unrealistic expectation for supporting documentation. (Rural firm, two to five solicitors)

8.2.4 Reasons why Court Duty Solicitor Sessions is considered ineffective

Only 19 respondents considered 'Court Duty Solicitor Sessions' to be ineffective. The most common reason given was that respondents considered that this service was under-used, with few cases being allocated to them through this channel [36 per cent], and general issues relating to the work allocation rota [30 per cent].

Verbatim comments

I practice in a very rural locality and my firm is the only firm in the town that has a franchise for criminal legal aid work, the court duty solicitor scheme has been opened up to firms who practice within a 15 mile radius...The net result is that the number of duty solicitor slots allocated to me are very few and a considerable saving to the scheme would be achieved if more slots were allocated to local firms. (Rural firm, 6-12 solicitors)

Bigger firms get a disproportionate cut of the work. The rota allocation. (Urban firm, 6-12 solicitors)

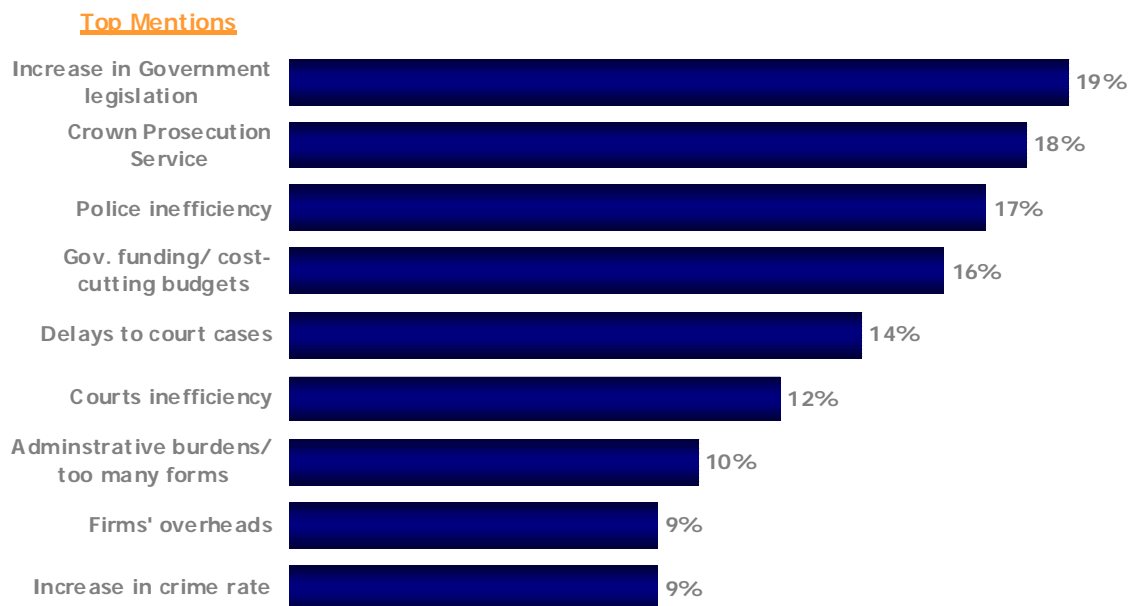
8.3 Cost drivers in the criminal justice system

Increasing Government legislation was the most commonly mentioned driver of costs within the criminal justice system, with just under a fifth of firms [19 per cent] highlighting this as an issue. This was followed closely by many other diverse reasons, including; costs incurred as a result of the Crown Prosecution Service [18 per cent], police inefficiency [17 per cent], and delays/inefficiencies on court cases [14 per cent and 12 per cent]. A decline in Government funding was also cited as an issue by 16 per cent.

These cost drivers were raised by all types of firms but there were some significant differences:

- Sole practitioners were less likely than other firms to cite 'the CPS' as a cost driver [six per cent cf. 18 per cent overall], while they were more likely to highlight the 'fees of experts/barristers' as an issue [17 per cent cf. five per cent overall]
- Urban practices were twice as likely as rural firms to highlight 'delays in court cases' as a cost driver [18 per cent cf. nine per cent respectively]
- Those involved in VHCCs were more likely to identify 'waste and inefficiency throughout the system' as an issue compared to other firms [11 per cent cf. four per cent overall]
- Firms employing solicitor advocates were more likely to highlight 'police inefficiency' as a cost driver than those without [22 per cent cf. 13 per cent respectively]

Figure 40: Q34. What do you consider to be the main drivers of cost in the criminal justice system today?



Base: All respondents [unweighted 369]

Verbatim comments

The amount of work you have to do in a very short time, the amount of man-power required, staff costs. Too much legislation in criminal matters, too many changes in legislation and too many offences being created. (Urban firm, two to five solicitors)

Increasing the complex legislation, increased bureaucracy and the complex and constantly changing legislation. (Urban firm, 13 to 40 solicitors)

Government passing thousands of new laws relating to crime...poor liaison between the police and the CPS. (Urban firm, two to five solicitors)

9.0 RELATIONSHIP WITH THE LEGAL SERVICES COMMISSION

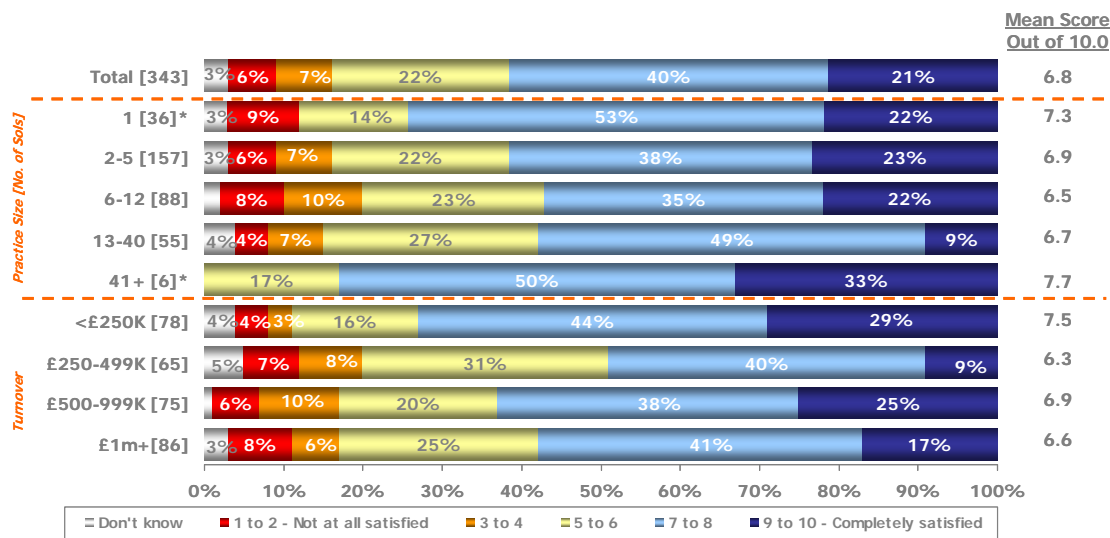
9.1 LSC Account/Relationship Managers

98 per cent of firms surveyed stated they had an allocated Account/Relationship Manager at the LSC, and over two-fifths [42 per cent] had some form of contact with them at least once a month (this might be by telephone, e-mail, letter or through a personal visit). A further third [32 per cent] were in contact quarterly, 14 per cent six-monthly and eight per cent once a year or less. Only two per cent criminal legal claimed to have ‘never’ had any contact with their LSC Account/Relationship Manager.

Those that were ‘unlikely’ to continue conducting criminal legal aid work in the next five years contained a higher proportion of firms only being contacted once a year or less by their LSC Account/Relationship Manager [24 per cent cf. eight per cent overall]. While it might be that these firms warrant less attention by the LSC it could also be that increased contact might encourage them to continue with criminal legal aid work in the future.

In general, criminal legal aid firms were ‘satisfied’ with the service received from their LSC Account/Relationship Manager [Figure 41], with over three-fifths [61 per cent] rating them between seven and 10 out of 10. Those ‘very likely’ to continue with criminal legal aid work in the next five years were generally more satisfied with their LSC Account/Relationship Manager [a 7.3 mean score cf. 6.4 from those ‘very unlikely’ to continue with criminal legal aid work].

Figure 41: Q30. On a scale of 1 to 10, how satisfied or dissatisfied were you with the service from your LSC Account/Relationship Manager(s)?



Base: All respondents in contact with their LSC Account/Relationship Manager [unweighted 343] *Small Sample Sizes

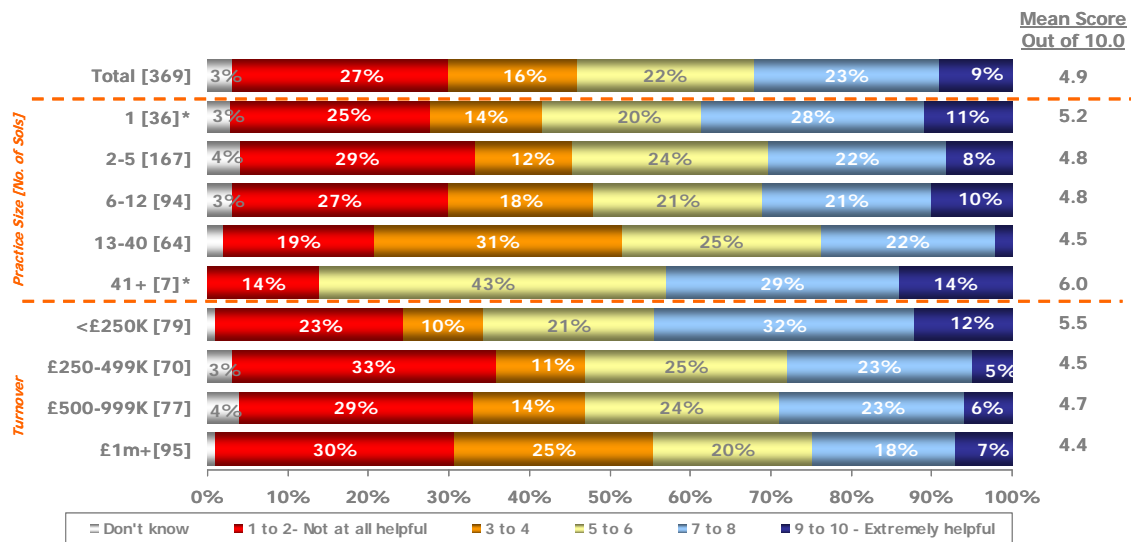
9.2 Support provided by the LSC

Two-fifths of respondents considered the LSC to be ‘unhelpful’ in supporting them in delivering criminal legal aid [42 per cent providing a rating of one to four out of 10], compared to a third that believed them to be ‘helpful’ [32 per cent rating them seven to 10 out of 10].

Urban firms were more likely to consider the LSC ‘unhelpful’ than rural firms [47 per cent cf. 35 per cent respectively], as were those in the highest turnover band [55 per cent of firms with a £1 million+ turnover cf. 33 per cent of firms with under £250,000 turnover], those working on VHCCs [52 per cent cf. 42 per cent overall] and those employing solicitor-advocates [52 per cent cf. 34 per cent among firms not employing solicitor advocates].

As with the service provided by the LSC Account/Relationship Manager, those ‘very likely’ to continue conducting criminal legal aid work in the next five years, were more likely to consider that the LSC had been helpful in supporting them [51 per cent cf. 13 per cent among those firms that were ‘very unlikely’ to continue with criminal legal aid].

Figure 42. Q31. Overall, on a scale of 1 to 10, how helpful have you found the Legal Services Commission in supporting your firm to deliver criminal legal aid?



Base: All respondents [unweighted 369] *Small Sample Sizes

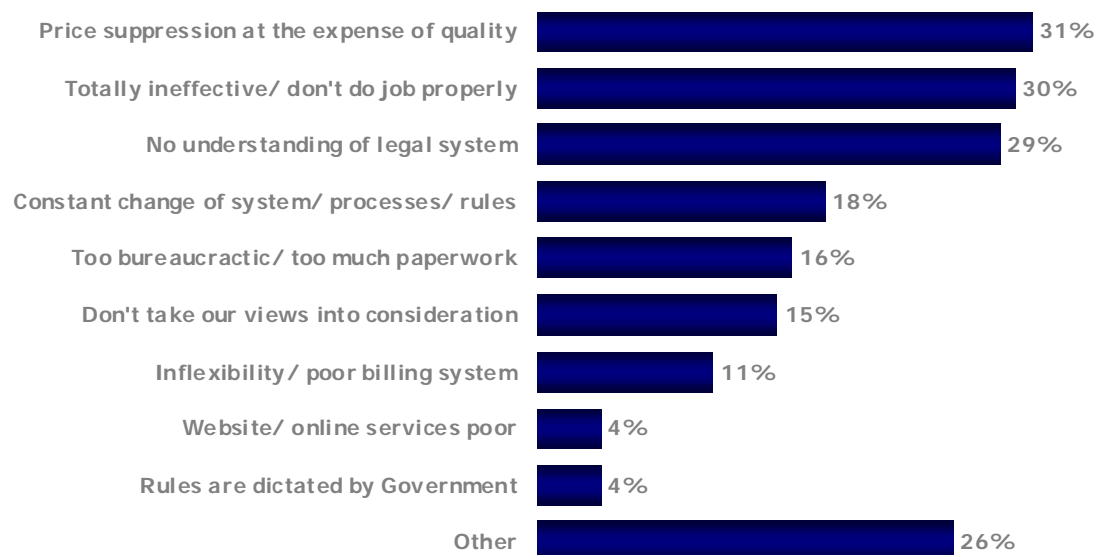
9.2.1 Reasons why the LSC was considered ‘unhelpful’

Pricing was the issue most commonly mentioned as the reason why the Legal Services Commission was perceived to be ‘unhelpful’ [31 per cent]. A general ineffectiveness and a lack of understanding of the legal system also received a high number of mentions [30 per cent and 29 per cent respectively].

There were limited differences in the reasons given by the different solicitor audiences, although firms with a £1 million+ turnover were more likely to cite issues with the ‘constant change of the

system, processes & rules’ [31 per cent cf. 18 per cent overall], and firms turning over £0.5 million to £1 million were more likely to highlight ‘price suppression at the expense of quality’ as an issue [60 per cent cf. 31 per cent overall].

Figure 43: Q31a. Why do you consider that support from LSC has been unhelpful?



Base: All considering that support from LSC has been unhelpful [unweighted 158]

Verbatim comments

Because I think it is overly bureaucratic, no interest in supporting the profession, no understanding of how the criminal justice system works and they are entirely cost driven. The money spent on the Legal Services Commission would be better put into the legal aid budget to help provide people with better justice. (Rural firm, two to five solicitors)

I don't feel the LSC is really there to help us. Its sole purpose seems to be to cut costs and seek any means possible to not pay us for work we have carried out. (Urban firm, 6 to 12 solicitors)

The LSC has an agenda to remove small firms and sole practitioners from its supplier base because it suits the LSC to deal with fewer but larger organisations. The LSC fails to recognise the breadth and extent of experience found among small firms and sole practitioners who provide valuable service in representing vulnerable persons through all stages of the criminal process. Although the LSC claims to be committed to ensuring quality services, its real objective is further cost-cutting which can only have an adverse effect upon the quality of representation at all levels as seen from my own experiences and observations as a solicitor, a higher courts solicitor-advocate and a deputy district judge in magistrates courts. (Sole Practitioner, Location undisclosed)

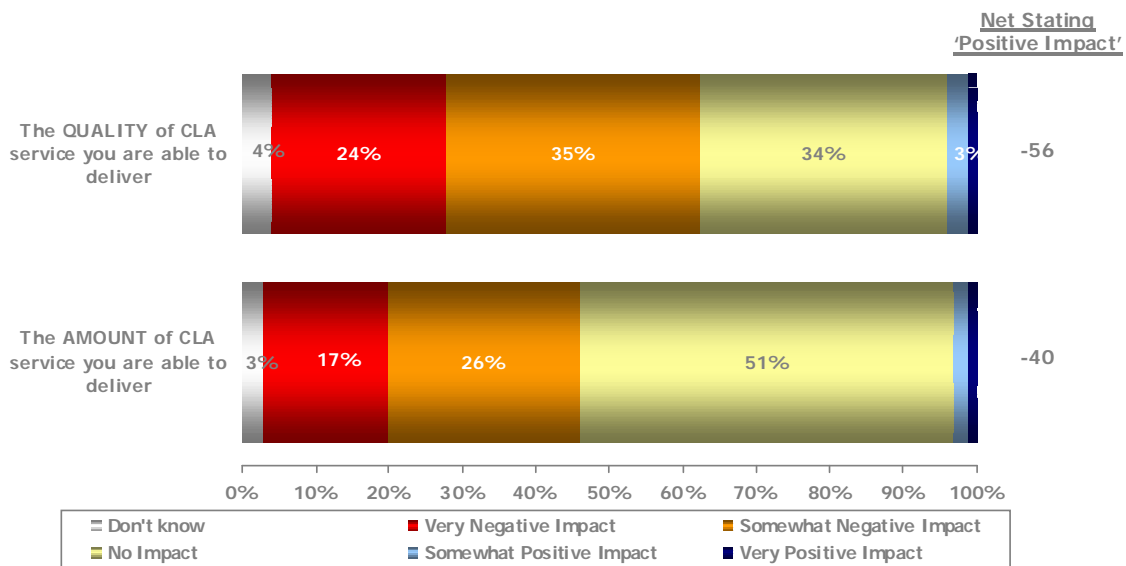
9.3 LSC fee structures

Respondents were asked to consider the impact of fee changes made by the LSC on both the quality and the amount of criminal legal aid service that their firm delivered. These changes included the introduction of fixed fees for criminal legal support at the police station, revised standard fees for Magistrates’ Court legal aid work and graduated fees for litigators and advocates.

While a third of respondents [34 per cent] considered that there had been no impact on the quality of legal aid delivered, three-fifths [59 per cent] considered that the changes had a negative impact on the quality of criminal legal aid that they provided. A quarter [24 per cent] believed that there had been a very negative impact’.

Over half of firms [51 per cent] considered that there had been no change to the amount of legal aid they were able to deliver following the fee structure changes. However, over two-fifths [43 per cent] believed that the changes have been detrimental to the amount of legal aid work delivered

Figure 44: Q32. The LSC has introduced fixed fees for criminal legal support at the police station, revised standard fees for magistrates’ court legal aid work and graduated fees for litigators and advocates. What impact if any have these changes had on....?



Base: All respondents [unweighted 369]

Reviewing the net percentages stating a positive impact [calculated by subtracting those citing a ‘negative impact’ from those citing a ‘positive impact’] by practice size [Figure 45] shows that the perceived negative impact of the changes to fee structures had been felt by all types of firms.

The largest firms had felt no real impact on the amount of criminal legal aid work they were able to undertake, probably because their larger, more flexible workforce had allowed them to increase/decrease resources as required. Firms working on VHCCs were more likely to consider that the fee structure changes had impacted negatively on the quality of criminal legal aid work that they were able to deliver [net -67 cf. -56 overall].

Figure 45: Q32. The LSC has introduced fixed fees for criminal legal support at the police station, revised standard fees for magistrates’ court legal aid work and graduated fees for litigators and advocates. What impact if any have these changes had on...?

| Net % Stating Positive Impact | TOTAL [369] | Practice Size [No. of Sols] | | | | | Revenue | | | |
|-------------------------------|----------------|-----------------------------|--------------|--------------|---------------|-------------|----------------|-------------------|-------------------|--------------|
| | | 1 [36]* | 2-5 [167] | 6-12 [94] | 13-40 [64] | 41+ [7]* | <£250K [79] | £250-499K [70] | £500-999K [77] | £1m+ [95] |
| QUALITY of CLA delivered | -56 | -64 | -51 | -54 | -68 | -57 | -59 | -52 | -52 | -61 |
| AMOUNT of CLA delivered | -40 | -41 | -39 | -39 | -44 | 0 | -44 | -41 | -33 | -40 |

Base: All respondents [unweighted 369]*Small Sample Sizes

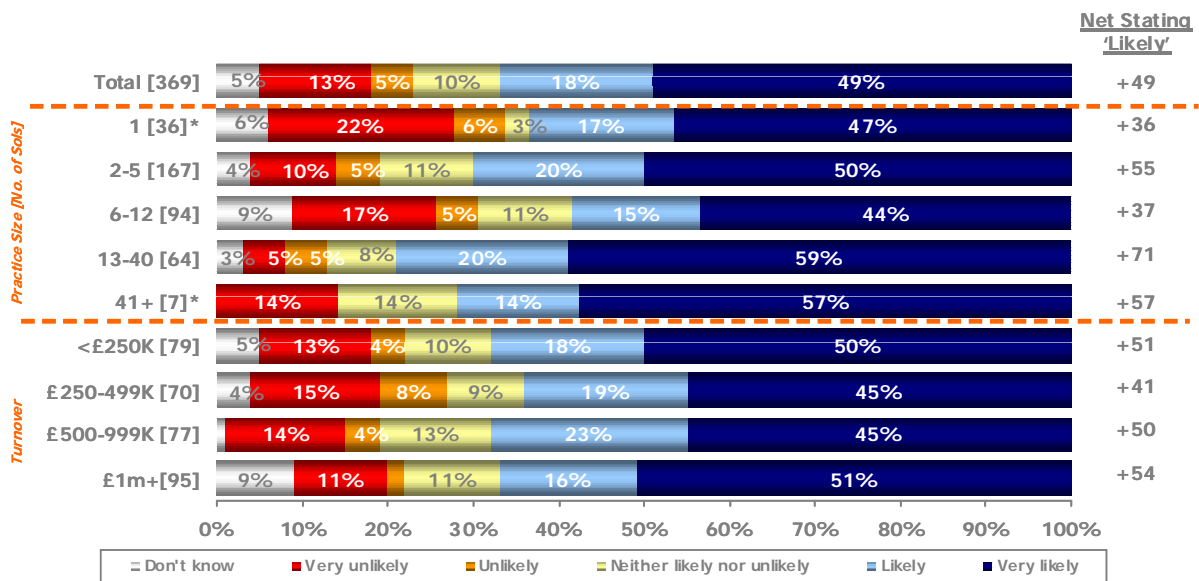
9.3.1 Best Value Tendering

Were the LSC to introduce ‘best value tendering’, whereby defence solicitors would be asked to tender competitively for legal aid work in police stations and Magistrates’ Courts, two-thirds of the firms interviewed [67 per cent] stated they would tender for work. Just under a fifth [18 per cent] considered it ‘unlikely’ that they would apply for criminal legal aid work under a competitive tendering system, and a further 15 per cent were undecided [stating either ‘don’t know’ or ‘neither/nor’].

Sole Practitioners were more inclined not to tender competitively for criminal legal aid work, with a quarter [28 per cent] believing it ‘unlikely’ that they would apply for work under this system [22 per cent stated that they were ‘very unlikely’ to do so].

Firms who had experienced a decline in the proportion of their revenue derived from criminal legal aid work in the last two years were less likely to tender competitively [22 per cent being ‘unlikely’ to do so].

Figure 46. Q33. In the future, if you were asked to provide a competitive tender for the criminal legal aid work your firm does, how likely would you be to tender for this work?



Base: All respondents [unweighted 369] *Small Sample Sizes

9.4 Other issues and comments

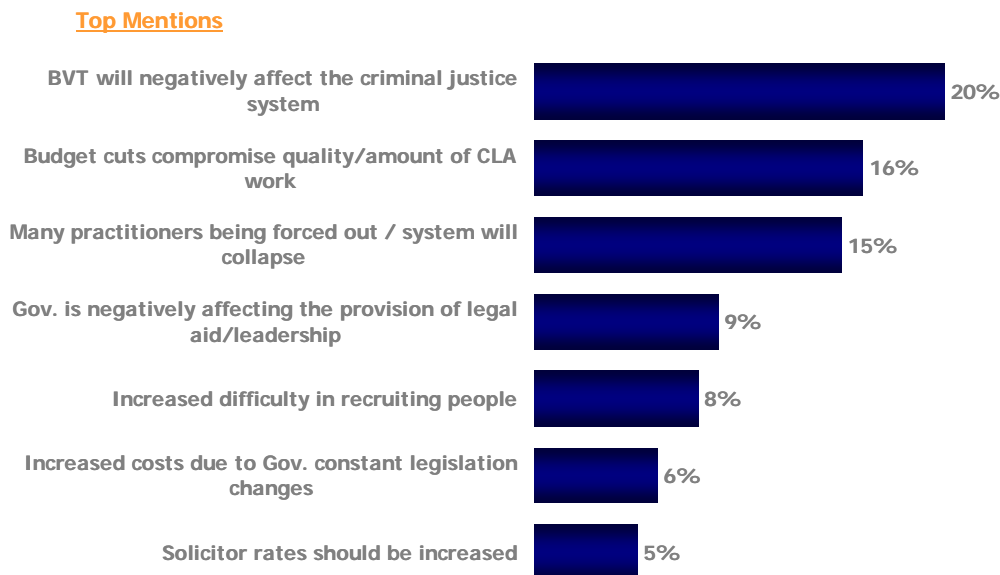
At the end of the interview, respondents were asked whether they had any other comments that they wished to make on the LSC or criminal legal aid in general.

Concerns about the introduction of Best Value Tendering were the most frequently mentioned issue being highlighted by a fifth of respondents. Budget costs and the associated impact on the quality of criminal legal aid work delivered, and concerns about the general health of the criminal legal aid system also received notable mentions [16 per cent and 15 per cent respectively].

Medium-sized firms with 13 to 40 solicitors, those with £1 million+ turnovers and those employing solicitor advocates were more likely to voice concerns about Best Value Tendering than others [34 per cent, 28 per cent and 27 per cent respectively, cf. 20 per cent overall]. Those employing solicitor advocates were also more likely to comment on how ‘budget cuts compromise the quality of criminal legal aid work’ [21 per cent cf. 13 per cent among firms without solicitor advocates].

Urban firms were more likely to raise the issue of Government policy having the impact of reducing the provision of legal aid’ [12 per cent cf. four per cent among rural firms], as were those working on VHCCs [15 per cent cf. nine per cent overall].

Figure 47. Q39. Were there any other comments that you would like to make relating to either the LSC or criminal legal aid work?



Base: All respondents [unweighted 369]

Verbatim comments

Best Value Tendering is likely to see the collapse of firms in rural areas to create a representation desert. However, if invited to tender at the same level or an increased level of fees this would ensure no deserts. (Rural firm, two to five solicitors)

I don't know why they don't leave the system alone, it's not the best, but we make it work. The only reason for Best Value Tendering is to cut down the amount they pay to solicitors for the work that they do. It has nothing to do with quality. I went to one of the LSC's events the other day and I can tell you it's only to cut down cost and has nothing to do with quality no matter what they say. They were cutting down the payment they make to solicitors and that will reduce the quality of work we are able to do. (Urban, Sole Practitioner)

When Best Value Tendering comes in it just will not work. If I have to deliver a thousand dustbins I can work out exactly what it will cost, but if I tender for a case it could be a shoplifter or a murder case. If it was the latter, the level of service would be just above negligent. Whoever proposed it has never stepped in court or worked for a defence firm. Thousands of firms will go out of business in the next five years and there will be no law firms left to do defence work, there is no future in it. (Urban firm, six to 12 solicitors)