



progressive

Scottish Legal Aid Board
Civil Solicitors Survey 2019
Report
March 2020





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1. Introduction

1.1. Background

About the Scottish Legal Aid Board

Legal aid is financial help with legal costs, for those who meet specified criteria. The Scottish Legal Aid Board (SLAB) is a non-Departmental Public Body with responsibility for managing legal aid in a cost effective manner. It was set up in 1987 to manage legal aid in Scotland.

SLAB has four strategic objectives:

- To deliver improvements to legal aid processes that increase efficiency and improve the experience of system users and customers.
- To advise Scottish Ministers on the strategic development of legal assistance and its contribution to a Scotland in which rights are supported and disputes are resolved fairly and swiftly.
- To ensure that our organisation has the culture and capability to be responsive to our customers, the justice system and developments in legal and advice services.
- To build and maintain effective and collaborative relationships with the legal and advice sector and our public sector partners as we seek to achieve our Purpose and contribute to wider Scottish Government aims¹.

SLAB manages legal aid in Scotland within the scope of Scottish governing legislation, as the Scottish Government decides legal aid policy and the Scottish Parliament makes and changes legislation.

This research concerns ‘civil law’, including things such as divorce and other matters affecting family and children, or actions for compensation after an accident or medical negligence. Support from legal aid is in the form of ‘advice and assistance’ (advice or simple actions such as writing letters) and ‘civil legal aid’ (activities involved in taking a case to court). In 2018/19 SLAB made 13,561 grants of civil legal aid, and funded 61,112 acts of advice and assistance. Financial eligibility for civil legal aid is drawn relatively broadly. There is no gross income cap; the income test is based on disposable income.

Civil legal aid is available, to those assessed as eligible, mainly through solicitors in private practice. SLAB also manages a small network of publicly funded Civil Legal Assistance Offices employing solicitors. Some people will be eligible on payment of a contribution.

¹ Corporate Plan 2017 – 2020.

The need for research

In order to better meet the needs of the variety of people involved with SLAB and legal aid, continued research into the experiences of various stakeholders is crucial. SLAB therefore commissioned Progressive Partnership to undertake a telephone survey to collect the views of legal aid solicitors providing private practice civil law services in Scotland. Specifically, these are solicitors who have applied for civil legal aid, or intimated a grant of civil advice & assistance or assistance by way of representation (ABWOR) during a recent 12 month period (1st September 2018 – 31st August 2019). The last survey, carried out by Progressive, took place in 2013 and also focused on solicitors' experiences of providing work under civil legal assistance (there was also a survey of civil legal aid applicants). A previous survey was also carried out in 2010. Where possible, comparison of results between surveys has been included in this report.

1.2. Research objectives

The overall aims of the project were to explore private practice solicitors' views, expectations and experiences of undertaking legally aided work. Specific objectives were to:

- Identify the types of civil legal assistance cases that firms are undertaking, and whether they are mostly legally aided or privately funded
- Identify changes in the number of civil legal assistance cases, including legally aided cases, that firms are taking on
- Explore views on SLAB's level of service provision
- Explore views of supply and demand locally for civil legal assistance services, including legally aided
- Identify past and current employment of trainees and attitudes and barriers to employing trainees in the future
- Explore use of different communications methods
- Identify challenges and barriers to delivery of legally aided work
- Map use of courts and tribunals including the number of each served, distance and travel, and any barriers or challenges
- Compare differences between rural and urban experiences
- Where possible, compare results with similar surveys carried out in 2013 and 2010.

2. Method

2.1. Overview

Progressive conducted a telephone survey using CATI technology, with 300 legal aid solicitors providing civil law services. This included 11 pilot interviews to test the questionnaire, with a small number of necessary amends being made before continuing with the main fieldwork.

The survey sample was provided by SLAB. Prior to the fieldwork, SLAB communicated with solicitors to inform them of the survey and thus encourage responses. This helped Progressive interviewers to engage with the target audience and encouraged a good response rate, enabling us to meet the target number of completed interviews.

The survey instrument was initially drafted by SLAB, with comments and suggestions fed in by Progressive. Further minor changes required to the questionnaire were identified via the pilot.

2.2. Sampling and weighting

SLAB provided an Excel database of all solicitors who had applied for civil legal aid or intimated a grant of civil advice & assistance or ABWOR during the 12 month period 01/09/18 to 31/18/19. The database consisted of 1,372 records in total.

No quotas were set during fieldwork. Instead, interviewers aimed to achieve as many interviews as possible within the allotted interviewing shifts, aiming for an overall target of 290-320 completed interviews. Interviewers were advised however to target partners in particular, who made up around 25% of the database, in order to ensure a large enough subgroup for statistically robust comparisons. Partners were therefore prioritised during the early stages of fieldwork.

No weighting was applied to the final dataset.

2.3. Response rates

In total, 300 interviews were completed (111 with partners, 186 qualified solicitors and three trainee solicitors) across 226 firms. This includes the 11 pilot interviews conducted before the main fieldwork. Interviewers attempted to contact everyone on the database, which means the response rate was approximately 22%. Interviewers made 6,070 calls overall.

Confidence levels

An overall sample size of 300 will provide a dataset with a margin of error of between $\pm 1\%$ and $\pm 5\%$, calculated at the 95% confidence level (market research industry standard). Each sub sample of 100 will provide a dataset with a margin of error of between $\pm 1.95\%$ and $\pm 9.8\%$.

2.4. Data processing and analysis

Along with verbatim comments from the open-ended questions, topline findings were the initial output from the analysis. These were used by SLAB to identify areas of interest for the written report where comparisons with previous years suggest further consideration might be useful, and to inform discussion on key lines of analysis.

The files of verbatim responses from open-ended questions were checked and anonymised if they contained identifying information. Verbatim responses were also coded, meaning that they have been analysed and answers grouped by theme for each question, showing frequencies and percentages for each thematic code. These are presented in charts in this report, along with the results from closed questions.

Cross-tabulations exploring responses to single survey questions by another question are also used in this report. Cross-tabulations between single survey questions and whether practitioners / firms also provide criminal and/or children's legal aid², in addition to civil were also undertaken. This data was provided by SLAB as part of the sample to Progressive. This forms the basis of the analysis presented in this report. Please note that only those differences flagged as statistically significant are reported.

Subgroup analysis

We compared a variety of subgroups in the analysis. Where these yielded significant differences, they are highlighted in the report.

Comparing urban and rural areas

A key requirement of the analysis was to compare rural and non-rural results. We derived this cross-tabulation from QD11 (Which of the following locations does your branch provide a service in?). This yielded three cross-breaks:

- service provided in cities or large towns only (referred to as 'urban' in the report);
- service provided in small towns and/or rural areas (including remote rural areas and islands) only (referred to as 'rural'); and

² This shows registration only, it does not mean that solicitors or firms did provide other types of legal aid in the time period.

- service provided in both cities or large towns and rural areas (referred to as 'both').

Sheriffdom

Differences in views between Sheriffdom are highlighted in the report. This cross-tabulation was derived from QD9 (Which Sheriffdom do you mostly work in?). Please note that the base size for Grampian, Highlands and Islands was small (25 respondents) so comparisons involving this Sheriffdom should be treated with caution.

Type of work by firm

Information about what other types of work civil solicitors and their firms were registered to provide was appended to SLAB's data base and were used for high level cross-tabulations. The categories were as follows:

- Undertook civil only
- Undertook civil and registered for children's
- Undertook civil and registered for criminal
- Undertook civil and registered for children's and criminal

Experience

QA1b asked all respondents except trainee solicitors how many years of post-qualification experience they had. Cross-tabulations were derived from the question as follows:

- 1 year
- 2-5 years
- 6 or more years.

Where comparable data is available comparisons are also made with the two most recent exploratory SLAB solicitor surveys. These were undertaken in 2010 and 2013.

3. Executive summary

Sample profile

Non partner solicitors comprised the majority of the sample (62%), followed by partners/owners/managing directors (37%). Over two thirds of solicitors had 6 or more years of post-qualification experience. A further quarter had 2 to 5 years.

The largest single proportion (42%) of partners said that their firm employed 2 to 4 solicitors, comparable with findings from previous surveys (44% in 2013 and 48% in 2010). Nearly 1 in 5 (18%) say they are a sole practitioner. Three quarters (75%) of partners said they have been undertaking civil legal assistance work for over 10 years, with a further 17% saying they have been undertaking it for over 3 years, up to 10 years.

Where firms operate

Approaching half of respondents (45%) said their firm provided a service only locally. Nearly a quarter (24%) provided a national (i.e. all Scotland) service, and 31% a regional service. National firms tended to be concentrated in Glasgow and Strathkelvin, and Lothian and Borders.

The largest single proportion of respondents said they worked mostly in the Glasgow and Strathkelvin Sheriffdom (30%). Around one in six reported that they worked mostly in the Tayside, Central and Fife, Lothian and Borders, and the South Strathclyde, Dumfries and Galloway sheriffdoms.

The vast majority of respondents said their branch provided a service in cities or large towns (82%). Over two thirds (68%) provided a service in small towns, while 48% served rural areas, remote rural areas or islands.

Types of work undertaken

Funding

Over one third (36%) said that over half of their civil work is funded by SLAB, with 62% saying that up to 50% of civil work is SLAB-funded. Branches serving urban areas only tended have a greater proportion of their civil work funded by SLAB.

Types of case undertaken

Over four in five respondents reported they were undertaking general divorce and divorce with elements relating to children (82% and 83% respectively). Cases involving adults with incapacity and contact and residence were also undertaken by their firm according to more than three quarters of partners. Types of cases undertaken by less than one quarter of firms were: discrimination and human rights (23%); benefits and tax credits (22%); education (18%); and immigration and nationality (9%).

Case types that firms were most likely to provide under legal aid only, rather than private funding were benefits and tax credits (67%) and mental health welfare (48%), but the numbers undertaking these cases at all were small. The most commonly undertaken cases (e.g. relating to divorce) were also often the least likely to be undertaken on a legally aided basis only.

Looking at changes over the last two years in the types of civil case undertaken, the numbers who had started to provide different types of service were fairly small.

The vast majority of partners who did not provide each service said they had not stopped providing it in the last two years. Those types most likely to have been stopped included debt or money excl. tax, divorce with a financial element, housing and homelessness, and benefits and tax credits, which were also amongst those types of cases least likely to be provided by respondents. The main reason given for deciding to stop working in a certain area(s) was that it was not cost effective and/or attracted low rates of pay, mentioned by two thirds.

Changes in number of legally aided civil cases undertaken

Solicitors are now more likely to say the number of legally aided civil cases their firm has undertaken has declined over the last two years (39% in 2019 vs. 20% in 2013 and 15% in 2010). These changes reflect SLAB's data showing a 10% fall in civil legal assistance applications or intimations between 2014/15 and 2018/19³. Despite this, the majority of respondents (58%) still considered that the number of legally aided cases their firms have undertaken has stayed the same or increased. Respondents to the survey report that the trend is not mirrored in privately funded cases, which are generally either stable or increasing in number, with only 1% of respondents reporting a decrease.

Trainee solicitors

Approaching half (42%) employ a trainee, and 62% of those who do said the trainee works on legal aid cases.

Two thirds of those who did not currently employ a trainee had done so in the past, but most often not within the last three years. The majority of those who did not currently have a trainee said it was unlikely they would take one on in the next 12 months (52% very unlikely, 25% quite unlikely). Reasons cited most often were the lack of need and the cost. Almost a quarter of firms without a trainee (24%) said they were 'likely' (very or quite) to recruit a trainee within the next year.

³ Scottish Legal Aid Board Annual Report 2018-19, appendix 1 Key Statistics, p.2.

Supply of legal services

Commitment to legal aid

The findings from this survey suggest a strong commitment to legal aid work amongst civil practitioners. The majority (78%) of partners thought that it was likely that their firm would still be doing legal assistance work in three years' time.

Coverage of civil legal assistance solicitors locally

Perceptions of coverage are very similar to those in 2010, although worse than in 2013. Between 2013 and 2019, there has been a sharp increase in the proportion of solicitors saying that there are too few civil legal assistance solicitors in their firm's area (16% in 2013 vs. 36% in 2019 and 40% in 2010). In both 2019 and 2013, the majority say the number is about right, although this is a smaller proportion in 2019 than 2013 (51% compared with 68%). In 2010 this figure was just under half (48%). Perceptions were more negative amongst those whose branches served rural areas only and branches that served both rural and urban areas, where 42% and 41% respectively answered 'too few' compared with 24% amongst those whose branch served urban areas only.

Finding solicitors for different types of work

Many of the types of case where solicitors were most likely to say that finding a solicitor locally would be difficult were also the types of case respondents' firms were least likely to currently undertake, e.g. immigration & nationality, discrimination and human rights, and benefits and tax credits. Practitioners operating mostly in Glasgow and Strathkelvin perceived fewer difficulties in finding a solicitor in a number of areas of law, particularly some of those that were perceived as more difficult overall.

Types of legal work where it is thought to be difficult to find a legal aid solicitor locally included all types of divorce, contact and residence, protective orders, adults with incapacity and domestic abuse. The most difficult was considered to be 'divorce with a financial element' where 90% of respondents who said it would be difficult to find a solicitor (roughly a third overall) thought this applied to legal aid only. There were few concerns about finding solicitors for privately funded work in these areas. Around two thirds of those who said it would be difficult to find a solicitor for discrimination and human rights (68%) and immigration and nationality (68%), and mental health welfare (65%) said the difficulty applied to both legally aided and privately funded cases. These are specialist areas of law where a relatively small number of firms operate, although they may provide services outwith their local area. SLAB's monitoring data on immigration suggests that "a relatively small pool of firms play a very significant role in this area"⁴.

⁴ SLAB's Fourth monitoring of availability and accessibility of legal services report to Government, December 2015. P.28

Challenges in delivering legal services

General business challenges were generally not such a great concern to solicitors, although 29% find attracting and retaining staff a major challenge. Around delivering legal aid specifically, admin around applications and accounts, and above all the rates of legal aid pay, were felt to be major challenges for the majority (92% in relation to legal aid rates). Suggested improvements to the legal aid process, provided in response to an open question, likewise revolved around increasing rates and reducing admin and bureaucracy.

Attending courts and tribunals

Distance

Most firms served more than one court, with half serving five or more. Around half served at least two tribunals. The majority (79%) said their branch was 5 miles or less from the nearest court, and two thirds (66%) said their branch was 5 miles or less away from the nearest tribunal. Over two in five (42%) said the furthest court was more than 50 miles away; over one third (34%) said the furthest tribunal was more than 50 miles away.

Challenges in attending courts and tribunals

The key challenge in attending courts and tribunals was the organisation of court or tribunal business – especially court business, which two thirds (67%) said was a challenge. Location and distance were generally not such an issue, especially for those in urban areas. However, regarding availability of facilities to conduct court proceedings remotely, more said this was a challenge than not a challenge (45% vs. 33%).

Communications

Traditional means of communication were used almost universally, both with clients and other organisations (i.e. post, telephone, email). Video conferencing was little used; text was used only for basic interactions with clients around reminders and appointments, generally not for anything relating to the case itself.

Referrals to and from other organisations, especially other solicitors' firms, are frequent and routine. The main reason for referring clients on is due to the issue concerning an area of law the firm doesn't cover.

Equality information form

Nearly half (49%) said they never ask applicants to complete the equalities form. Many did not give a reason, though some did not see the point of it.

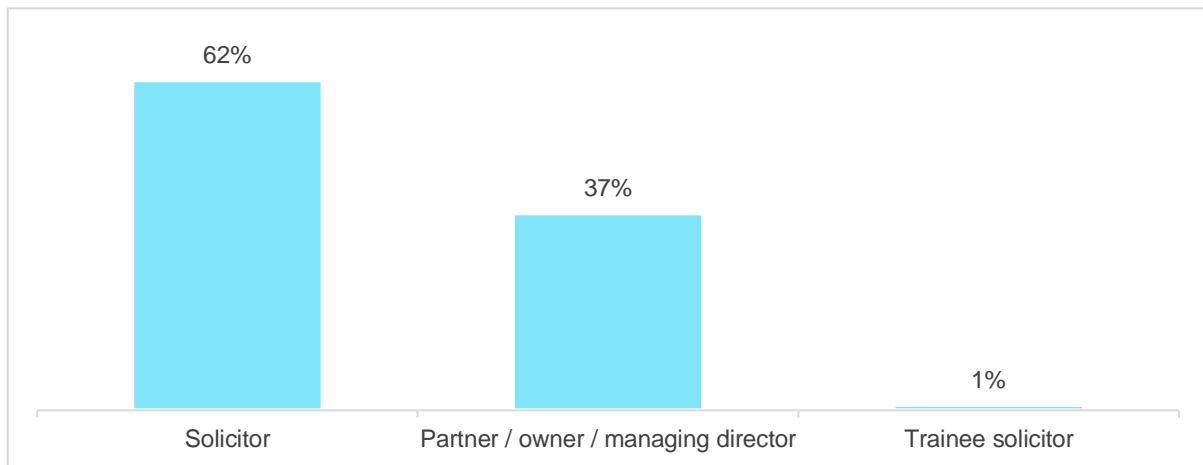
4. Key research findings

4.1. Sample profile

Professional role and experience

Non partner solicitors comprised the majority of the sample (62%), followed by partners/owners/managing directors (37%). It is worth noting that in terms of actual work undertaken, partners/owners/managing directors will also be solicitors too as undertaking some form of legal aid was criteria for sample selection.

Chart 1: Job title

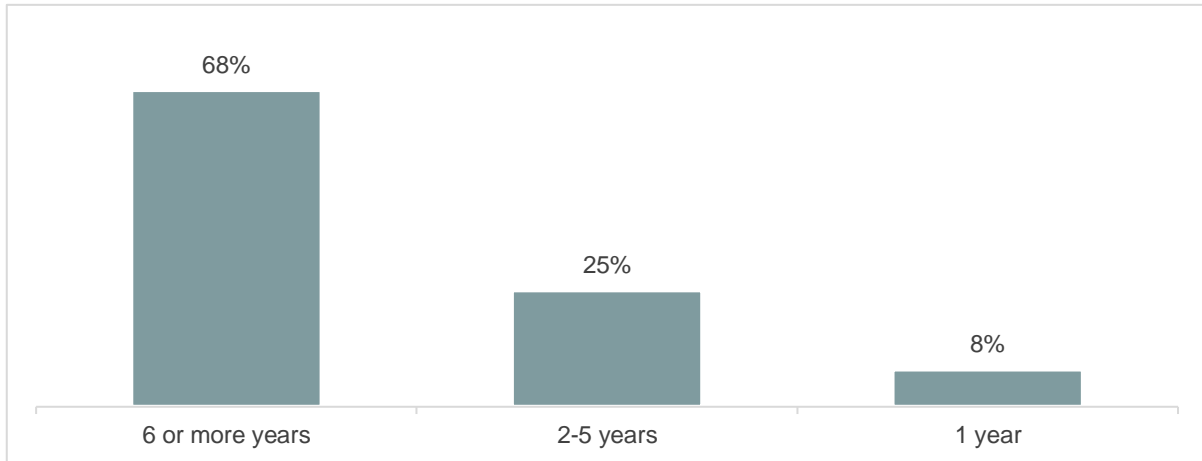


QA1a: What is your job title?
Base (all) 300

Those undertaking civil work and also registered for both criminal and children’s work were more likely to be partners (46% vs. 14% civil only), whereas those who undertook civil only were more likely to be non partner solicitors (86% civil only vs. 64% Civil & children’s, 50% Civil & criminal, and 53% all three).

Over two thirds of non partner solicitors (68%) had 6 or more years of post-qualification experience. A further quarter (25%) had 2 – 5 years.

Chart 2: Post-qualification experience (non partner solicitors only)



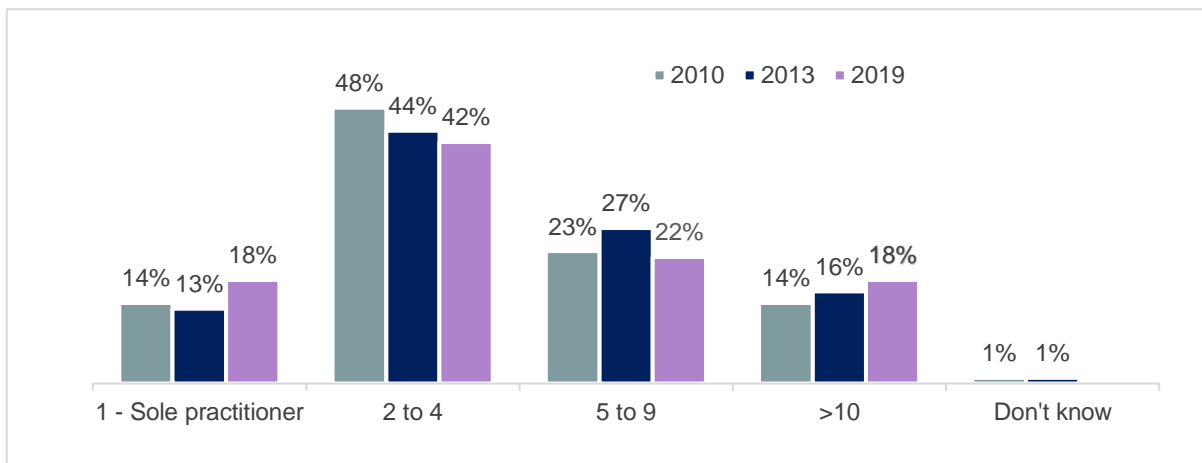
QA1b: How many years of post-qualification experience do you have?
Base (solicitors only) 186

Length of experience varied by Sheriffdom, with 90% working mostly in Tayside, Central and Fife having 6 or more years' experience compared with 55% in Glasgow and Strathkelvin and 64% in South Strathclyde, Dumfries and Galloway.

About the firm

The largest single proportion (42%) of partners said that their firm employed 2 to 4 solicitors, comparable with findings from previous surveys (44% in 2013 and 48% in 2010). Nearly 1 in 5 (18%) say they are a sole practitioner.

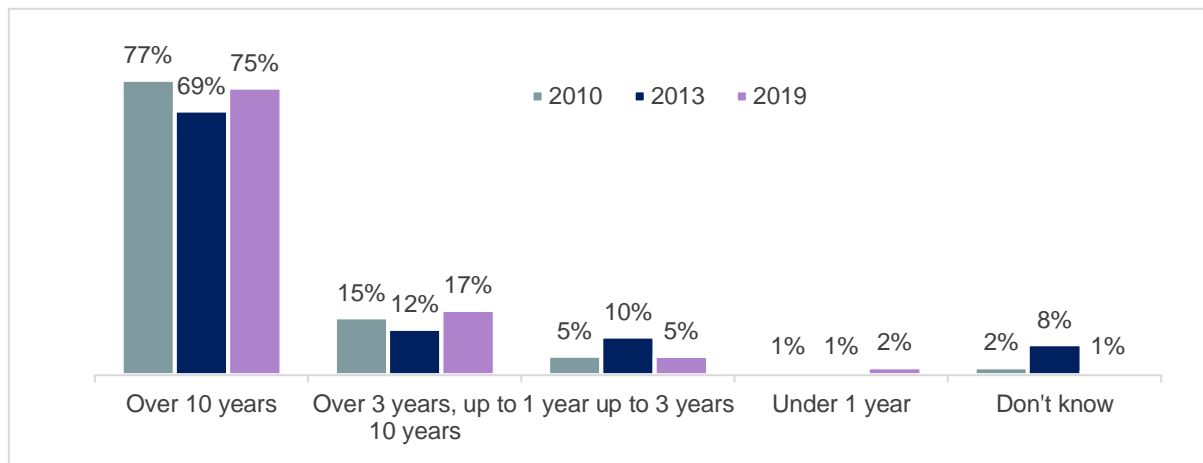
Chart 3: Number of solicitors employed by firm across Scotland



QB12: How many solicitors does your firm employ across Scotland?
Base 111 (2019 – partners only), 337 (2013 – all), 127 (2010 – partners only)

Three quarters (75%) of partners said their firm has been undertaking civil legal assistance work for over 10 years, with a further 17% saying it has been undertaking it for over 3 years, up to 10 years.

Chart 4: Length of time undertaking civil legal assistance work



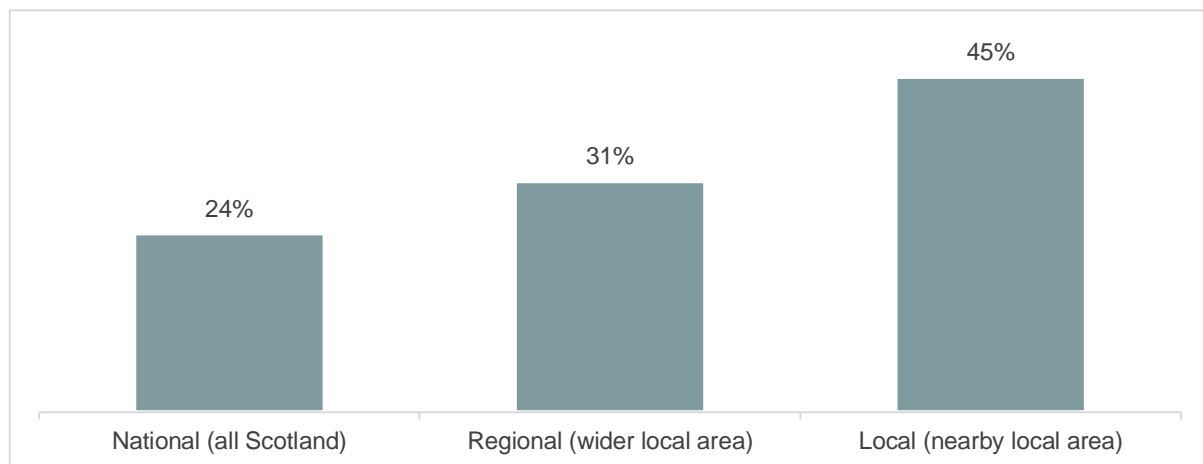
QB1: How long has your firm been undertaking civil legal assistance work?
Base 111 (2019 – partners only), 337 (2013 – all), 127 (2010 – partners only)

4.2. Where firms operate

Local, national or regional

Approaching half of respondents (45%) said their firm provided a service only locally. Nearly a quarter (24%) provided a national (i.e. all Scotland) service, and 31% a regional service. As the subgroup analysis below shows, national firms tended to be concentrated in Glasgow and Strathkelvin, and Lothian and Borders (which covers Edinburgh).

Chart 5: Areas where firm provides a service



QD8: Which of the following areas best describes where your firm provides a service? Base (all) 300

The following subgroup differences emerged:

Sheriffdom

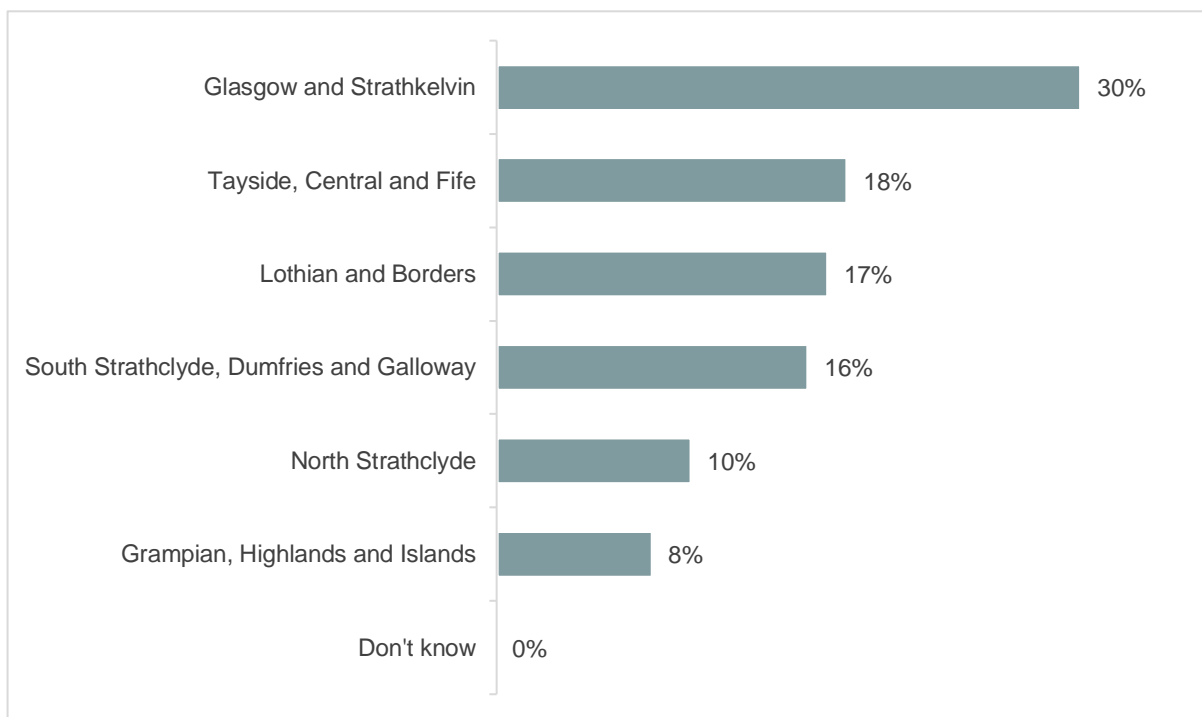
Firms in South Strathclyde (63%), North Strathclyde (61%) and Tayside and Central (56%) Sheriffdoms were more likely to provide a service locally only than those in Glasgow and Strathkelvin (34%) and Lothian and Borders (29%).

Firms based in Glasgow and Strathkelvin (37%) and Lothian and Borders (45%) were more likely to be national – compared with 8% in South Strathclyde, 3% in North Strathclyde, and 13% in Tayside, Central and Fife.

Sheriffdom

Respondents were also asked which Sheriffdom they mostly worked in. The largest single proportion of respondents said they worked mostly in the Glasgow and Strathkelvin Sheriffdom (30%). Around one in six reported that they worked mostly in the Tayside, Central and Fife, Lothian and Borders, and the South Strathclyde, Dumfries and Galloway Sheriffdoms.

Chart 6: Sheriffdom



QD9: Which Sheriffdom do you mostly work in? Base (all) 300

Experience

Relatively new practitioners with 2-5 years of experience were more likely than those with 6 or more years to be operating in Glasgow and Strathkelvin (43% vs. 26%). The opposite was the case regarding Tayside and Central: more experienced practitioners (6 or more years: 21%) were more likely to be operating there than those with 2-5 years' experience (7%).

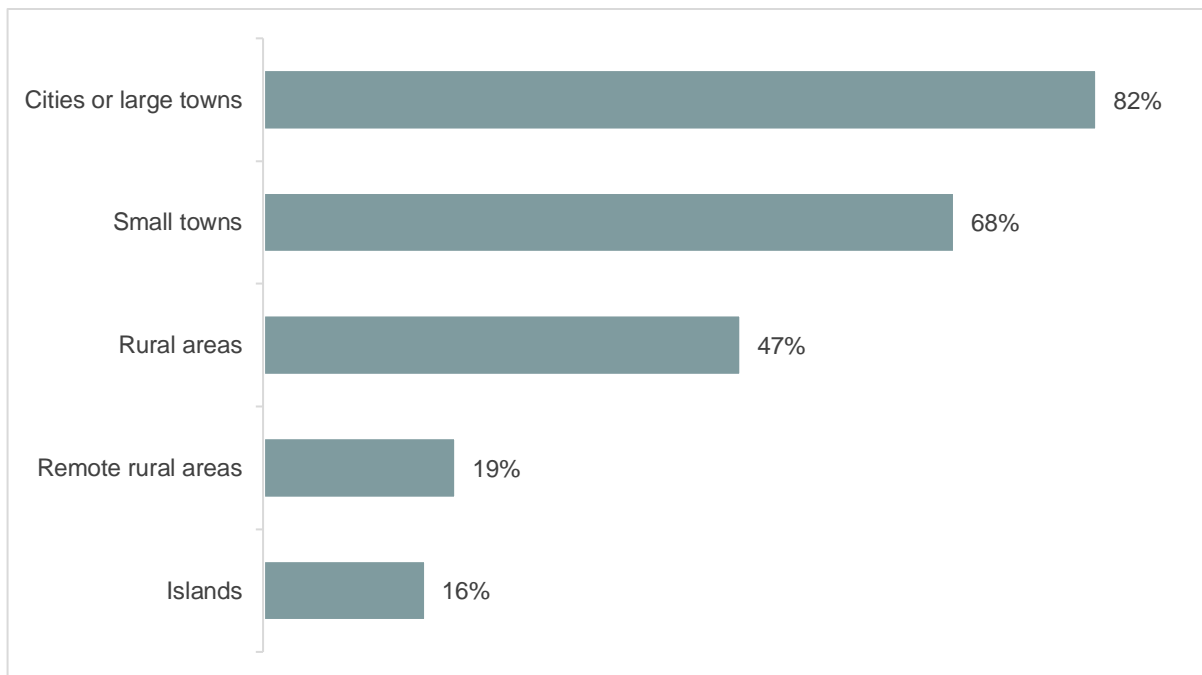
Type of area where services provided

The vast majority of respondents said their branch provided a service in cities or large towns (82%). Over two thirds (68%) provided a service in small towns.

As we would expect, fewer respondents reported that their branch provides a service in rural areas, although almost half (47%) provide a service in rural areas, while 19% service remote rural areas and 16% service islands.

In total, 48% of respondents reported that their branch provided a service in rural or remote rural areas or on islands.

Chart 7: Locations where branch provides a service



QD11: Which of the following locations does your branch provide a service in? Base (all) 300

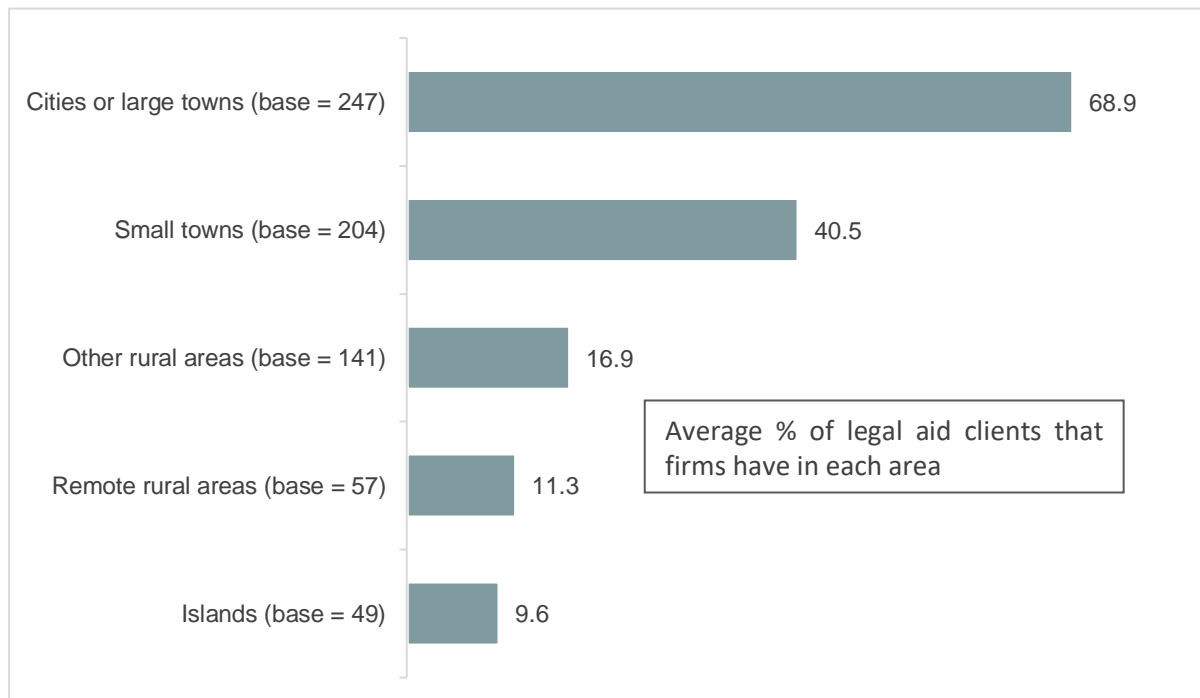
Sheriffdom

Practitioners operating in Glasgow and Strathkelvin were more likely than those in all other Sheriffdoms to provide a service in cities or large towns (98% vs. 65% in North Strathclyde to 82% in Lothian and Borders). They were also less likely than all others to be providing a service in small towns (47% vs. 69% in Lothian and Borders to 84% in North Strathclyde).

Proportions of legal aid clients in urban and rural areas

Respondents were asked what percentage of their firm’s legal aid clients came from each type of area. Amongst those who served clients in cities or large towns on average over two thirds (69%) came from these urban areas. For those who had legal aid clients from small towns, the average proportion of all legal aid clients was 41% based in small towns. For rural areas the average was 17%, while the averages for remote rural areas and islands were 11% and 10 % respectively.

Chart 8: Proportion of legal aid clients in different locations



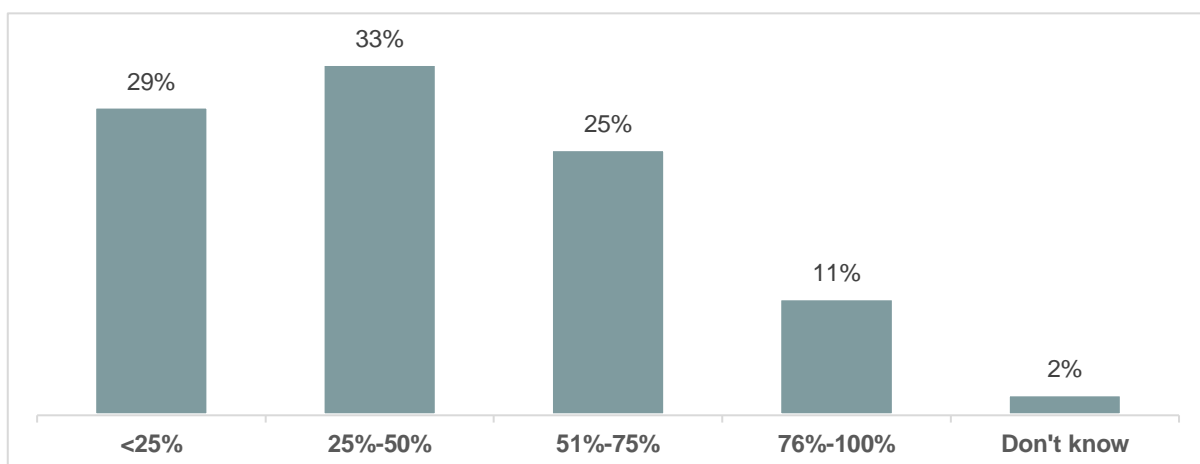
QD12: Roughly what percentage of your firm’s legal aid clients come from the following areas?
 Base (all providing a service in each area – see chart for base sizes)

4.3. Types of work undertaken

Current profile of work and funding

Partners were asked about the current profile of their work and how it is funded. Over one third (36%) said that over half of their civil work is funded by SLAB (62% said that up to 50% of civil work is SLAB-funded).

Chart 9: Current proportion of civil work funded by SLAB

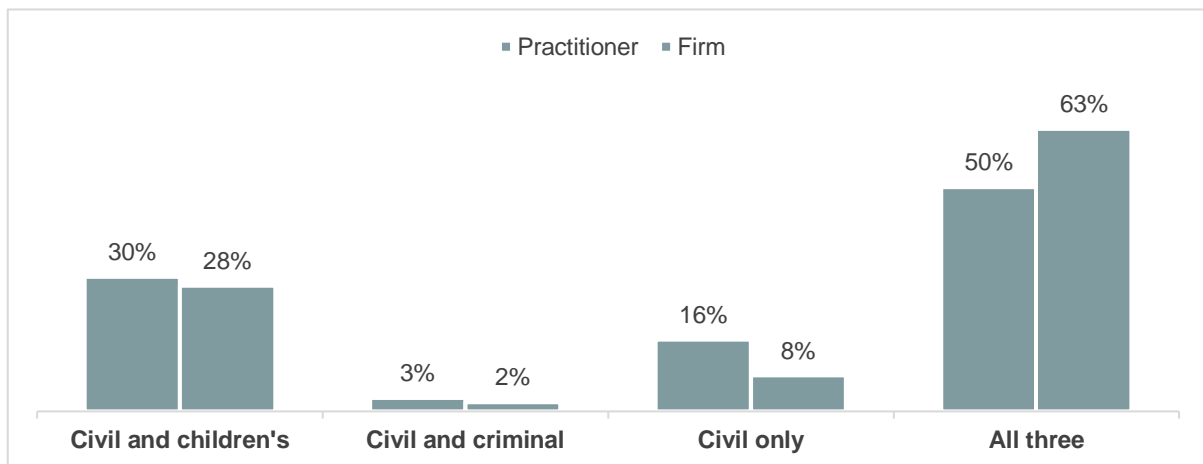


QB2: What percentage of your firm’s work is funded by the Scottish Legal Aid Board?
 Base (partners only) 111

Branches serving urban areas only tended to have a greater proportion of their civil work funded by SLAB. Nearly two thirds (64%) of urban branches had over half of their civil work funded by SLAB compared with 30% of rural branches and 27% serving both urban and rural areas.

Data provided on the sample database provided by SLAB indicates that half of the practitioners and 63% of firms in our sample were registered for children’s and criminal legal aid, as well as having undertaken civil.

Chart 10: Aid types practitioner and firm is registered for / has undertaken.



Base (all) 300

Chart 11 (page 22) illustrates the case types currently undertaken, as well as whether firms began or stopped undertaking these in the past two years. This shows that over four in five partners said their firm was undertaking general divorce and divorce with elements relating to children. Cases involving adults with incapacity and contact and residence were also undertaken by their firm according to more than three quarters of partners. The following types of cases were undertaken by less than one quarter (25%) of firms, according to partners: Discrimination and human rights; Benefits and tax credits; Education; and Immigration and nationality. It should be noted however that these are specialist areas of law, and are often things (e.g. around benefits) that non-solicitor advisors are there to support.

Other types of case involving money, housing and mental health were also undertaken only by a minority (mental health welfare, debt or money excl. tax, housing and homelessness). Issues relating to family law have always been the most common type of civil legal assistance, and these findings reflect SLAB’s application figures. SLAB’s 2017/18 monitoring report looked specifically at homelessness and debt, with a view to exploring whether there was a lack of access to legal service. The report concluded there was no evidence in either case, and that specialist sources of support were important in both these areas of (homelessness – law centres, debt – debt management companies & not for profit sector)⁵. As shown in section 4.8, the majority of practitioners use a network of referrals (both in and out), with the most common reasons for referral being ‘an area of work that your firm does not cover’ and ‘non legal support required’. These referral networks should help ensure that people who need support will be able to

⁵ <https://www.slaborg.uk/corporate-information/what-we-do/monitoring-legal-services/>

access this through an appropriate source, including generalist and specialist solicitors, as well as specialist and non specialist service providers.

Recent changes in profile of work and funding

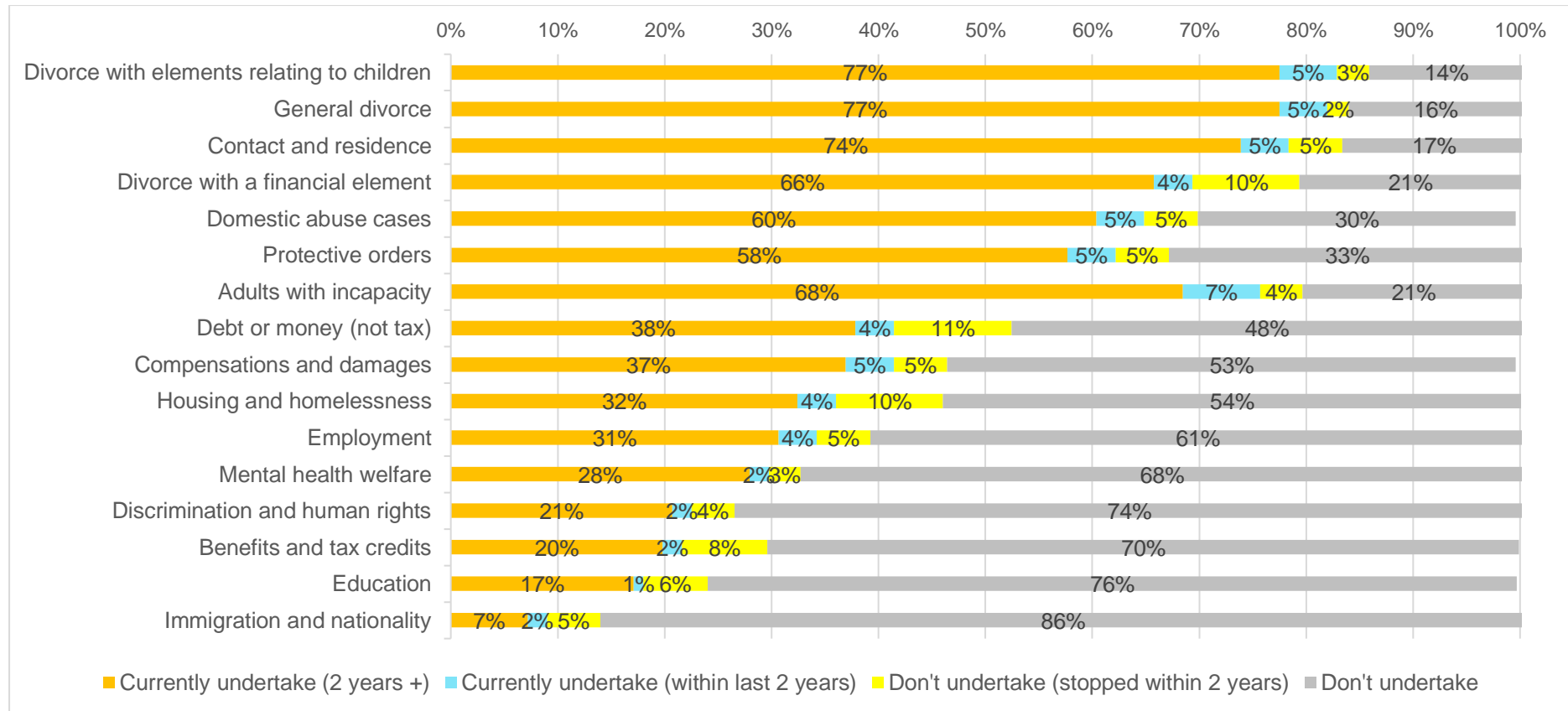
Partners were asked about how the profile of their firm's civil work and the way it is funded has changed recently (see Chart 11 overleaf). Firstly, partners who had said they undertake each type of case were asked for each respective type whether they had started providing it in the last 2 years. For each type, the vast majority who provided the service had not started doing so in the last 2 years and had therefore been providing this work for a longer period of time. Looking at those with a reasonably robust base size (i.e. 50 or more), the largest proportion who had started providing the service in the last 2 years was for adults with incapacity (10%).

Partners were also asked for each type of civil case that their firm had started undertaking in the last two years, whether this was for legally aided cases or privately funded cases. Base sizes are very low, however, generally respondents were equally likely to say the work they had started in the last two years was legally funded and/or privately funded.

Those partners who reported that they did not provide each type of work were asked if they had stopped taking on these cases in the last two years.

The vast majority of partners who did not provide each service said they had not stopped providing it in the last two years. Those types most likely to have been stopped included debt or money excl. tax (11%), divorce with a financial element (10%), housing and homelessness (10%), and benefits and tax credits (8%), which were also amongst those types of cases least likely to be provided by respondents.

Chart 11: Percentage of firms undertaking each case type



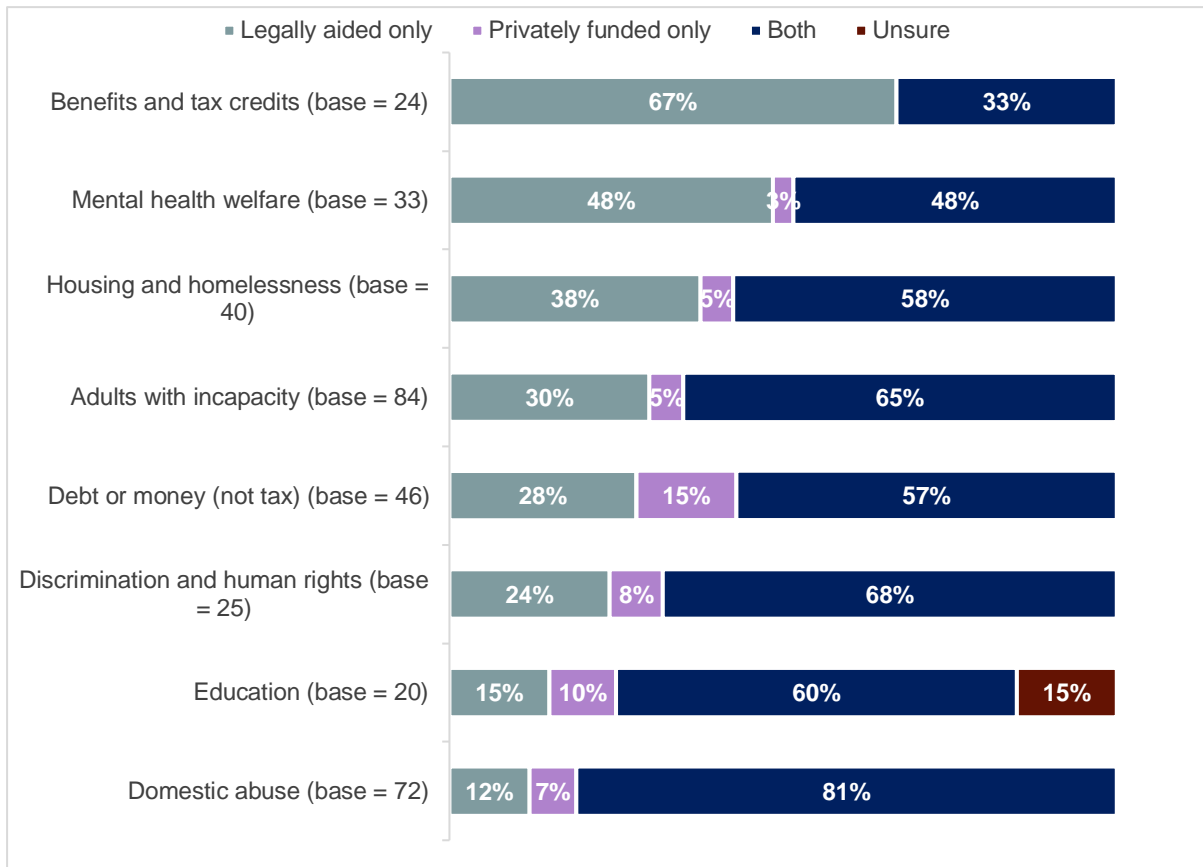
QB10: For each of these please tell me if your firm currently undertakes cases with people acting in an individual capacity?, QB11a: Has your firm started providing legal services in any of these areas of law in the past two years? and QB11b: Has your firm stopped providing legal services in any of the areas of law in the past two years?
Overall base (partners only) 111

Respondents were asked for each type of civil legal case that they undertake, whether they do so on a legally aided basis, privately funded or both. The types of case most likely to be undertaken only on a legally aided are noted in Chart 12 below, while those least likely to be funded only by legal aid are shown in Chart 13.

Only 24 partners (22%) said their firm undertook benefits and tax credits cases, but over two thirds (67%) said they undertook these cases on a legally aided basis only, with a further third (33%) saying they were undertaken on both a legally aided and privately funded basis. Almost half of respondents (48%) who reported that their firms undertakes mental health welfare cases stated that they were only undertaken legally aided, while almost half said that such cases were funded both by legal aid and privately.

For all other types of case, the majority of respondents reported that funding could be either legal aid or private.

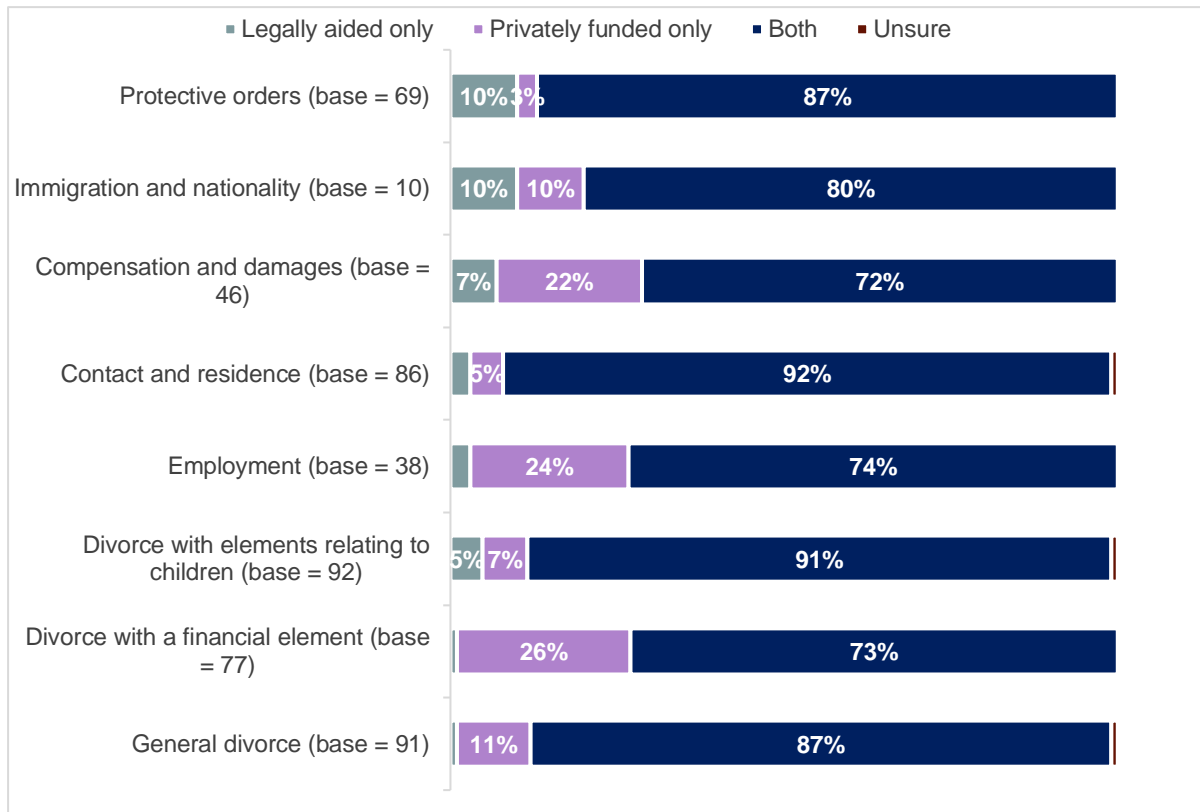
Chart 12: Basis on which cases undertaken – most likely to be legally aided only



QB10a: For each of these areas of civil law your firm undertakes, can you tell me if this is on a legally aided basis only, a privately funded basis only, or both? Base (all who undertake type of case – see chart)

The most commonly undertaken cases were also often the least likely to be undertaken on a legally aided basis only, e.g. divorce with elements relating to children (2% legally aided only) and divorce with a financial element (1% legally aided only). Most of these cases are undertaken with both legal aid and privately funded clients. The types of case most likely to only be privately funded were divorce with a financial element (26%), employment (24%) and compensation and damages (22%).

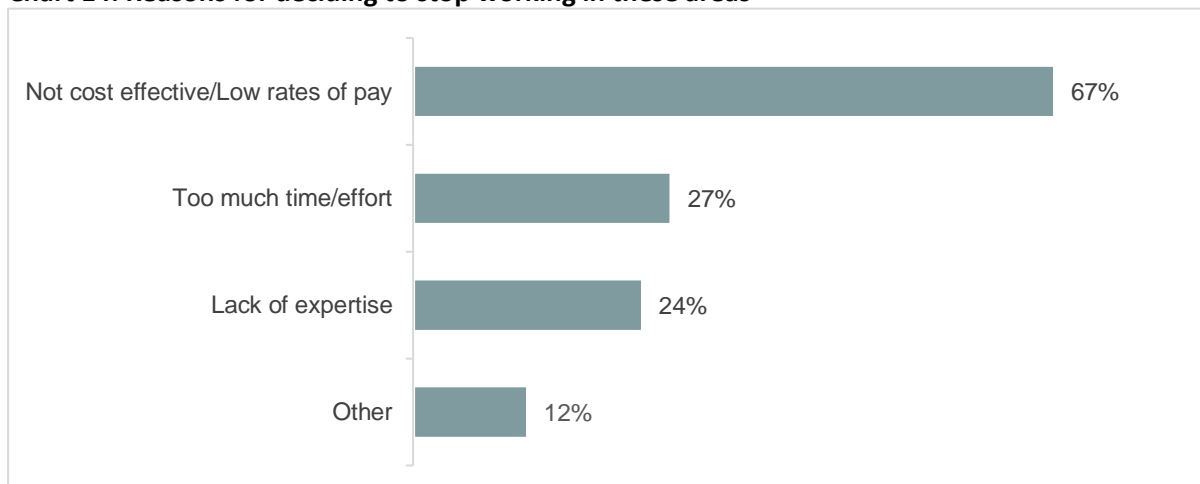
Chart 13: Basis on which cases undertaken – least likely to be legally aided only



QB10a: For each of these areas of civil law your firm undertakes, can you tell me if this is on a legally aided basis only, a privately funded basis only, or both? Base (all who undertake type of case – see chart)

The main reason given for deciding to stop working in a certain area(s) was that it was not cost effective and/or attracted low rates of pay, mentioned by two thirds (67%). Around a quarter each mentioned the amount of time and effort (27%) and having a lack of expertise in that area (24%).

Chart 14: Reasons for deciding to stop working in these areas

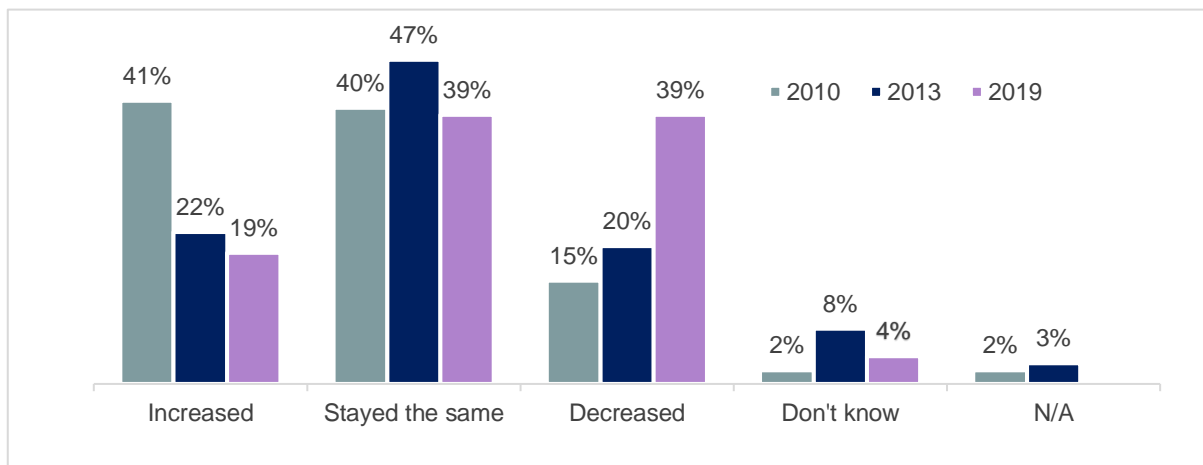


QB11c: Why has your firm decided to stop working in these areas? Base (stopped working in at least 1 area) 33 NB: Small base size

SLAB’s data on civil legal assistance shows a decrease overall between 2014/15 and 2018/19 (although applications for civil legal aid increased between 2017/18 and 2018/19)⁶. In 2019 two fifths of respondents (39%) reported that the number of legally aided cases they undertake has decreased in the last year. The same proportion reported the number had remained unchanged, while one fifth (19%) reported an increase in legally aided cases, meaning that the majority of firms (58%) have seen numbers of legal aid cases either remain the same or increase.

As might be expected, given the overall fall, comparing the 2019 results with previous surveys shows that respondents over time have become more likely to say that the number of civil legal aid cases their firm undertakes has decreased (39% in 2019 vs. 20% in 2013 and 15% in 2010) and less likely to say it has increased (19% in 2019 vs. 22% in 2013 and 41% in 2010).

Chart 15: Changes in number of legally aided civil cases undertaken

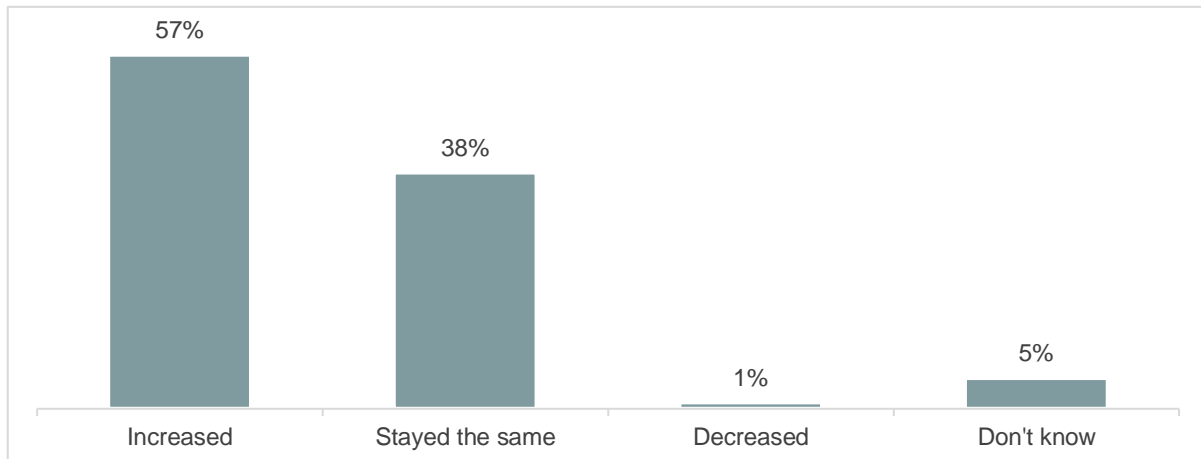


QB3: In the last year has the number of legally aided civil cases your firm undertakes increased, decreased or stayed the same? Base 111 (2019 – partners only), 337 (2013 – all), 127 (2010 – partners only)

The trend is not mirrored in privately funded cases, which are either stable or increasing in number, according to partners.

⁶ Scottish Legal Aid Board Annual Report 2018-19, appendix 1 Key Statistics, p.2.

Chart 16: Changes in number of privately funded civil cases undertaken



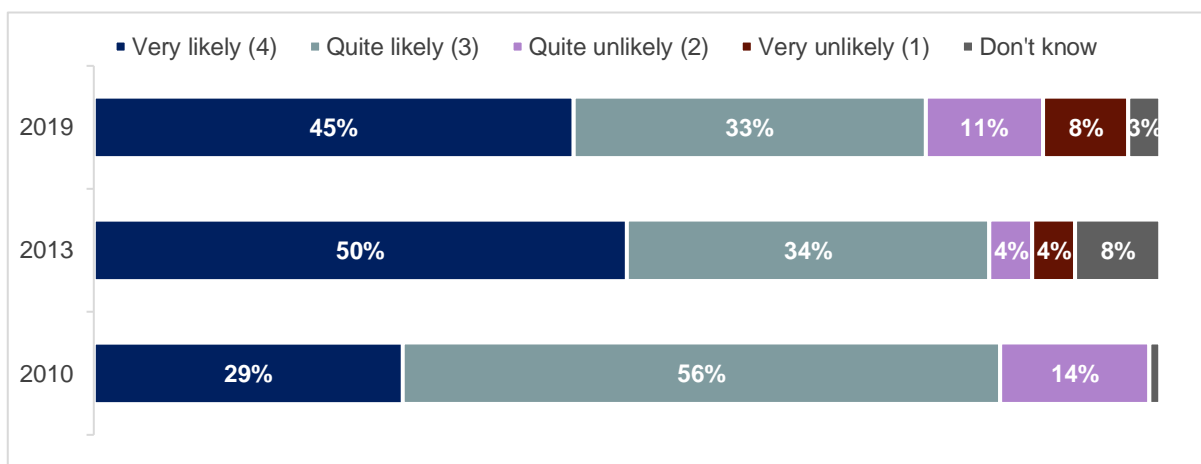
QB4: In the last year has the number of privately funded civil cases your firm undertakes increased, decreased or stayed the same? Base (partners only) 111

Moreover, partners who said that the number of civil legal aid cases undertaken by their firm had decreased were more likely to say their privately funded civil cases had increased (49%) than stayed the same (26%). None of them said their privately funded civil cases had decreased.

Likelihood of continuing to offer civil legal assistance

The majority of partners (78%) said it was likely (very or fairly) that their firm would still be doing civil legal assistance work in 3 years’ time, with nearly one in five (19%) saying it was unlikely. Overall likelihood has not changed significantly since 2010, although those who say it is likely their firm will still be doing civil legal assistance work in 3 years’ time, tend to be more certain now (45% very likely vs. 29% very likely in 2010). There has however been an increase in those saying it was unlikely since 2013 (19% in 2019 vs. 8% in 2013). It should be noted, however, that all respondents were asked this question in 2013, rather than partners only as in 2010 and 2019.

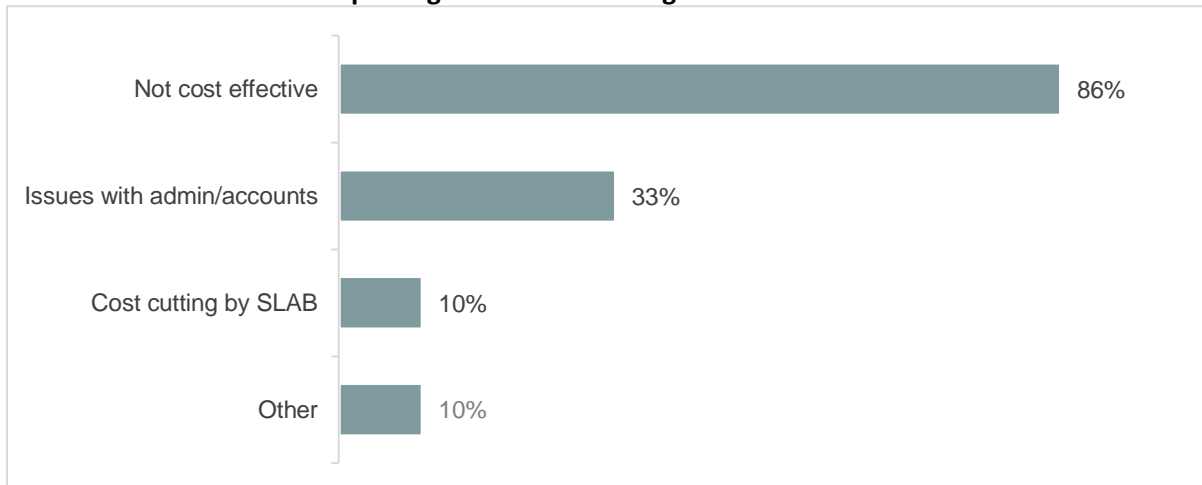
Chart 17: Likelihood of firm still doing civil legal assistance work in 3 years’ time



QB9: How likely is it that your firm will still be doing civil legal assistance work in three years’ time? Base 111 (2019 – partners only), 337 (2013 – all), 127 (2010 – partners only)

The reason most often given by partners who were not expecting to work on civil legal assistance cases in the future was that it was not cost effective (86%). One third (33%) mentioned issues with admin and accounts.

Chart 18: Reasons for not expecting to work on civil legal assistance cases in the future

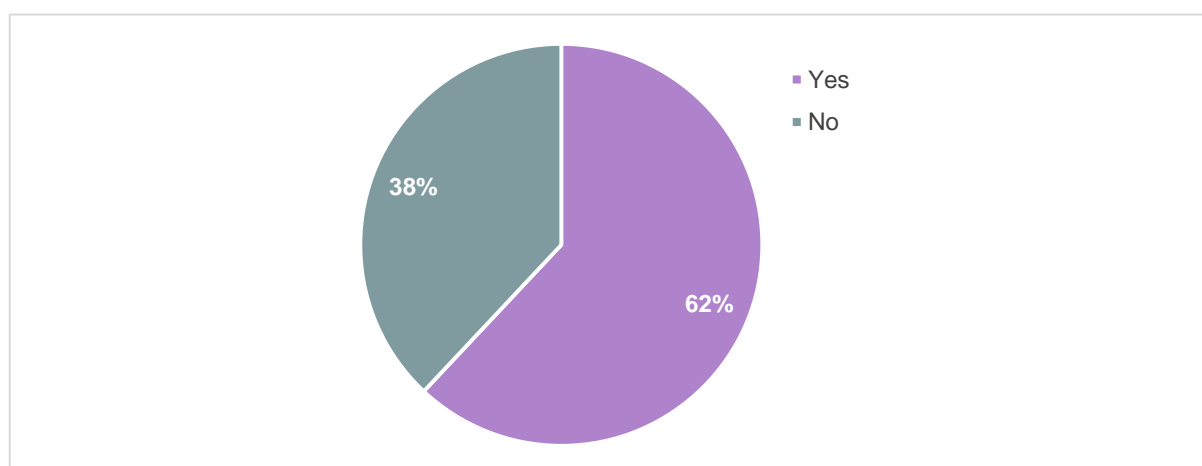


QB9a: Why does your firm not expect to be working on civil legal assistance cases in the future? Base (not likely to be working on civil legal assistance cases in the future) 21
 NB: Small base size

4.4. Recruitment of trainee solicitors

Partners were asked questions around recruitment of trainee solicitors to their firm. Currently, approaching half (42%) employ a trainee solicitor. Of these nearly two thirds (62%) said the trainee works on civil legal aid cases.

Chart 19: Trainee solicitor working on legal aid cases

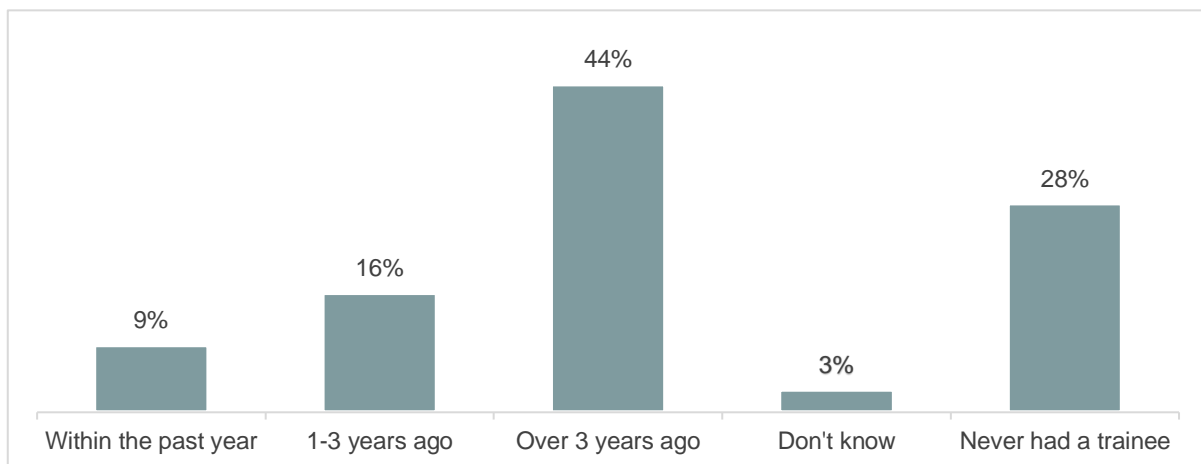


QB5a: Does the trainee work on civil legal aid cases? Base (all with a trainee solicitor) 47

Comparable responses from previous surveys⁷ suggest there is an increase in the number of firms who have a trainee (16% in 2010 compared with 42% in 2019) and who are ‘likely’ to recruit a trainee (20% in 2010 compared with 24% in 2019⁸). In 2010 58% of respondents who thought it was ‘likely’ that they would recruit a trainee within the year expected that the trainee would work on civil legal assistance cases.

Partners who said their firm did not currently employ a trainee solicitor were asked when the firm had last done so. Most (69%) had had a trainee solicitor at some point in the past, with by far the largest proportion (44%) saying that they last had a trainee over three years ago.

Chart 20: Last time firm had a trainee



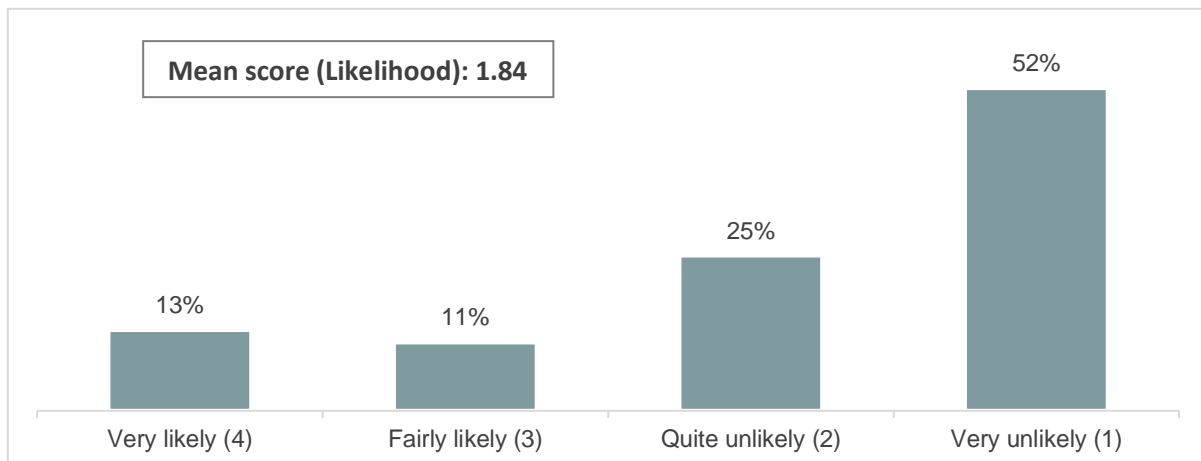
QB6: When did your firm last have a trainee?
Base (all who do not have a trainee solicitor) 64

Those who said their firm did not currently have a trainee solicitor tended to say it was unlikely (77%) they would take one on in the next year. They tended to be certain about this, with over half (52%) saying it was very unlikely.

⁷ Question wording and ordering changed between 2019 and the previous surveys, however the questions are considered sufficiently comparable.

⁸ 2019 figures also show an increase on 2013, however these questions in the 2013 survey were asked to all respondents, whereas in 2010 and 2019 they were only asked to partners.

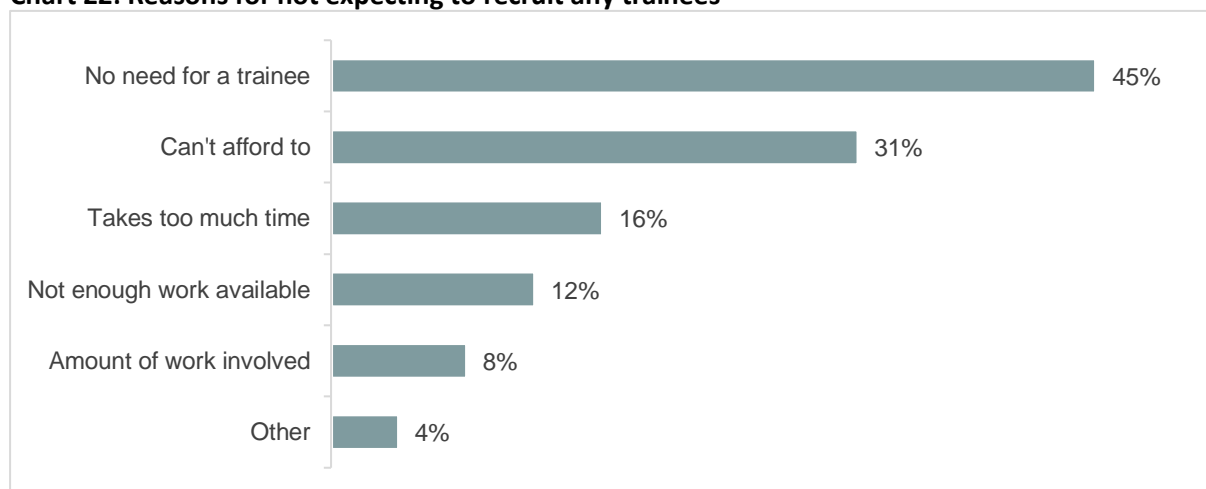
Chart 21: Likelihood of recruiting trainee solicitor within next year



QB7: How likely is it that your firm will recruit any trainee solicitors within the next year? Base (all who do not have a trainee solicitor) 64

The most common reason given for not expecting to recruit a trainee was that there was no need (45%). However 31% felt that it was not affordable, meaning there may potentially be a need that is unable to be met.

Chart 22: Reasons for not expecting to recruit any trainees



QB8: Why do you not expect to recruit any trainees? Base (not expecting to recruit trainees) 49
NB: Small base size – please treat findings with caution

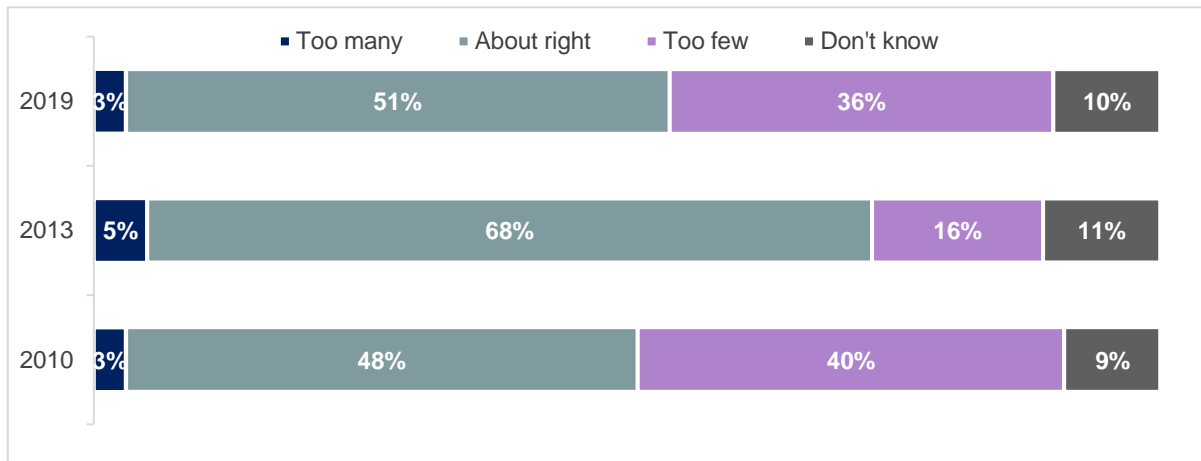
4.5. Supply of legal services

Coverage of civil legal assistance locally

Half of respondents felt that the number of civil legal assistance solicitors in their firm's area was about right; however, over one third (36%) felt that there were too few civil legal aid solicitors in their firm's area. Only 3% felt that there are too many of this type of solicitor locally.

The situation in terms of perceptions is very similar to that in 2010. Compared with 2013, there has been a sharp increase in the proportion of solicitors saying that there are too few civil legal assistance solicitors in their firm’s area (16% in 2013 vs. 36% in 2019). Whilst the majority in 2019 (51%) still consider the numbers are about right, this is down considerably from 68% in 2013, although slightly more than in 2010.

Chart 23: Coverage of civil legal assistance solicitors in local area



QC1: Which of the following statements applies to the number of civil legal assistance solicitors in your firm’s area? Base (all) 300 (2019), 337 (2013), 266 (2010)

Rural vs. urban

Perceptions were more negative amongst those whose branches served rural areas and both rural and urban, where 42% and 41% respectively answered ‘too few’ compared with 24% amongst those whose firms served urban areas only.

Sheriffdom

Practitioners in Tayside, Central and Fife (39%), Lothian and Borders (43%), and Grampian, Highlands and Islands (92%)⁹ were more likely to say ‘too few’ than those in Glasgow and Strathkelvin (24%) and South Strathclyde (17%).

Type of work by firm

Firms registered for civil and children’s work only were more likely than those registered for all three to say there were too few (47% vs. 31%) and less likely to say they were about right (41% vs. 57%).

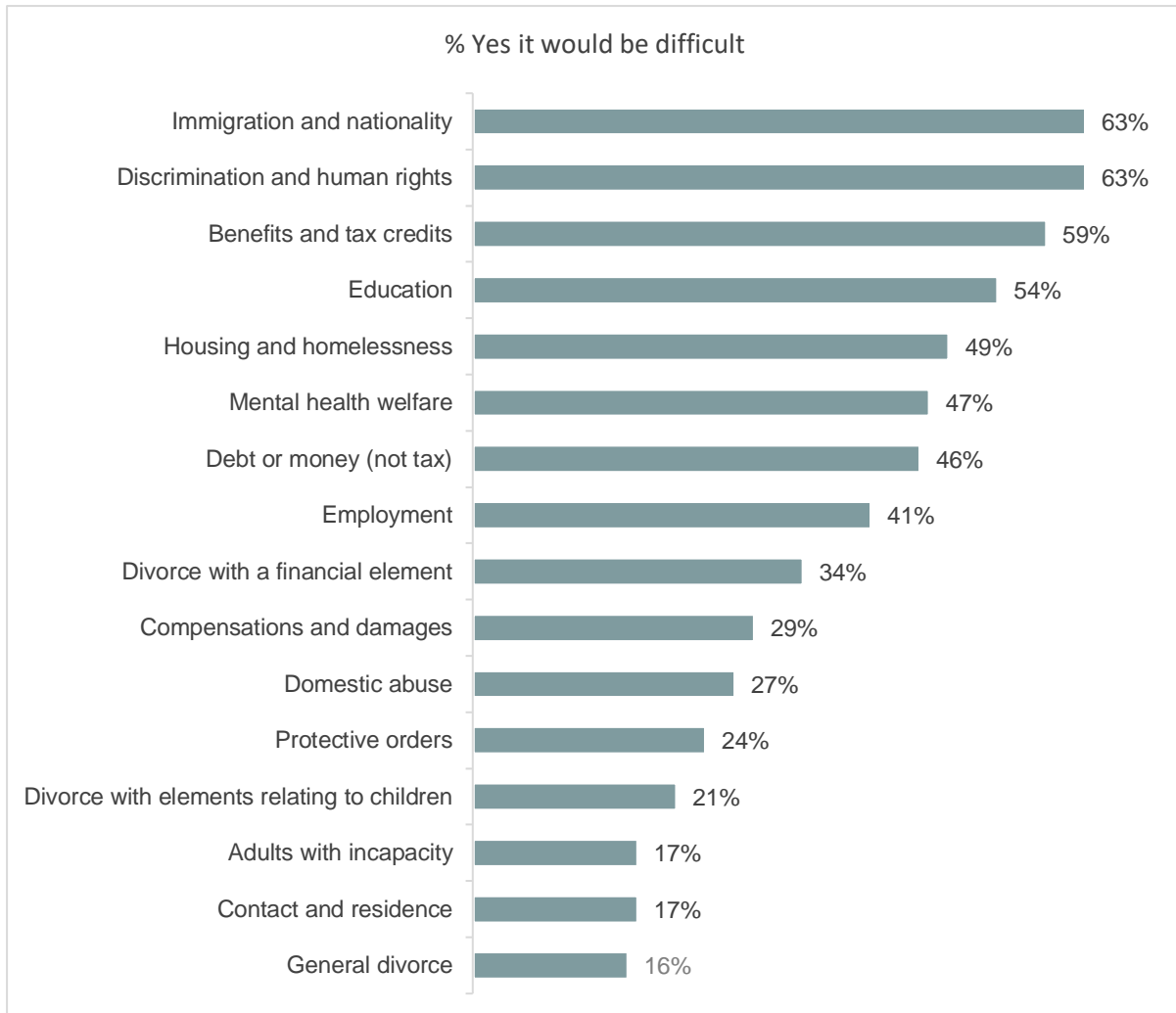
Finding solicitors for different types of work

Respondents were asked whether it would be difficult for individuals to find a solicitor locally for various different types of civil work. Perhaps unsurprisingly, many of the types of case that solicitors were most likely to say that finding a solicitor locally would be difficult were also the specialist types of case respondents’ firms were least likely to currently undertake,

⁹ Note small base size: 25 in Grampian, Highlands and Islands.

e.g. immigration & nationality (9% undertake, 63% difficult to find solicitor), discrimination and human rights (23% undertake, 63% difficult to find solicitor) and benefits and tax credits (22% undertake, 59% difficult to find solicitor).

Chart 24: Problems finding a solicitor locally for different types of work¹⁰



QC2: For each, do you think individuals in the area your firm serves would have a problem finding a solicitor, either for legal aid cases or privately funded cases? Base (all excl. pilot) 289

Rural vs. urban

Firms offering services in rural areas only were especially likely to say it they thought it would be difficult for people to find a solicitor in the area served by their firm for several types of work:

- Education: 70% rural vs. 49% urban and 51% both
- Discrimination and human rights: 80% rural vs. 49% urban and 64% both
- Debt or money (not tax): 62% rural vs. 48% urban and 40% both

¹⁰ Question was inserted after the pilot study, hence the 11 pilot cases are excluded from the base.

- Compensation and damages: 46% rural vs. 28% urban and 24% both
- Benefits and tax credits: 76% rural vs. 49% urban and 60% both
- Mental health welfare: 70% rural vs. 34% urban and 47% both
- Immigration and nationality: 90% rural vs. 46% urban and 64% both

Sheriffdom

Practitioners in Grampian, Highlands and Islands were significantly more likely to say they thought it would be difficult to find a solicitor in the area served by their firm across most of the areas of law asked about compared with other Sheriffdoms, although it should be borne in mind that the base size for this Sheriffdom was small (25).

Practitioners operating mostly in Glasgow and Strathkelvin felt that people would have fewer difficulties in finding a solicitor in the area served by their firm in a number of areas of law, particularly some of those that were perceived as more difficult overall:

- Discrimination and human rights: 43% vs. 63% (Lothian and Borders) to 88% (Grampian, Highlands and Islands)
- Housing and homelessness: 40% vs. 65% (Lothian and Borders) and 79% (Grampian, Highlands and Islands)
- Compensation and damages: 19% vs. 39% (North Strathclyde), 37% (Tayside, Central and Fife) and 63% (Grampian, Highlands and Islands).
- Benefits and tax credits: 45% vs. 59% overall
- Mental health welfare: 36% vs. 47% overall
- Immigration and nationality: 29% vs. 63% overall

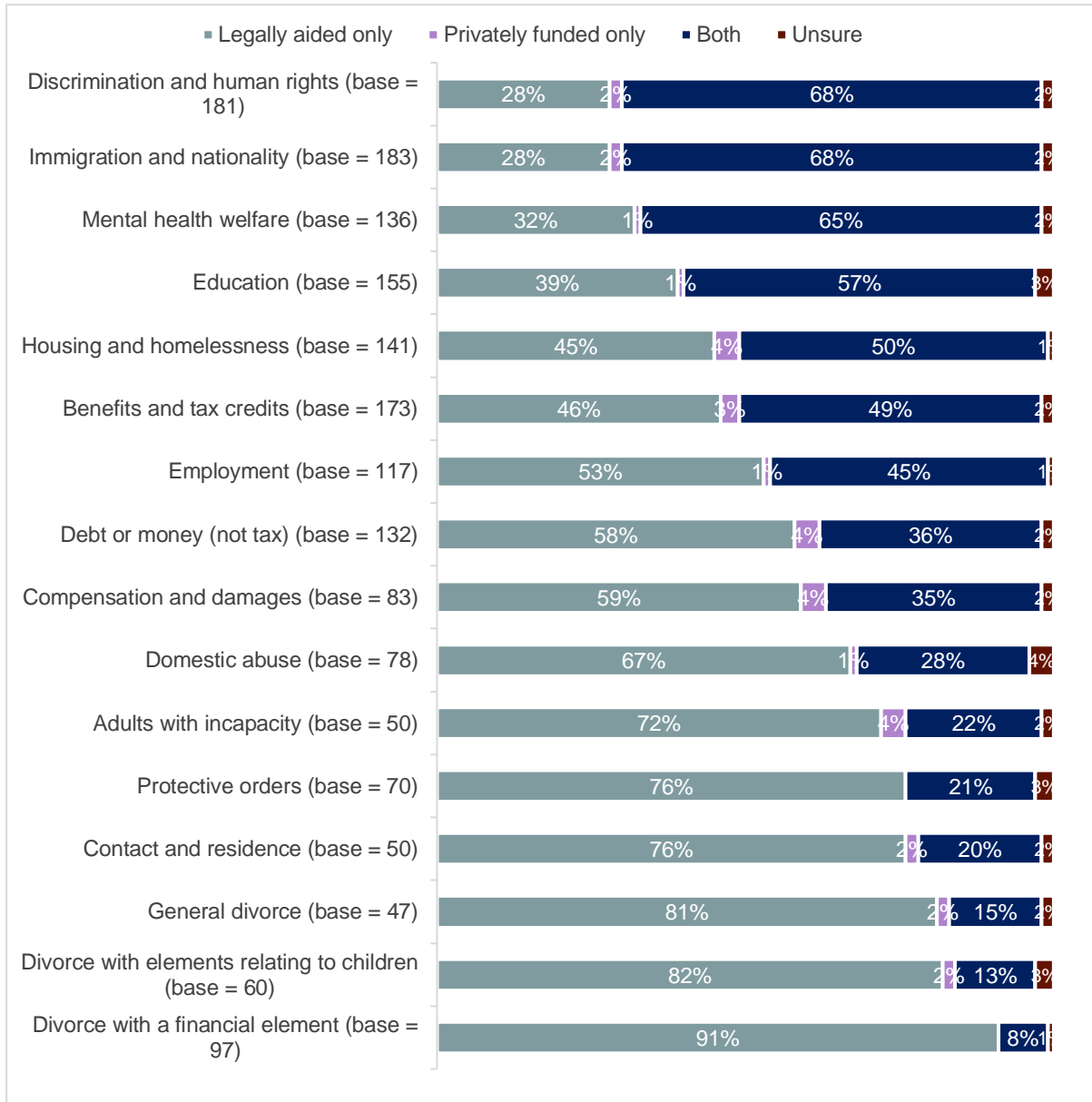
For each area of law, those who considered that finding a solicitor for it would be difficult were then asked whether it would be difficult for legally aided cases, privately funded cases, or both.

Very few respondents anticipated problems finding a solicitor for privately funded work only; generally they believed that it would be more difficult to find solicitors locally for legally aided cases or for both privately funded and legally aided.

Around two thirds of those who thought it would be difficult to find a solicitor for discrimination and human rights (68%), immigration and nationality (68%) and mental health welfare (65%) reported that the difficulty related to both legally aided and privately funded cases. This reflects that the specialist nature of these areas of law.

Types of legal work where respondents who thought there would be a problem finding a solicitor in the area served by their firm, thought it would be particularly difficult to find legal aid solicitors, as compared to private, included all types of divorce, contact and residence, protective orders, adults with incapacity and domestic abuse.

Chart 25: Perceived problems finding a solicitor – legally aided vs. privately funded



QC2a: For each of the areas of civil law that you think individuals in the area your firm serves would have a problem finding a solicitor, would that be for legal aid cases, privately funded cases, or both? Base (all who thought individuals would have a problem finding a solicitor in firm’s local area for each type of case – see chart)

Sheriffdom

Differences between Sheriffdoms emerged in relation to some types of case, with practitioners in some Sheriffdoms (especially South Strathclyde, Dumfries and Galloway, and North Strathclyde) more likely to say it was hard to find solicitors for both legally aided and privately funded cases:

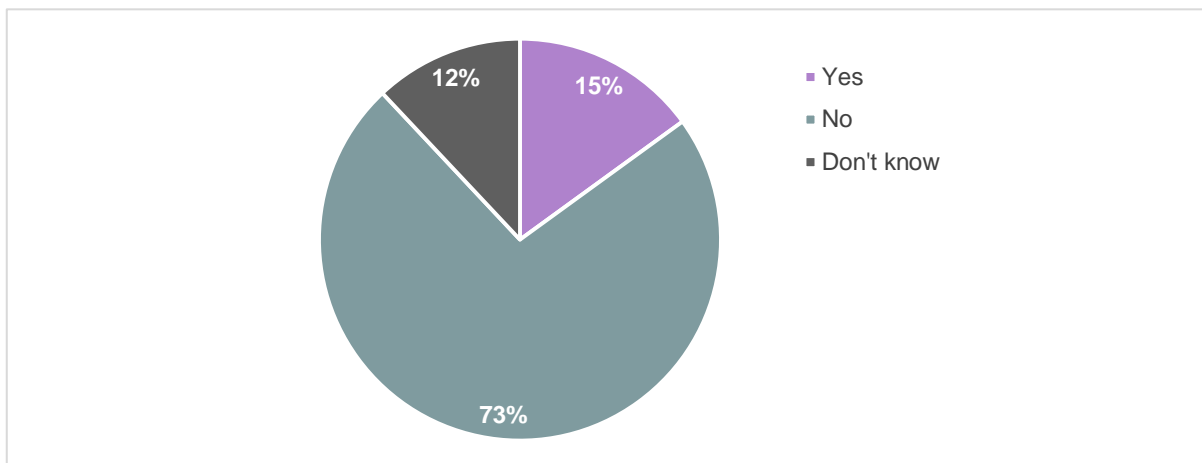
- Employment: Tayside, Central and Fife; South Strathclyde, Dumfries and Galloway; and North Strathclyde (74%, 56% and 69% vs. 45% for total sample)

- Discrimination and human rights: South Strathclyde, Dumfries and Galloway; and North Strathclyde (79% and 86% vs. 68% for total sample)
- Benefits and tax credits: South Strathclyde, Dumfries and Galloway; and North Strathclyde (60% and 73% vs. 49% for total sample)
- Mental health welfare: North Strathclyde (86% vs. 65% for total sample)
- Immigration and nationality: North Strathclyde (92% vs. 68% for total sample)

Accessing other services

Whilst nearly three quarters (73%) thought that people in their firm’s area would not have a problem obtaining a safeguarder or curator ad litem, 15% felt that these services would be difficult to obtain.

Chart 26: Problems obtaining a safeguarder or curator ad litem



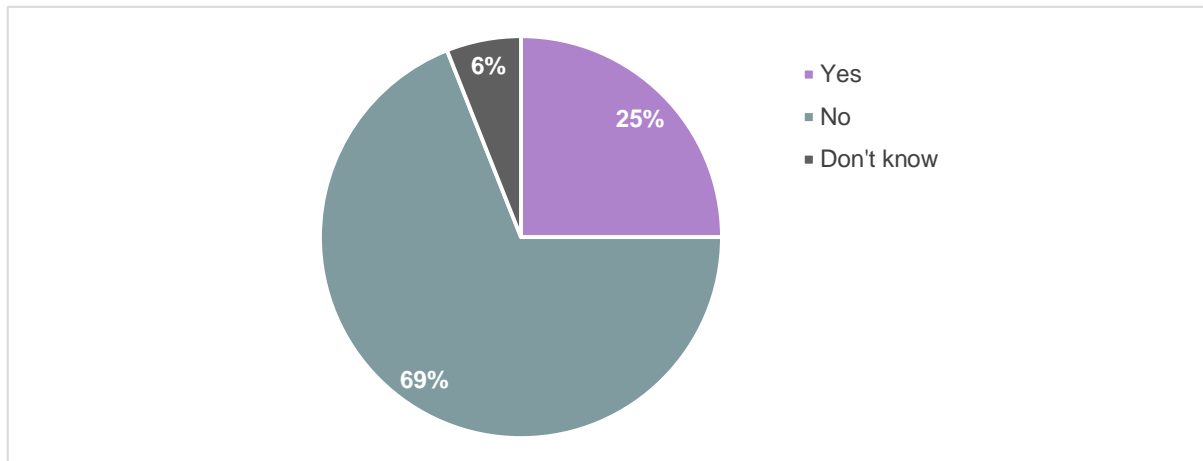
QC3: Do you think people in your firm’s area would have a problem obtaining a safeguarder or curator ad litem if they needed one? Base (all) 300

Sheriffdom

Practitioners based in Glasgow and Strathkelvin (23%) and Grampian, Highlands and Islands (20%) were the most likely to anticipate an issue in obtaining a safeguarder or curator ad litem. Those based in Tayside, Central and Fife were the most likely to say it would not be a problem (94%).

When asked about accessing a mediation or a contact centre, one quarter (25%) thought that people in their firm’s area would have a problem.

Chart 27: Problems accessing a mediation or contact centre



QC4: Do you think people in your firm's area would have a problem accessing a mediation or contact centre if they needed one? Base (all) 300

Sheriffdom

Again, practitioners in Tayside, Central and Fife were more likely than overall to say it would not be a problem (81% vs. 69% for the total sample).

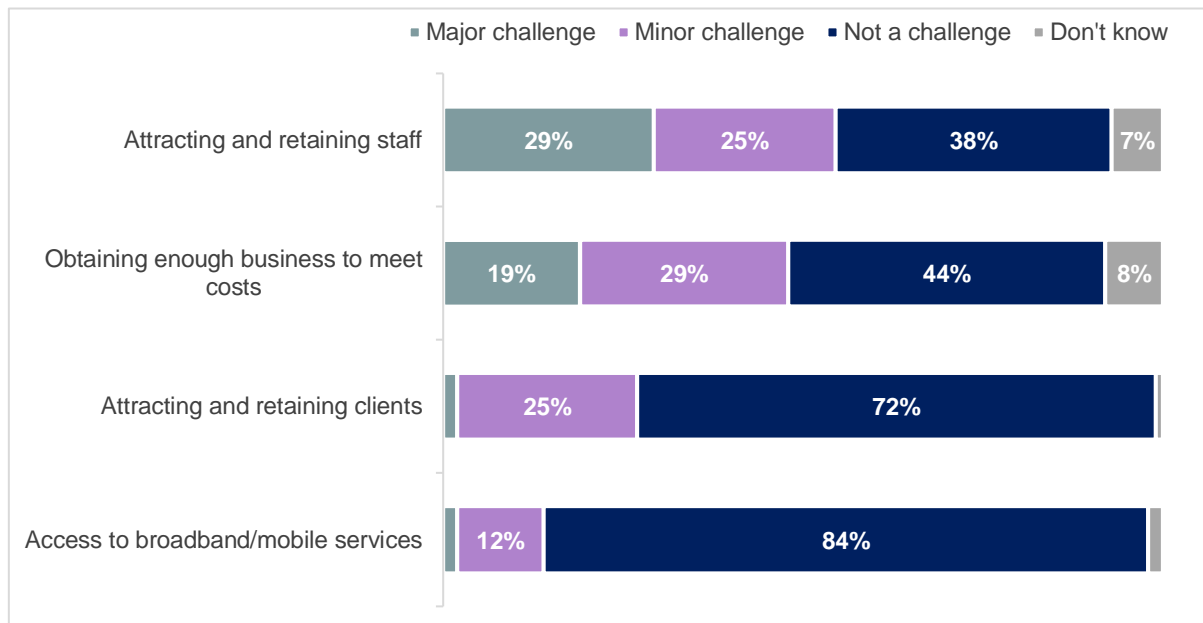
4.6. Challenges in delivering legal services

General business challenges

Respondents were asked some questions about the challenges they face, both generally in terms of running their business, but also more specifically in terms of delivering legal aid. Overall, respondents were more likely to identify challenges relating to legal aid rather than general business challenges.

The key general business challenges for practitioners were attracting and retaining staff. Over half (54%) overall said this was a challenge, with 29% describing it as a major challenge. Almost half (49%) said obtaining enough business to meet costs was a challenge. That said, nearly three quarters (72%) did not view 'attracting and retaining clients' as a challenge.

Chart 28: General challenges to the business



QD1a: I'm going to read out a list of general challenges that businesses might face. For each of these, please tell me if it is a major challenge, minor challenge or not a challenge for your firm. Base (all) 300

Access to different types of legal aid

Civil practitioners also registered for children's were less likely than overall to see 'obtaining enough business to meet costs' as a challenge (39% vs. 49% overall).

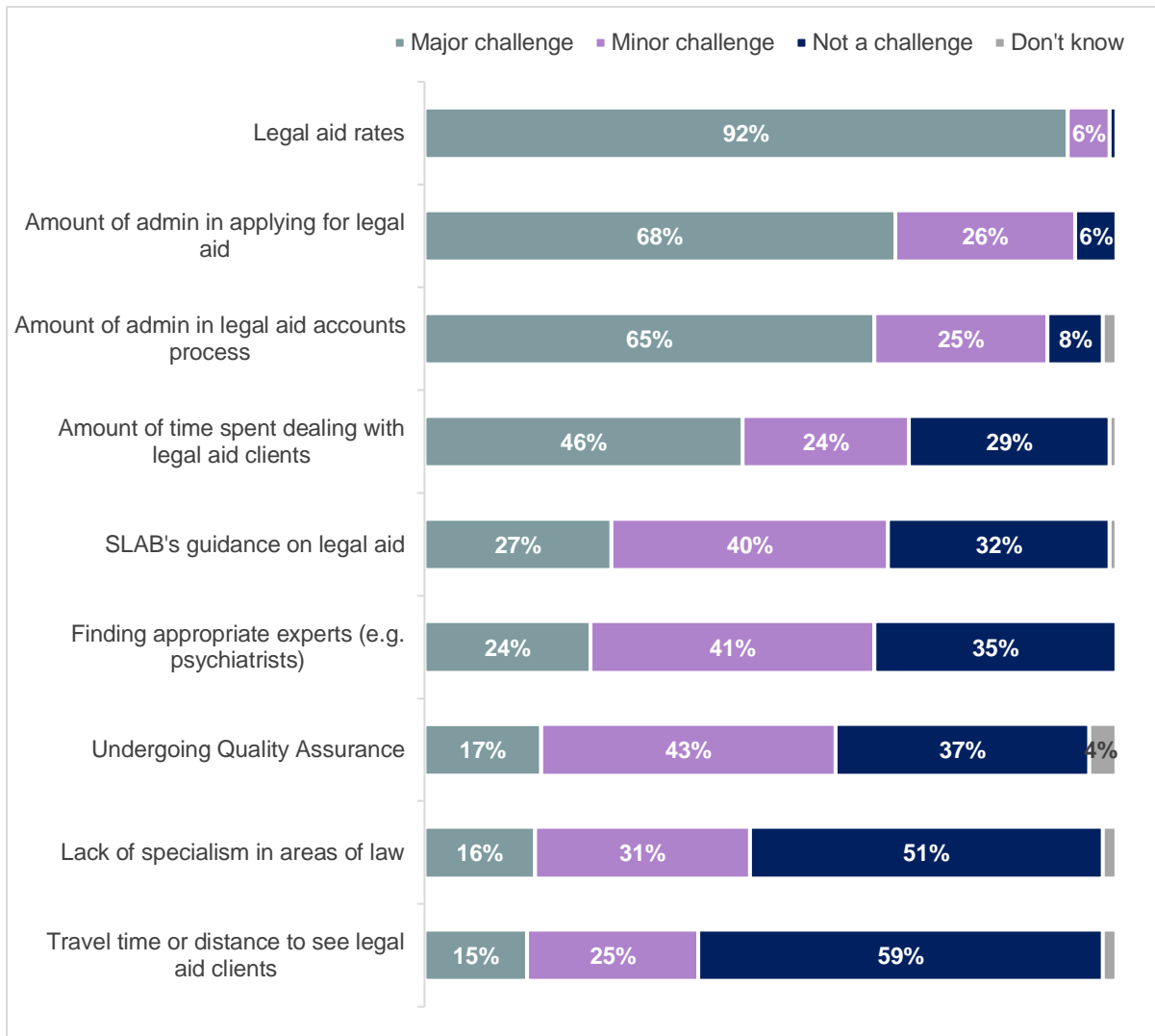
Sheriffdom and urban/rural

There were very few variances in the business challenges faced by practitioners across the various Sheriffdoms and across urban and rural areas. Respondents based in Grampian, Highlands and Islands were more likely than those from other areas to mention that attracting and retaining clients is a challenge (48% vs. 27% for total sample).

Challenges to the business in delivering legal aid

Looking at legal aid specifically, almost all aspects of the process were considered challenging, however, legal aid rates emerged as by far the most important challenge (98%, with 92% citing it as a major challenge). The amount of admin at different stages of the legal aid process (application and accounts) were also challenges for the vast majority, with around two thirds describing these as a major challenge.

Chart 29: Challenges in delivering legal aid



QD1: For each of these, please tell me if it is a major challenge, minor challenge or not a challenge.
Base (all) 300

Sheriffdom

The following differences emerged between Sheriffdoms in terms of the challenges of delivering legal aid:

- Lack of specialism in areas of law: Practitioners in Glasgow and Strathkelvin were more likely to say this was not a challenge (61% vs. 51% overall)
- Amount of time spent dealing with legal aid clients: Practitioners in North Strathclyde were more likely than overall to say this was a challenge (84% vs. 70%)

Rural vs. urban

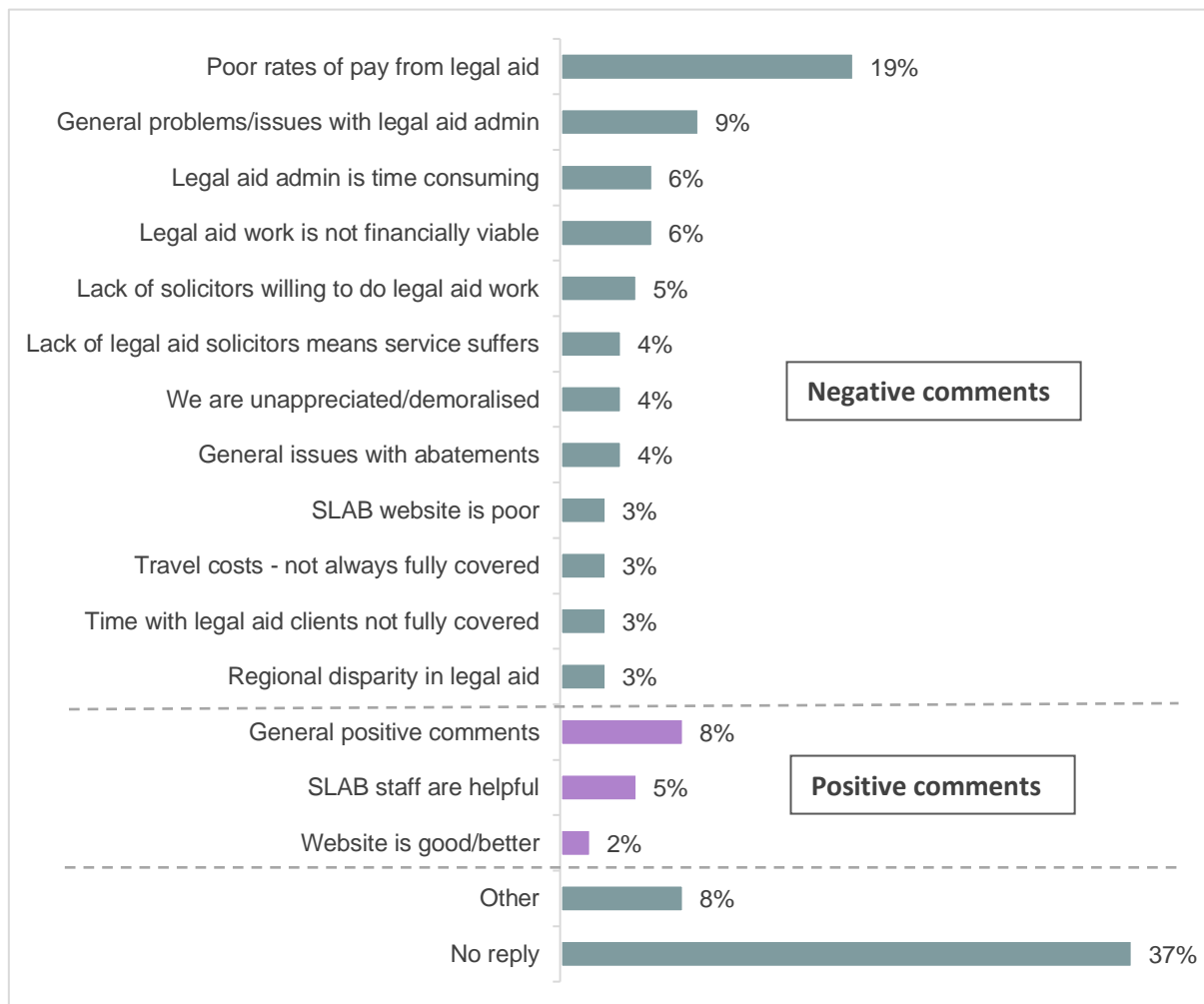
'Amount of admin in legal aid accounts process' was especially a challenge for firms operating in rural areas only (98% challenge vs. 82% operating in urban areas only). This was the only significant difference that emerged between urban and rural areas.

Experiences of being a legal aid solicitor

Respondents were provided with the opportunity to state anything else they would like SLAB to know about their experience as a legal aid solicitor. This was an open ended question – anonymised verbatim responses have been provided to SLAB separately to this report. In total, 63% of respondents provided a comment for this question. The chart below shows the most prevalent themes among the comments that were made.

Amongst those who commented, perceived poor rates of pay from legal aid were mentioned by nearly one in five (19%), which reflects the views above on the challenges in delivering legal aid. There were also a number of comments relating to legal aid admin.

Chart 30: Experiences as a legal aid solicitor



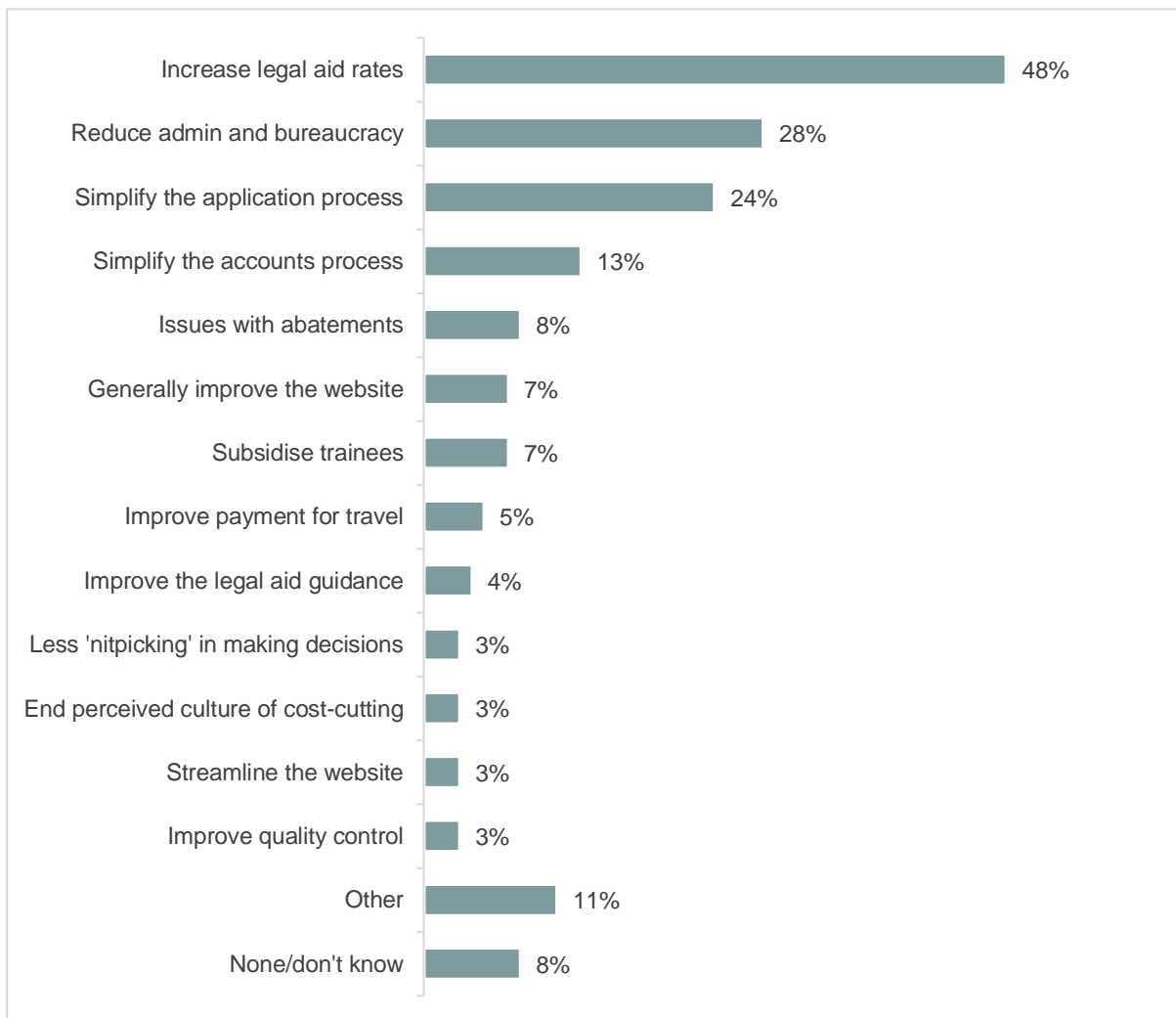
QD19: Is there anything else you would like SLAB to know about your experience as a legal aid solicitor?
Base (all) 300

Improving the delivery of legal aid

Respondents were also given the opportunity to provide suggestions for improving the delivery of legal aid. This was also an open ended question, and anonymised verbatim responses have been provided separate to this report.

As would be expected given results from the previous two questions, suggested improvements to the delivery of legal aid centred mainly on increasing legal aid rates (48%) and improving admin and bureaucracy ('reduce admin and bureaucracy' – 28%; 'simplify the application process' – 24%; 'simplify the accounts process' – 13%).

Chart 31: Suggestions for improving the delivery of legal aid



QD18: Do you have any suggestions for improving the delivery of legal aid? Base (all) 300

Increasing legal aid rates

Looking at some of the *verbatim* comments captured at this open-ended question, there was a perception amongst some that rates had been stagnant for a long time, and that this was discouraging new solicitors from entering legal aid work.

We've not had increase in rates since 1993. In the 80's solicitors earned more. No new people coming to legal aid because of pay.

The rate of pay is extraordinarily low, and that drives people away from taking on clients.

However, others were aware that there had been a recent increase in rates.

Everyone will say increase the rates! They did increase last year, but my memory is that is first time since 1992.

There was also a sense that current legal aid rates do not fully cover the actual time spent travelling and dealing with certain legal aid clients. For some, they do not feel they reflect the reality of the legal aid work they do.

Major challenge is the legal aid doesn't pay enough [to cover] time spent and travel time. You have to carry a certain amount of work to make it financially viable.

The rates of pay also made it hard to make legal aid work profitable, according to some.

Rates are so low that [it's] difficult to make profit - private clients subsidise legal aid work.

Issues with admin and bureaucracy

This was another major theme in the comments on improving legal aid delivery. There were many general comments criticising the overall process and calling for it to be streamlined and simplified.

Admin process for applications is overly cumbersome. Too much repetition. Have to repeat info for clients, although SLAB have the info from a previous application. Time consuming and unpaid work. Streamlined by identifying where SLAB already have info.

There were also comments singling out both the application and accounts processes in particular. Regarding applications, whilst one acknowledged it was improving, there was still room for improvement in terms of making it more streamlined and efficient.

Streamline the application process - simplify it - the application procedure is getting better. The online system is slow, but improve the workflow, by minimising screens

Simplifying the application system and regularising it would be good. To have different formats for different applications doesn't help anyone.

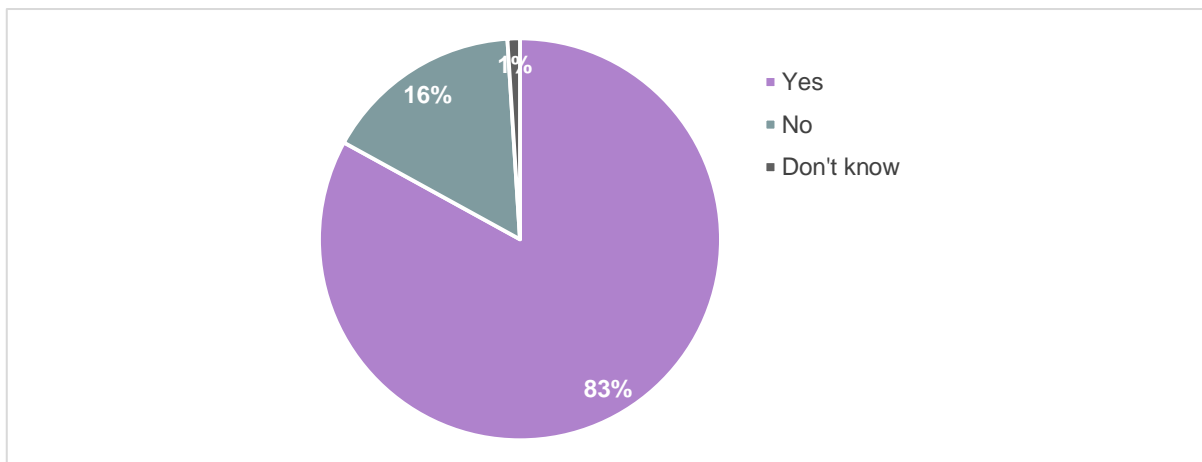
The perceived amount of admin can be viewed as a disincentive to take on legal aid cases.

The amount of paperwork that is required for civil legal aid applications is outdated. Rules have never changed, requirement for a statutory schedule is unnecessary. Discourages taking on cases because of amount of admin.

Conflicts of interest

The great majority of practitioners (83%) had turned down a client in the last two years due to a conflict of interest.

Chart 32: Turned down client in last 2 years due to conflict of interest



QC5: In the last 2 years, have you turned down a potential client due to a conflict of interest?
Base (all) 300

Types practitioner/firm has undertaken or registered for

Practitioners and 'civil only' firms were less likely to say they had rejected a client due to conflict of interest (55% and 48% respectively had done so vs. 83% overall).

Sheriffdom

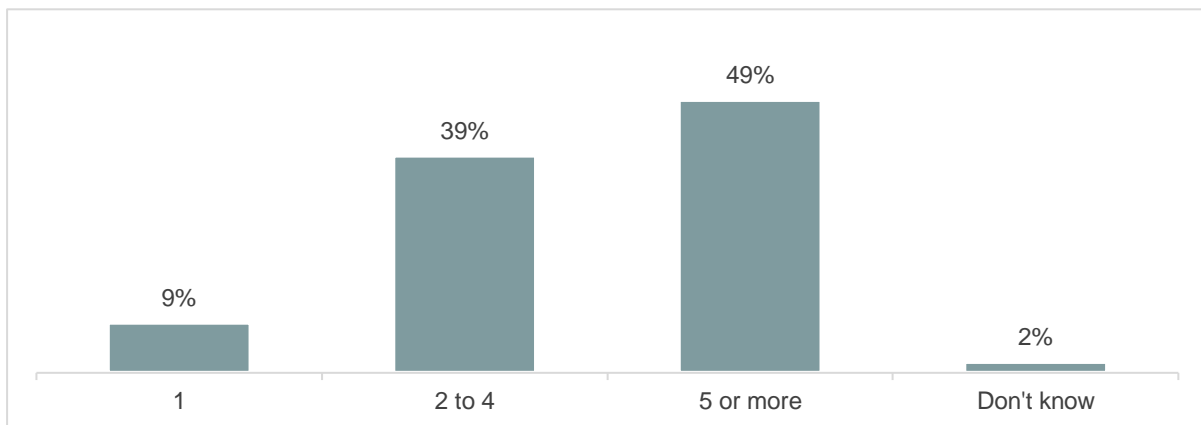
Practitioners in Tayside, Central and Fife were more likely than overall to have turned down a client (96% vs. 83% overall).

4.7. Attending courts and tribunals

Number of courts and tribunals served

The vast majority of practitioners said their branch served more than one court (88%), with nearly half (49%) saying they served five or more.

Chart 33: Number of courts served by branch



QD15: How many courts does your branch serve? Base (all) 300

Urban vs. rural

Practitioners whose firms provide a service in urban areas only (51%) and both urban and rural (56%) were more likely than those providing a service in rural areas only (26%) to say that their branch serves five or more courts.

Sheriffdom

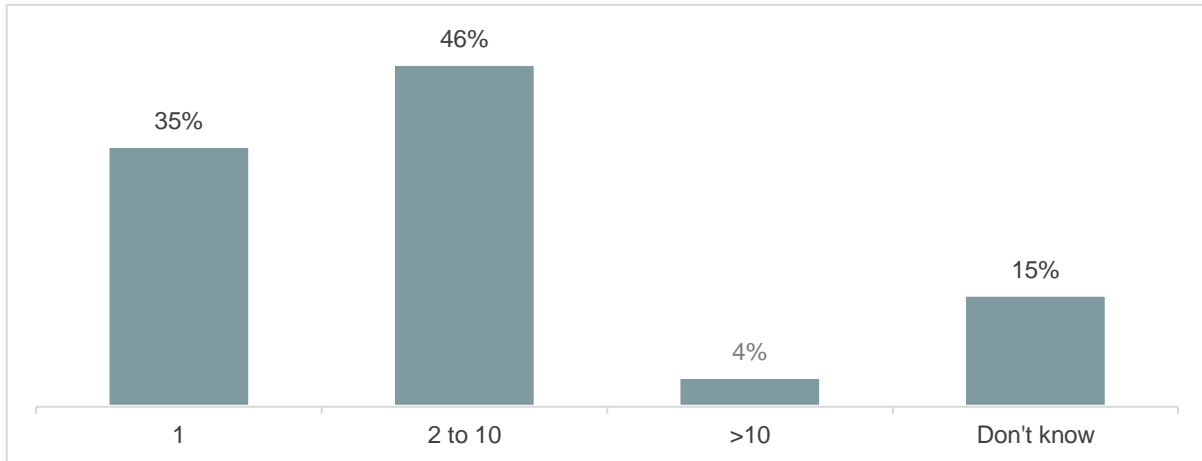
Practitioners operating in Glasgow and Strathkelvin were more likely to be serving five or more courts (64% vs. 49% overall). Those in Tayside, Central and Fife were least likely to be serving five or more (28%).

Types of case firm is registered for

Firms only registered to undertake civil cases were least likely to be serving five or more courts (26% vs. 49% overall).

Regarding tribunals, half (50%) said their branch attended tribunals at two or more locations, with 46% attending at 2 to 10 locations.

Chart 34: Number of locations branch attends tribunals at



QD16: Roughly, how many different locations does your branch attend tribunals at? Base (all excl. not applicable) 239

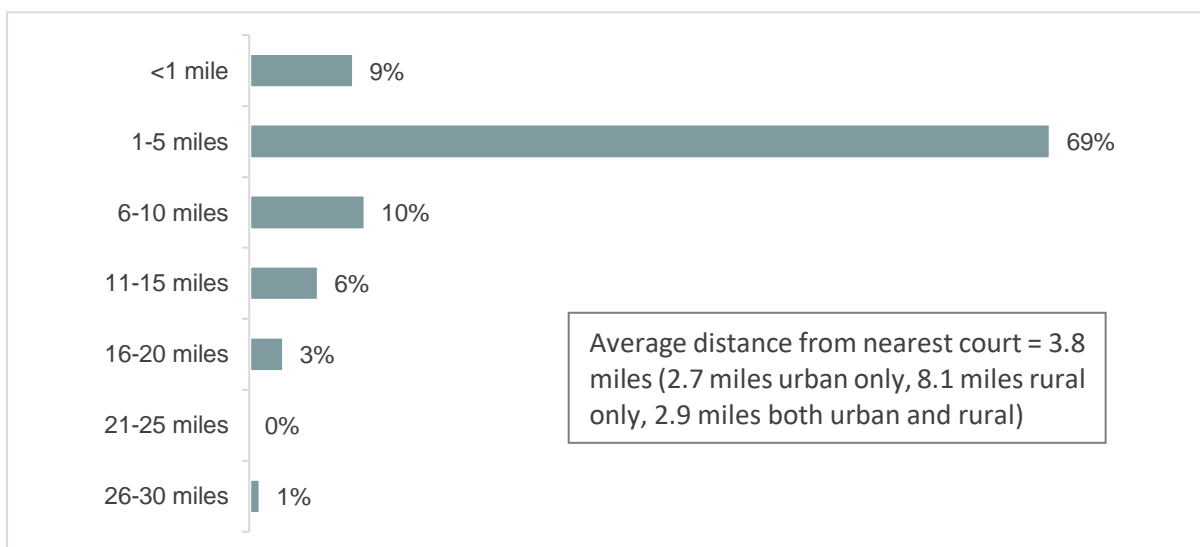
Urban vs. rural

Practitioners whose firms provide a service in both urban and rural areas (24%) were less likely than those providing a service in rural areas only (40%) or urban areas only (52%) to attend tribunals at one location only.

Distance from court

The majority (79%) said their branch was 5 miles or less from the nearest court. As would be expected, the average distance from the nearest court is considerably more for branches serving rural areas only (8.1 miles) than for those serving urban areas only (2.7 miles) or both rural and urban areas (2.9 miles).

Chart 35: Distance from nearest court



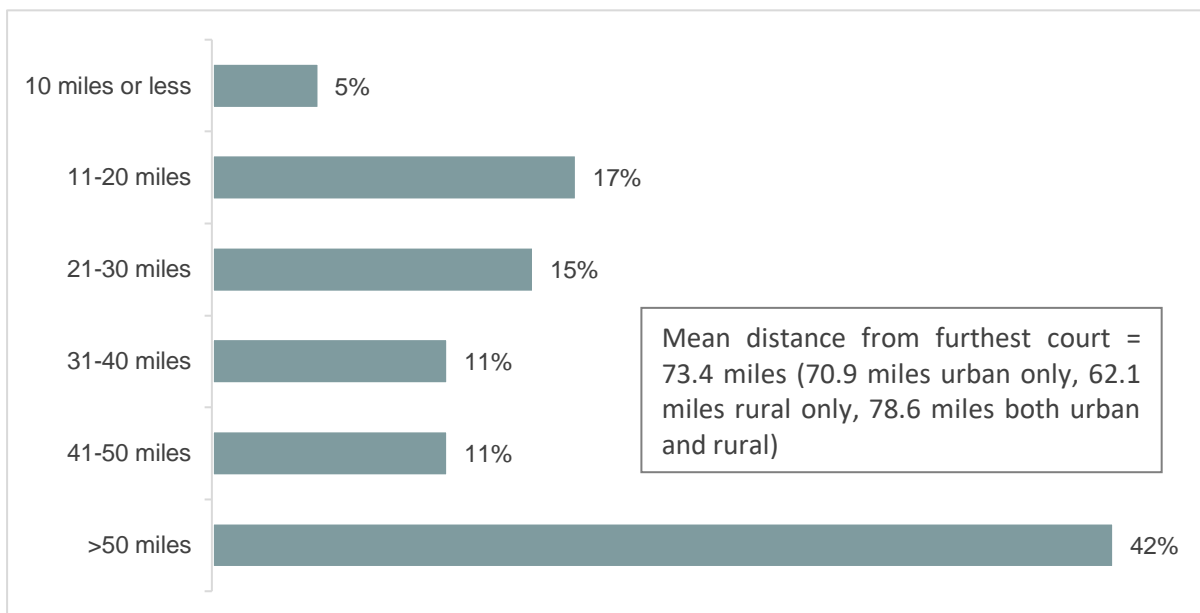
QD13i: How far (in miles) from your firm branch is the nearest court that your firm serves? Base (all) 300

Sheriffdom

North Strathclyde practitioners had the longest journeys on average to their nearest court (4.9 miles), and those in Glasgow and Strathkelvin (3 miles) and Grampian, Highlands and Islands (2.6 miles) the shortest, although please note the small base size for the latter (25 respondents).

Practitioners whose branches served more than one court were asked how far away the furthest court was from their branch. Over two in five (42%) said the furthest court was more than 50 miles away. Branches serving rural locations only tended to have shorter journeys on average to the furthest court (62.1 miles); this could be because they tend to serve fewer courts than urban only branches.

Chart 36: Distance from furthest court



QD15a: How far (in miles) from your firm branch is the furthest court that your firm serves? Base (all serving >1 court and excl. no replies and outliers) 243

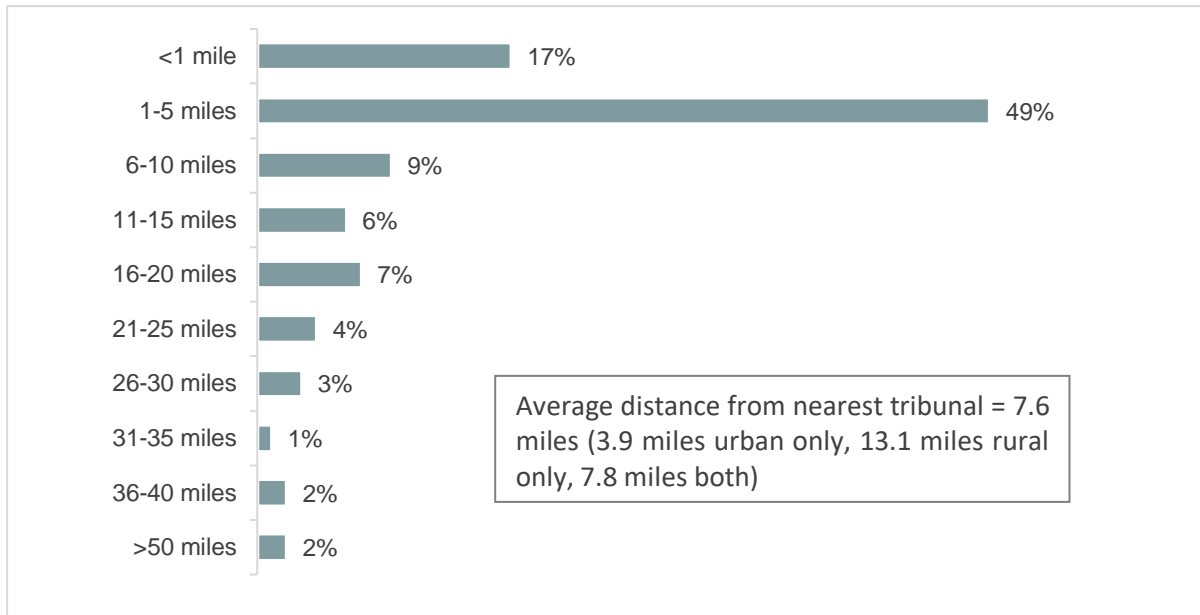
Sheriffdom

South Strathclyde practitioners had the shortest mean journeys to their furthest court (57.4 miles), and those in Grampian, Highlands and Islands (109 miles) the longest.

Distance from tribunals

Regarding tribunals, two thirds (66%) said their branch was 5 miles or less away from the nearest tribunal. Again, distances were on average greater for firms providing a service in rural areas only (13.1 miles vs. 3.9 miles for urban only and 7.8 miles for both urban and rural).

Chart 37: Distance from nearest tribunal



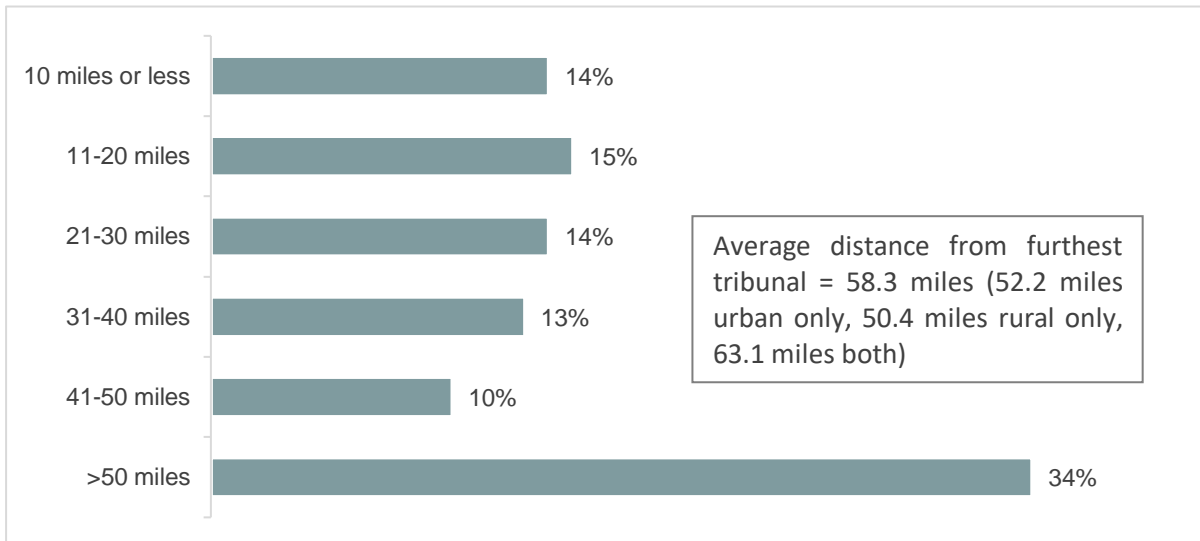
QD13ii: How far (in miles) from your firm branch is the nearest tribunal that your firm serves? Base (all serving a tribunal excl. outliers) 264

Sheriffdom

Distances were again greatest for North Strathclyde practitioners (12.6 miles on average), and shortest for those in Glasgow and Strathkelvin (2.5 miles).

Practitioners whose branches served more than one tribunal were asked how far away the furthest tribunal was from their branch. Over one third (34%) said the furthest tribunal was more than 50 miles away.

Chart 38: Distance from furthest tribunal



QD16a: How far (in miles) from your firm branch is the furthest tribunal that your firm serves? Base (all serving >1 tribunals and excl. no replies and outliers) 114

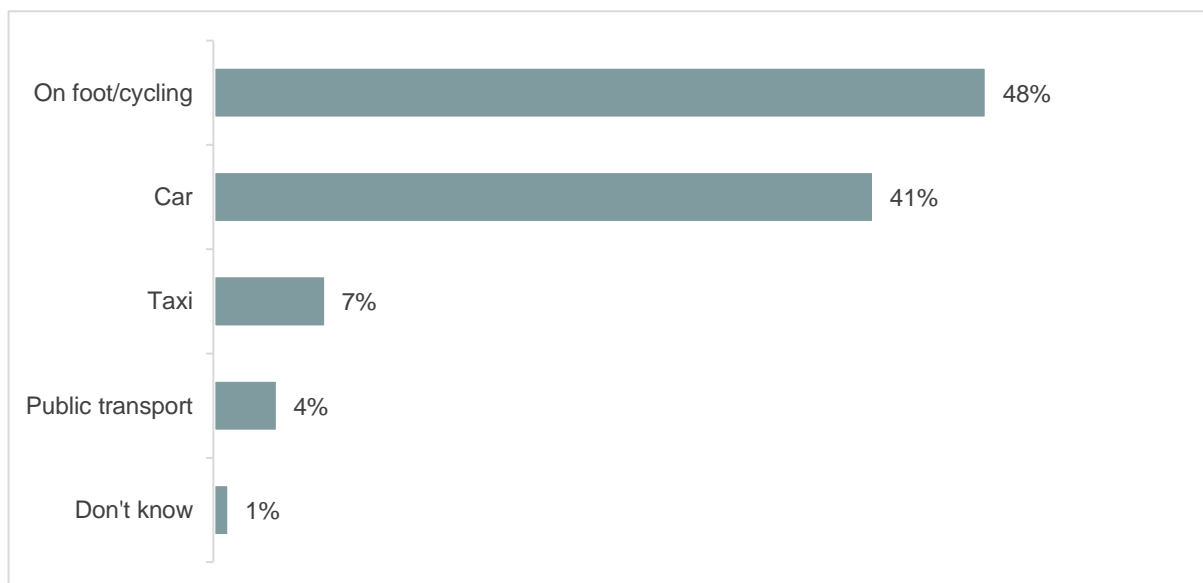
Sheriffdom

Practitioners operating mostly in Grampian, Highlands and Islands had the longest journeys on average (90 miles) and North Strathclyde practitioners the shortest (33.8 miles).

Travelling to court

Nearly half (48%) travelled to their nearest court on foot or by bicycle, whilst two in five (41%) travelled by car.

Chart 39: Mode of travel to nearest court



QD14: How would someone from your firm typically travel to the nearest court that you serve? Base (all) 300

Sheriffdom

Practitioners operating mostly in Tayside, Central and Fife were more likely than those in Glasgow and Strathkelvin to travel on foot or by bicycle (61% vs. 38%).

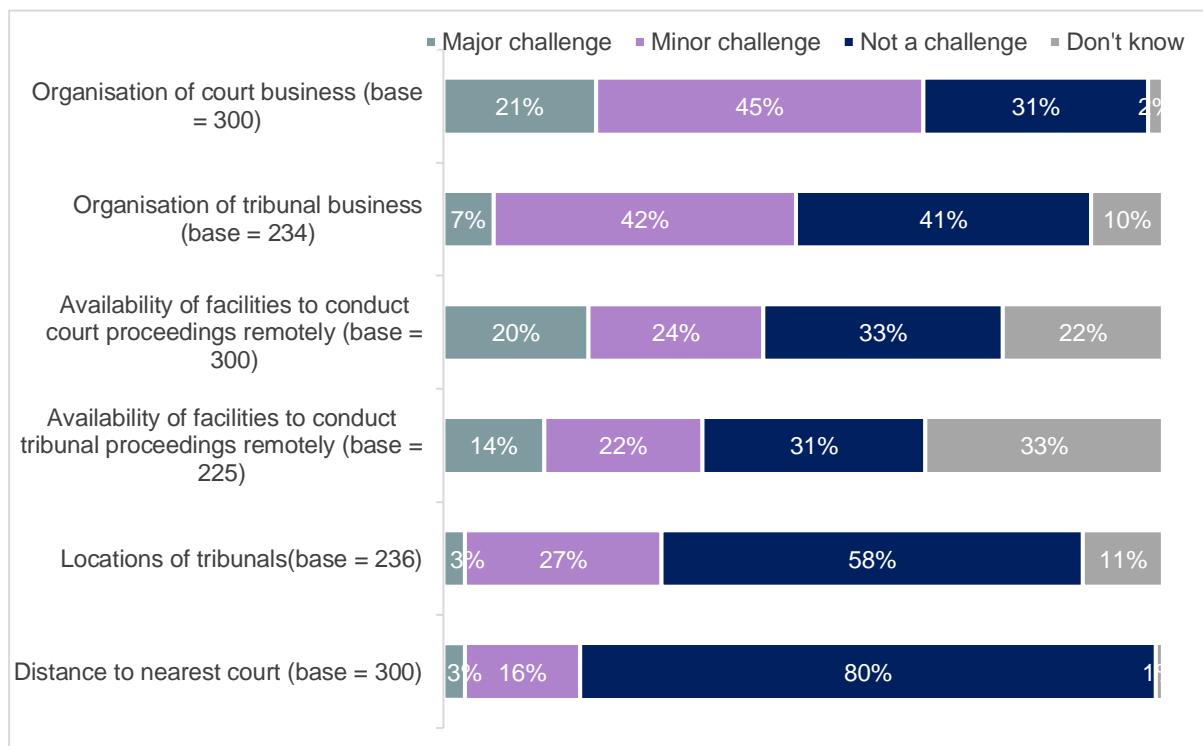
Urban vs. rural

Practitioners in branches providing a service in rural areas only were the most likely to travel by car to the nearest court (64% vs. 41% of those who service urban areas only and 33% of those who service both urban and rural).

Challenges in attending courts and tribunals

The key challenge in attending courts and tribunals was the organisation of court or tribunal business – especially court business, which two thirds (67%) said was a challenge (minor or major) compared with 49% who said organisation of tribunal business was a challenge. The distance to the nearest court was a challenge for one in five (19%); a significantly larger proportion (31%) said the location of tribunals was a challenge. Regarding availability of facilities to conduct court proceedings remotely, more said this was a challenge than not a challenge (45% vs. 33%).

Chart 40: Challenges in relation to courts and tribunals



QD17: I'm going to read out some challenges that you, or your firm, might face in relation to courts or tribunals. For each of these please tell me if it is a major challenge, minor challenge or not a challenge. Base (all excl. not applicable – bases in chart above)

Sheriffdom

The location of tribunals was less of a challenge for practitioners operating mostly in Glasgow and Strathkelvin (69% not a challenge vs. 58% overall).

Urban vs. rural

Practitioners whose firms provided a service only in rural areas tended to find a number of aspects more challenging than other practitioners, especially around distance/location of courts and tribunals:

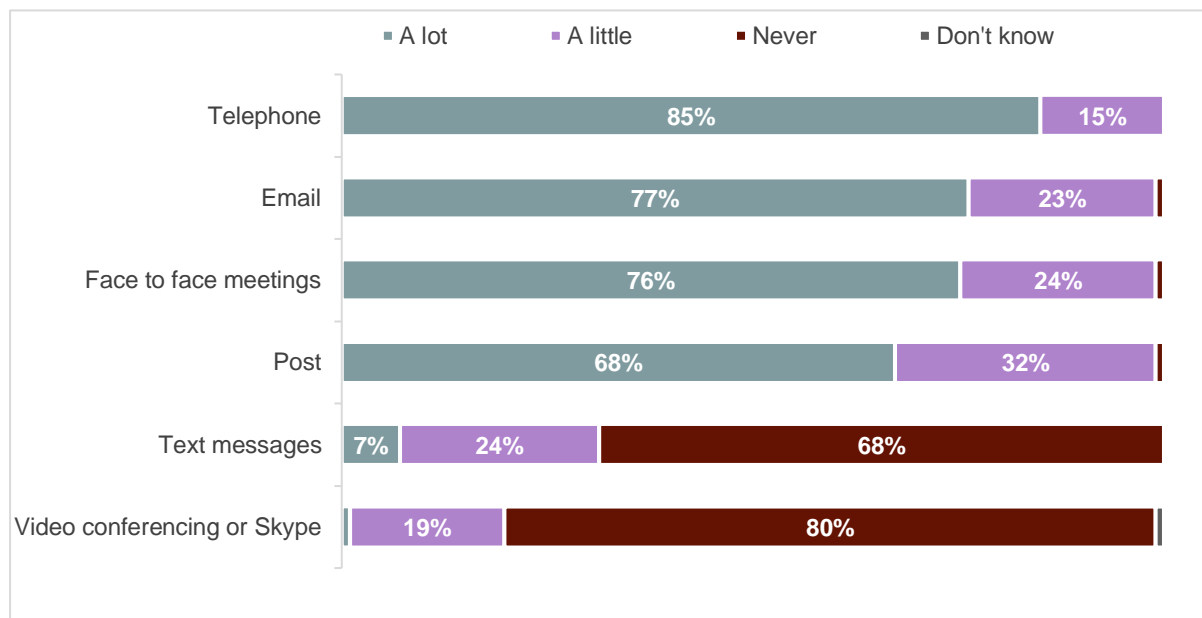
- Distance to the nearest court (32% a challenge vs. 15% urban only and 17% both urban and rural)
- Locations of tribunals (50% a challenge vs. 17% urban only and 31% both urban and rural)
- Availability of facilities to conduct court proceedings remotely (23% not a challenge vs. 41% urban only)

4.8. Communications

Communicating with clients

Nearly all practitioners used traditional means of communication with civil legal aid clients: telephone (100% use), post (100% use), email (99% use), and face-to-face meetings (100% use). For each one, the majority use them ‘a lot’. Video conferencing/Skype and text messages are used relatively little; video conferencing/Skype in particular is only used by a minority of respondents (only 19% said they used it at all).

Chart 41: Methods of communication with civil legal aid clients: frequency of use



QD2: For each of the following methods of communication, do you use them a lot, a little, or never to communicate with civil legal aid clients? Base (all) 300

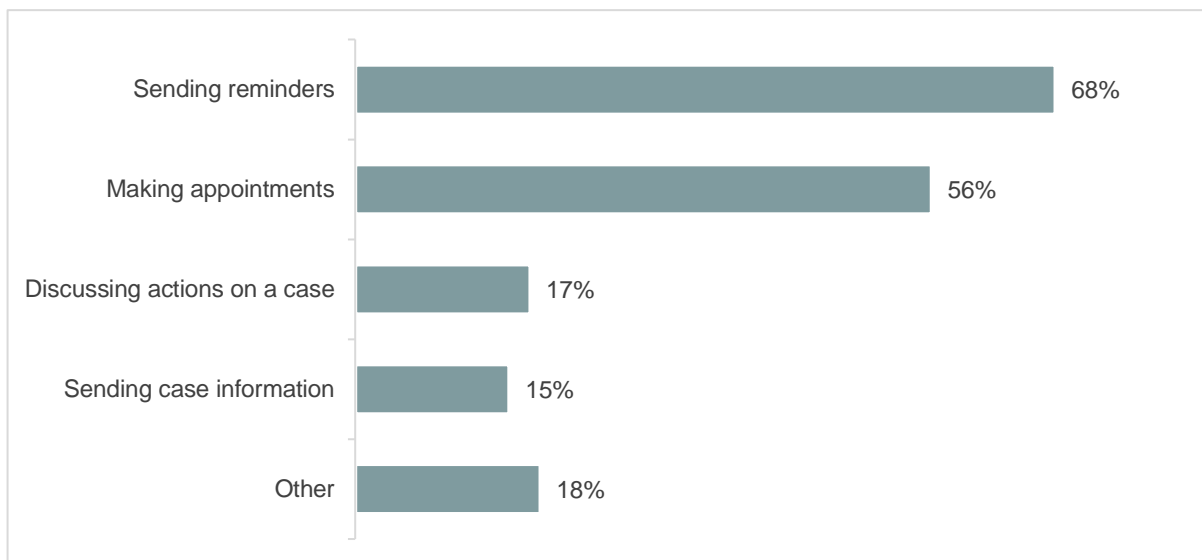
Sheriffdom

Practitioners in Glasgow and Strathkelvin were more likely than practitioners elsewhere to use the less traditional methods:

- 27% used video conferencing/Skype at least a little vs. 19% overall
- 42% used text messages at least a little vs. 32% overall

Amongst those who did use text messages at least a little, this was generally for less potentially sensitive communications. Two thirds (68%) used texts for sending reminders and over half (56%) used them for making appointments. Only small proportions used them for discussing actions on a case (17%) or sending case information (15%).

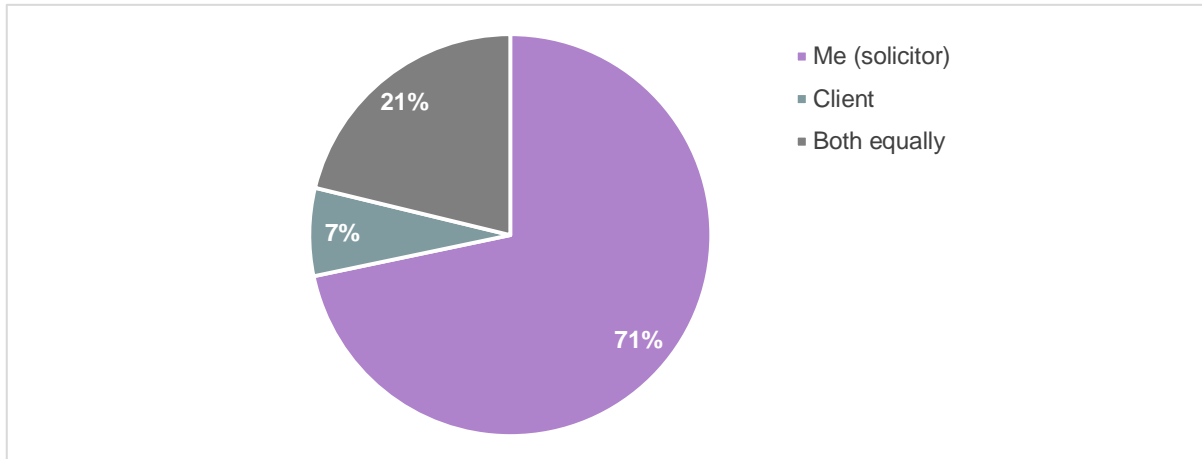
Chart 42: Using text messages to communicate different types of information



QD2a: What types of information would you use text messages for when communicating with a client? Base (all who use text messages to communicate with clients) 96

Practitioners who had used video conferencing/Skype to communicate with legal aid clients at least a little were asked who would suggest using it. Usually, it was suggested by the solicitor (71%).

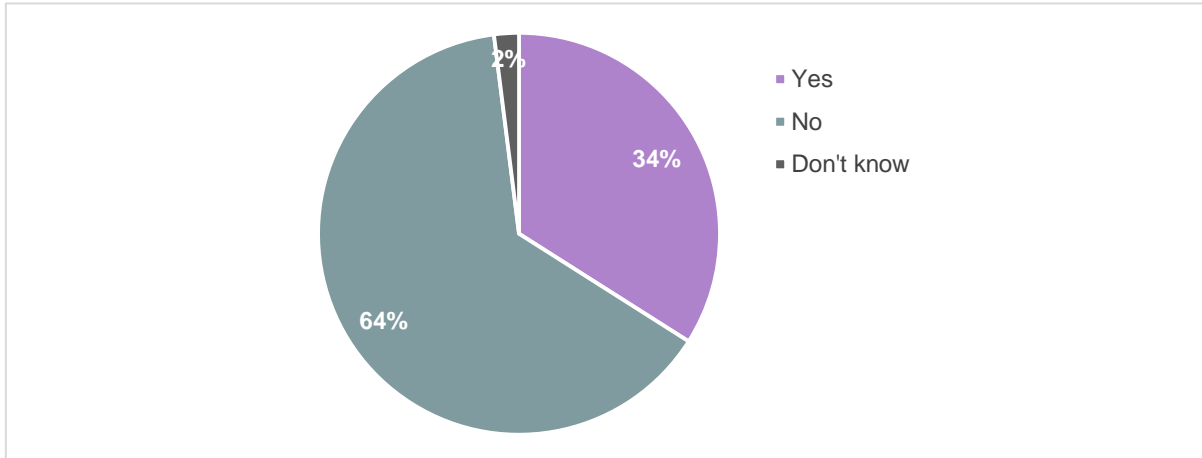
Chart 43: Who would suggest using video conferencing/Skype?



QD2b: Who would mostly suggest using video conferencing/Skype – you or your client? Base (all who use video conferencing/Skype to communicate with clients) 58

All practitioners were asked if they had suggested using email, text or video conferencing/Skype to a client and had them refuse it. Over one third (34%) said that this had happened to them.

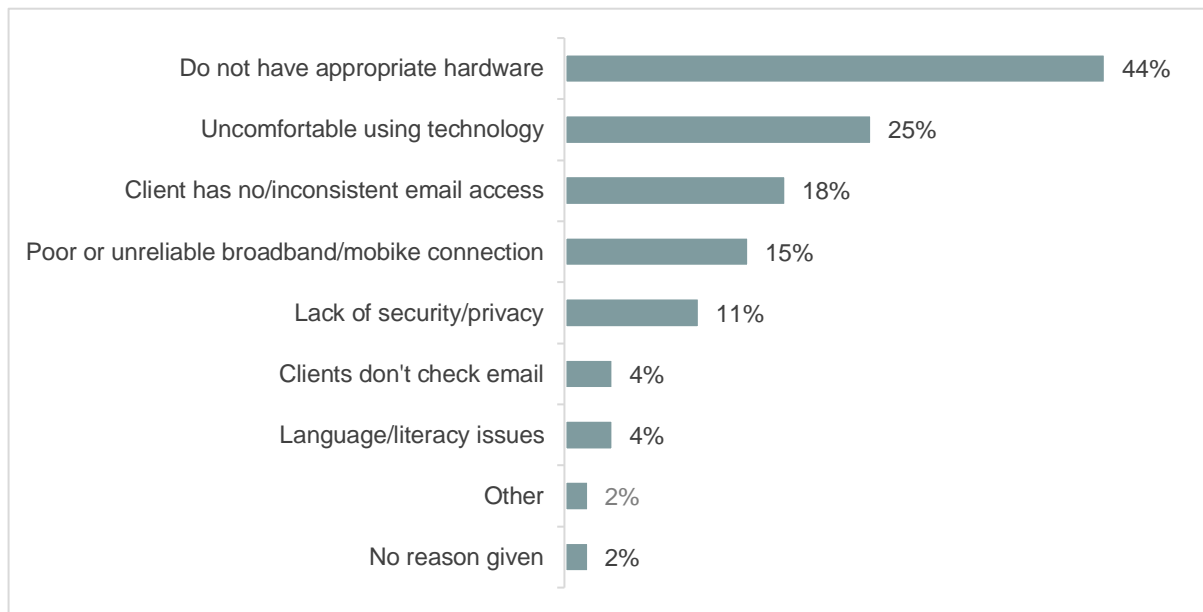
Chart 44: Have you suggested using email, text or video conferencing/Skype and had a client refuse this?



QD3: Have you suggested using email, text or video conferencing/Skype and had a client refuse this? Base (all) 300

Over two fifths (44%) of those who reported that they had suggested using video conferencing/Skype to a client and had the offer refused said that the reason for clients refusing was a lack of appropriate hardware. A quarter (25%) said clients were uncomfortable using the technology.

Chart 45: Reasons for refusing to use video conferencing/Skype

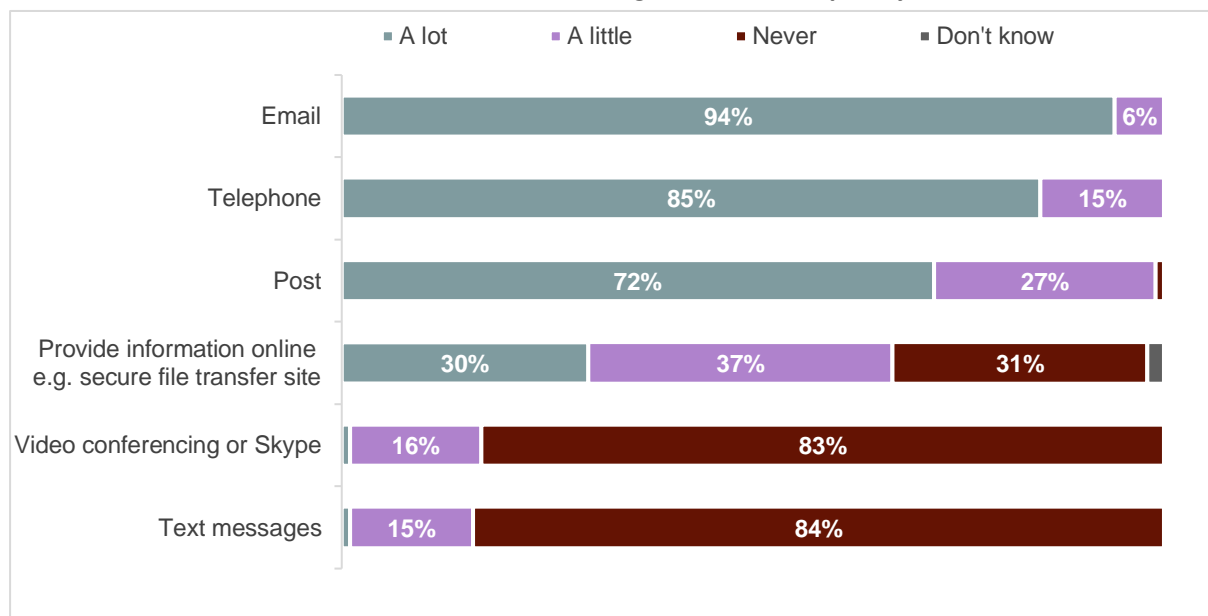


QD3a: What reason did they give for refusing? Base (all who had a client refuse video conferencing/Skype) 101

Communications with other organisations

Traditional methods also predominated regarding communications with other organisations. Email, telephone and post were used by almost all practitioners at least a little. Email was most used (94% a lot). Regarding non-traditional methods, secure file transfer was the most commonly used, with around two thirds (67%) using it at least a little. Video conferencing/Skype and text messages were the least used, with 83% and 84% respectively saying they never used them.

Chart 46: Methods of communication with other organisations: frequency of use



QD4: For each of the following methods of communication, do you use them a lot, a little, or never to communicate with other organisations? Base (all) 300

Urban vs. rural

Post is used more by practitioners in firms providing a service in rural areas only (83% a lot vs. 61% in urban only firms). Interestingly, video conferencing/Skype is not used more often in rural only firms, where it might be expected that clients tend to be more geographically remote from the branch.

Sheriffdom

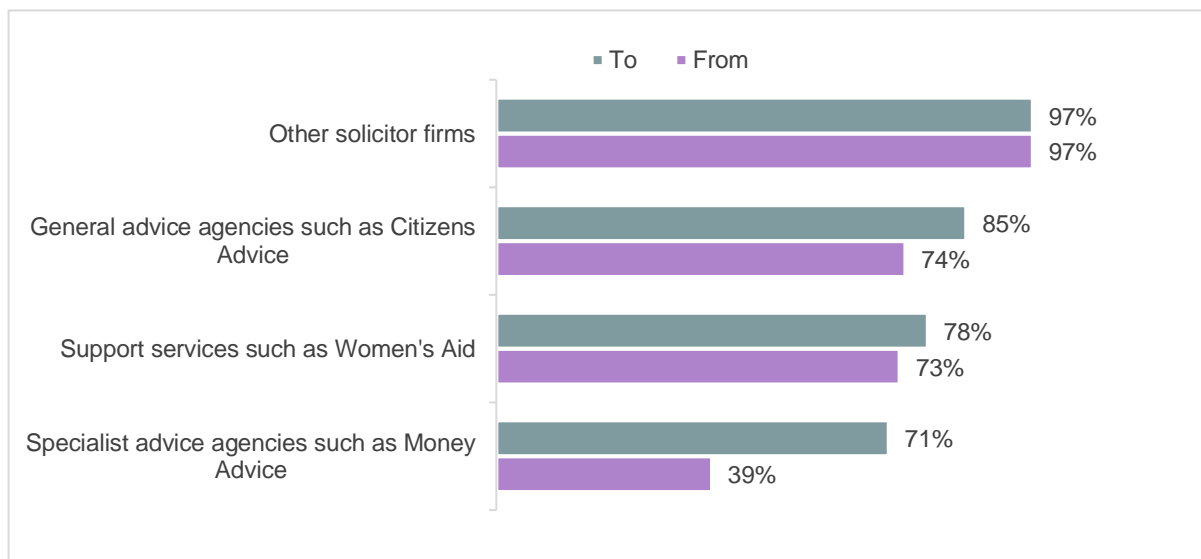
Practitioners operating mostly in Tayside, Central and Fife were more likely to use secure file transfer a lot (43% vs. 30% overall), and those from North Strathclyde least likely (13%).

Tayside, Central and Fife practitioners were also more likely to use text messages (26% a little/a lot vs. 16% overall).

Referrals to and from other organisations

As would be expected, the great majority of firms both receive referrals from and make referrals to a variety of other organisations. Other solicitor firms is the most common source and destination of referrals (both 97% in the last year). Nearly three quarters of firms have received referrals from general advice agencies (74%) and support services (73%) in the last year; 85% have made referrals to general advice agencies and 78% to support services. Referrals to specialist advice services are more common than referrals from them (71% vs. 39%).

Chart 47: Referrals to and from other organisations



QD5: In the last year have you received client referrals from any of the following? Base (all) 300 / QD6: In the last year have you referred anyone on to any of the following agencies? Base (all) 300

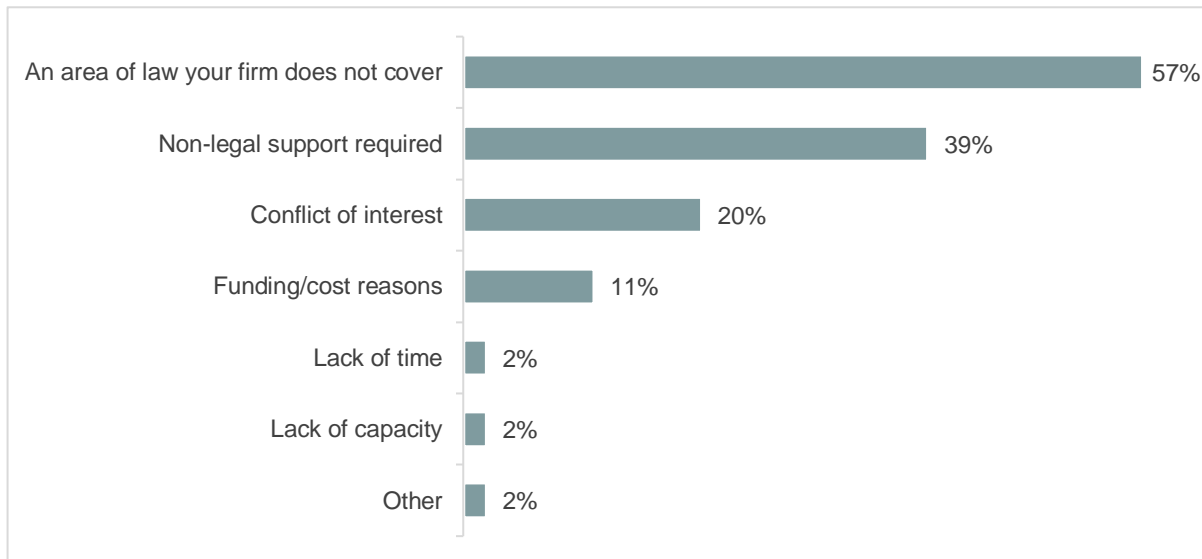
Sheriffdom

The following differences emerged:

- Practitioners operating mostly in Glasgow and Strathkelvin were more likely to have received referrals from specialist advice agencies than those in South Strathclyde (48% vs. 25%).
- Those operating mostly in Tayside, Central and Fife were more likely than overall to receive referrals from support services (83% vs. 73% overall); those in Glasgow and Strathkelvin were least likely (63%).

The most common reason for referring on to other organisations was that the firm did not cover the area of law required (57%). Two in five (39%) said that non-legal support was required, and one in five (20%) cited a conflict of interest.

Chart 48: Reasons for referring on to other organisations



QD6a: What are the most common reasons for referring people on to other agencies? Base (all who have referred someone to another agency) 295

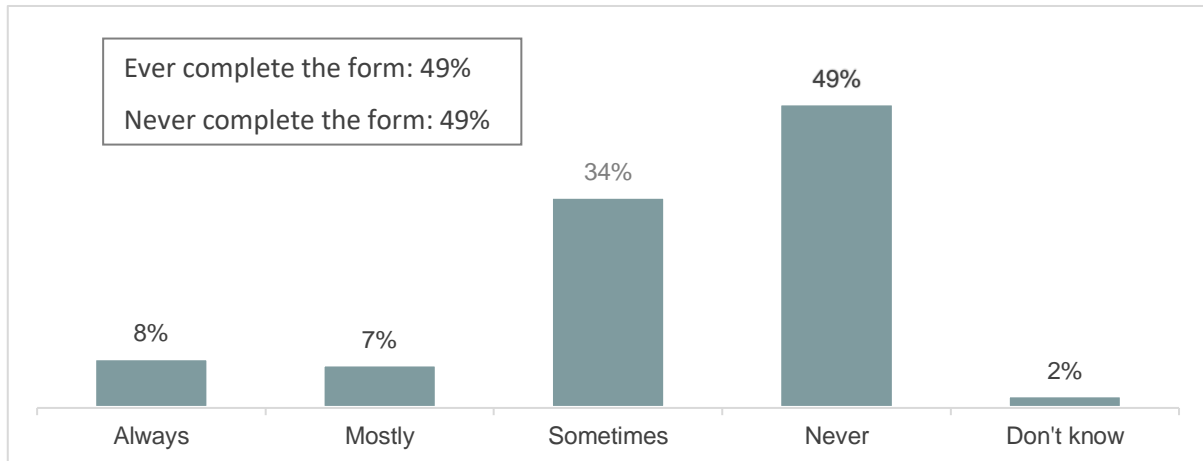
Sheriffdom

North Strathclyde practitioners were more likely than overall to say that non-legal support was required (61% vs. 39% overall). Glasgow and Strathkelvin practitioners were more likely to say it was because it involved an area of law their firm did not cover (67% vs. 57% overall).

4.9. Equality information for legal aid applications

Respondents were asked how often applicants tend to complete SLAB’s Equality Information Form (including both where client does this directly and where they tell solicitor their answers). Nearly half (49%) of practitioners interviewed never completed the equality information, with only a small proportion always or mostly completing it (8% and 7% respectively).

Chart 49: Completing Equality Information: Frequency



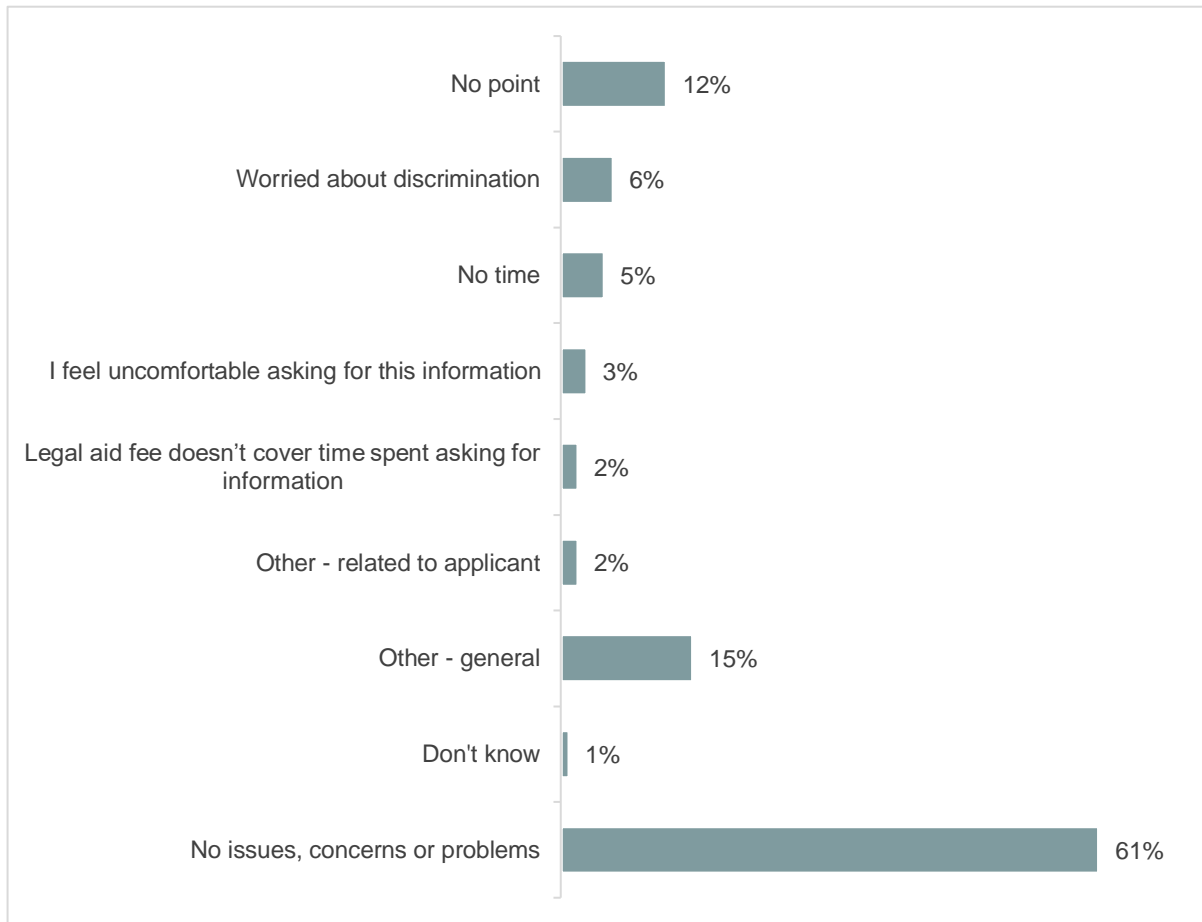
QD7: When applying for legal aid, roughly how often do applicants (or you, on their behalf) complete the Equality Information SLAB asks for? Base (all) 300

Urban vs. rural

Practitioners operating in rural areas only are more likely to ever complete the form (62%) than those operating in urban areas only or both types of area (46% each).

The majority of those who ever complete the form (61%) did not admit to any issues, concerns or problems with it. The most often mentioned concern was that they could not see the point of collecting the information, mentioned by 12%.

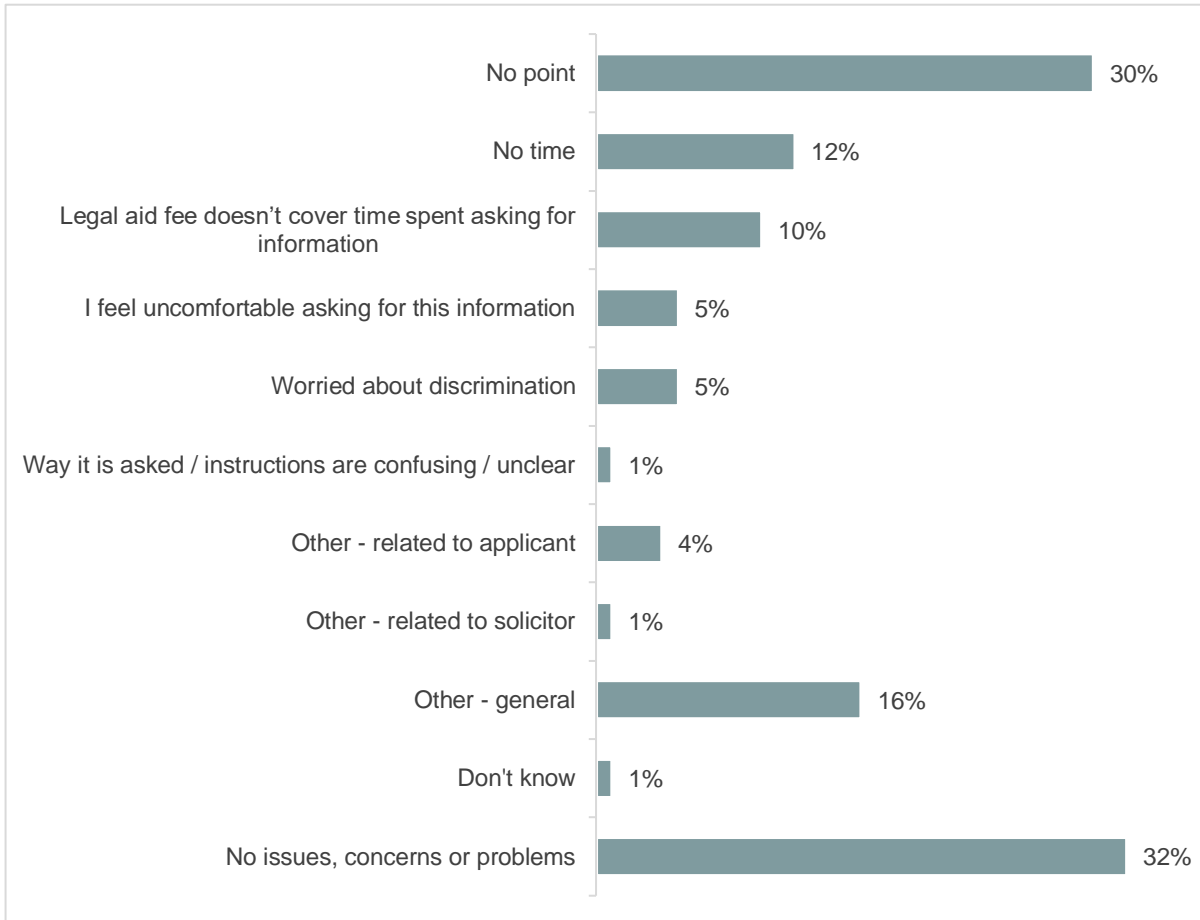
Chart 50: Issues, concerns or problems collecting equality information



QD7a: Do you ever have any issues, concerns or problems when collecting equality information? Base (all who ever complete equality information) 147

Amongst those who never completed the form, the largest single proportion (32%) did not admit to any issues, concerns or problems. Three in ten (30%) said there was 'no point' (21% said that they saw no point, 11% said the applicant didn't see the point). Worries about discrimination or feeling uncomfortable about asking for the information were fairly rare (mentioned by 5% each).

Chart 51: Issues, concerns or problems collecting equality information



QD7b: Are there any issues, concerns or problems that prevent you from collecting equality information? Base (all who never complete equality information) 146

5. Conclusions

The strongest themes emerging from the findings are: ongoing concerns amongst solicitors about the continued viability of legally aided civil assistance work and, conversely, a commitment to ensuring the availability of legal aid. Much of the concern focuses on the perceived low rates of pay for legal aid and the administrative work involved in applying for legal aid at the start, and further administrative demands at the end of the process.

Commitment to legal aid

The findings from this survey suggest a strong commitment to legal aid work amongst civil practitioners. The majority (78%) of partners thought that it was likely that their firm would still be doing legal assistance work in three years' time. This may reflect the long service of many firms, with the majority having undertaken civil legal assistance work for over 10 years.

Almost a quarter of respondents said their firm provides a national service, covering all Scotland. Continued commitment is also suggested by the increased use of trainees; current or likely employment of trainees has increased compared with previous years. Almost all respondents describe using a network of other practitioners and advice agencies with which they undertake referrals.

Despite this, the survey also highlighted a number of concerns with civil legal assistance. These are outlined below:

Fee rates and admin

Legal aid rates emerged as the greatest perceived challenge to delivering legal aid; with more than nine in 10 (92%) saying they are a major challenge. The admin involved at different stages also emerged as a significant concern. These concerns are probably already well known to SLAB, and not surprisingly were the areas where most solicitors said the legal aid process could be improved.

However, these over-riding concerns should not conceal the fact that several other things in relation to delivering legal aid were seen as at least a minor challenge. For example, around 70% said the amount of time spent dealing with legal aid clients was a challenge, echoing concerns voiced in some *verbatim* comments that the legal aid allowances for meetings with clients did not always reflect the actual amount of time these meetings took with often challenging clients. Two thirds (67%) found SLAB's guidance on legal aid to be a challenge, despite recent revisions.

SLAB will continue to work with the Scottish Government in relation to changes arising from the [Independent Review of Legal Aid](#), which will likely impact on many areas of delivery. Activities arising from the Review include the Legal Aid Payment Advisory Panel which was set up to advise on an evidence-based approach for a review of fee levels for legal aid services.

They also continue to work on internal and external guidance under the GALA project. This should help address some of the concerns identified through the survey, including those noted in the comments in relation to improving the delivery of legal aid.

Concerns over supply

The majority of respondents still considered that the number of civil legal aid solicitors in their local area is about right, and perceptions of coverage are now very similar to 2010. However this has fallen since 2013, with significantly more solicitors now saying there are too few civil legal assistance solicitors locally (36% in 2019 vs. 16% in 2013). The perception of too few civil legal assistance solicitors appears to be most pronounced in rural areas and Sherifffdoms covering areas outside the central belt, compared with predominantly urban areas/Sherifffdoms.

SLAB will continue to monitor civil supply, using their data on solicitor registrations and applications, as well as through direct contact with solicitors, applicants and other justice organisations. They will ensure there is a particular focus on supply in rural areas, including this in their research programme where possible. They will also continue to look at specific case types or areas of law, where it is indicated that there may be problems. This was recently undertaken for the areas of debt and homelessness¹¹. The evidence showed that the likelihood of a systemic problem in accessing legal services is low in relation to debt. For homelessness the evidence showed that there is a lack of knowledge and awareness of relevant legal services amongst those who are homeless, and that they may face accessibility barriers when they do seek advice; however there is little evidence of systemic problems meaning that people are unable to find a solicitor.

Distance to courts and tribunals a concern for rural service providers

Distance did not emerge as a key concern overall, but for those providing services in rural areas only, it did, no doubt reflecting their geographical location. Overall, however, the key challenges in relation to courts and tribunals were around the organisation of court/tribunal business. In what way organisation of business is a challenge was not covered in the survey, however.

Other conclusions.

Traditional communications methods predominate

Email, telephone and post were used by almost all solicitors to communicate with civil legal aid clients and other organisations (face-to-face meetings were also almost universally used to communicate with clients). Use of text messages and especially video conferencing/Skype was very limited. Given the complex and sensitive nature of many cases, it is perhaps not surprising that solicitors should continue to favour communication methods that allow for detail and dialogue. Those who do use text messages tended to do so for less in-depth communications such as sending reminders and making appointments. As for video

¹¹ Monitoring of availability and accessibility of legal services: fifth report. 2017. Available on SLAB's website www.slab.org.uk

conferencing/Skype, some legal aid clients were limited by lack of hardware and a lack of confidence and expertise in using the technology – again this may not be surprising as many legal aid clients will have limited means.

Many solicitors do not ask clients to complete the Equality information

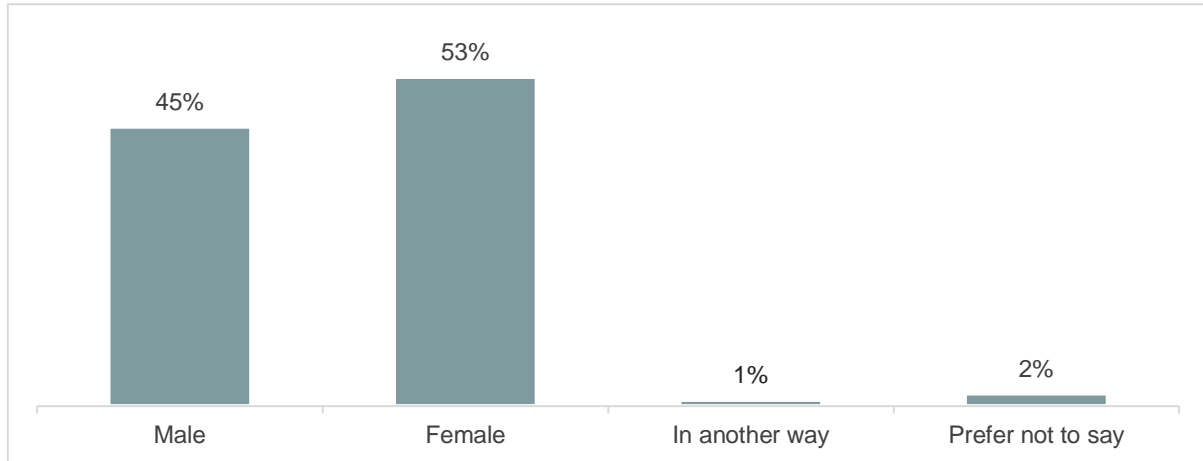
Around half of solicitors said they never complete the form, and a further third said they only did so sometimes. Fully understanding the reasons for this, and what might encourage solicitors to ask clients to complete it more often, would need further investigation. In the survey, one third of those who never complete it did not give any reason why, and the majority of those who complete it at least sometimes also did not admit to any problems or issues with it. Of the reasons that did emerge, lack of time and especially feeling that there was ‘no point’ in collecting the information were the most often mentioned.

It may be reasonable to speculate, given concerns about legal aid pay rates and admin/form-filling expressed elsewhere, that solicitors resent completing something they see as superfluous as part of the legal aid process. However, only one in ten of those who never complete the form said that they felt legal aid doesn’t cover the time spent asking for information. More in-depth, qualitative discussions with solicitors would probably be needed to tease out and understand their reluctance to complete the information, and how they could be encouraged to complete it more often.

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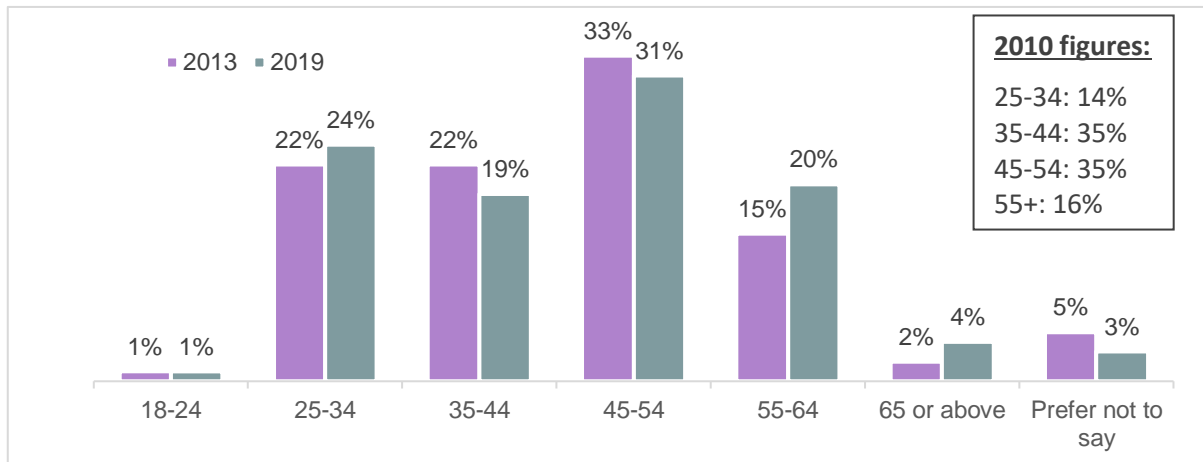
Appendix: Demographic information

Chart 52: Gender



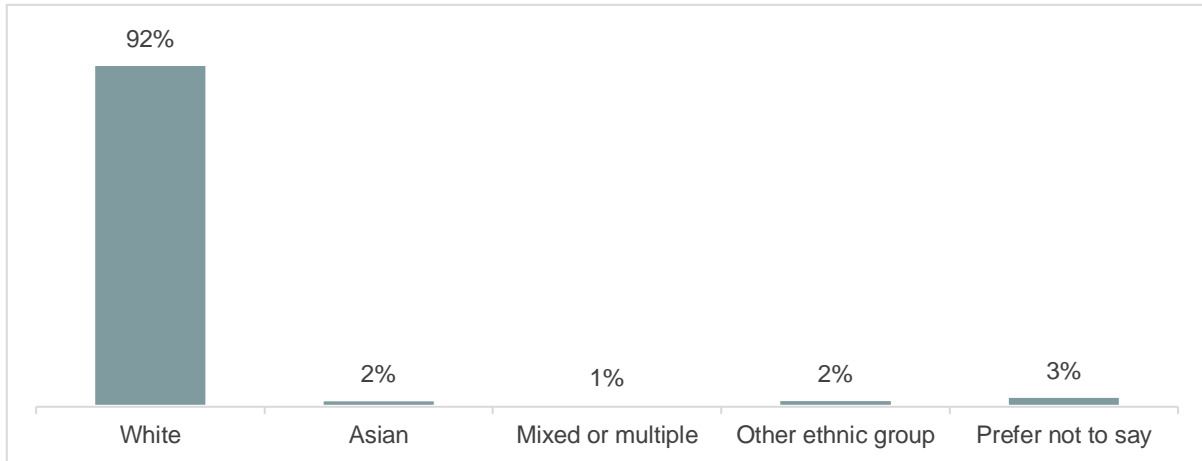
QE1: Which of the following best describes your gender? Base (all) 300

Chart 53: Age



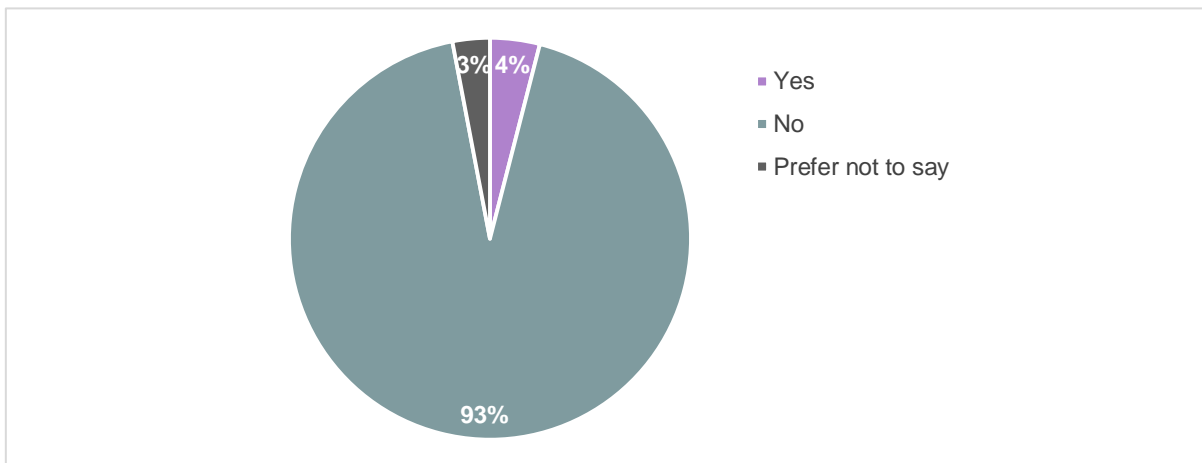
QE2: Which age category are you in? Base (all) 300 (2019), 337 (2013), 265 (2010)

Chart 54: Ethnicity



QE3: What is your ethnic group? Base (all) 300

Chart 55: Long-standing illness, health problem or disability



QE4: Do you have a long-standing illness, health problem or disability that limits your daily activity or the kind of work that you can do? Base (all) 300

Technical appendix

Method

Quantitative

1. The data was collected by telephone interviewing (CATI)
2. The target group for this research study was solicitors providing civil legal assistance
3. The sampling frame for this study was solicitors who had claimed legal aid for civil legal assistance cases between 1st September 2018 and 31st August 2019
4. The target sample size was 300 and the final achieved sample size was 300.
5. Fieldwork was undertaken between Mon 4th November – Fri 13th December
6. Interviewers aimed to interview as many respondents as possible. Partners comprised 25% of the sample so these were targeted first of all. The final interviewed sample consisted of 111 partners, 186 solicitors, and 3 trainee solicitors
7. SLAB's database contained 1,372 records. The overall response rate to the survey was therefore 22%. This response rate is typical for a survey of this kind.
8. 37% of the interviewed sample were partners, compared with 25% of the overall database. This means that partners were well represented in the final dataset
9. In total, 7 interviewers worked on data collection.
10. Interviews lasted 32 minutes on average.
11. Each interviewer's work was validated as per the requirements of the international standard ISO 20252. All telephone interviews were recorded and a minimum of 10% listened to in full for validation purposes. All interviewers working on the study were subject to validation of their work. In addition, interviewers are constantly monitored by the Telephone Unit Manager to ensure quality is maintained throughout each interview.
12. All research projects undertaken by Progressive comply fully with the requirements of ISO 20252, the GDPR and the MRS Code of Conduct.

Data processing and analysis

13. The overall sample size of 300 provides a dataset with a margin of error of between $\pm 1\%$ and $\pm 5\%$, calculated at the 95% confidence level (market research industry standard). Each sub sample of 100 provides a dataset with a margin of error of between $\pm 1.88\%$ and $\pm 9.44\%$.
14. The data processing department undertakes a number of quality checks on the data to ensure its validity and integrity.
 - For **CATI** questionnaires these checks include:
 - All responses logged by the interviewers are checked for completeness and sense. Any errors or omissions detected at this stage are referred back to the field department, who are required to re-contact respondents to check and, if necessary, correct the data.
 - Data is entered into the analysis package, SNAP, and data is stored on CATI booths until imported and stored in Progressive's secure workfiles.

15. A computer edit of the data carried out prior to analysis involves both range and inter-field checks. Any further inconsistencies identified at this stage are investigated by reference back to the raw data on the questionnaire.
16. Where 'other' type questions are used, the responses to these are checked against the parent question for possible up-coding.
17. Responses to open-ended questions will normally be spell and sense checked. Where required these responses may be grouped using a code-frame which can be used in analysis.
18. A SNAP programme was set up with the aim of providing the client with useable and comprehensive data. Cross-breaks were discussed with the client in order to ensure that all information needs are met.