



Ministry  
of Justice



Legal Aid  
Agency

# Legal Aid Statistics in England and Wales

July to September 2016

## Ministry of Justice Statistics bulletin

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

Published 15 December 2016

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# Introduction

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Legal Aid Statistics in England and Wales is published every quarter, presenting the key statistics on activity in the legal aid system. This edition comprises the first release of official statistics for the three month period from July to September 2016 and also provides the latest statement of all figures for previous periods and longer term trends.

## Information published in this release

The *Legal Aid Statistics: July to September 2016* release, published at <https://www.gov.uk/government/collections/legal-aid-statistics>, consists of the following documents:

- **Bulletin:** This bulletin, which provides key figures, graphs, explanation and commentary.
- **Tables:** A set of tables, which give further detail and full time series for each area.
- **Charts from bulletin:** The underlying data from which the charts and graphs in Legal Aid Statistics are created
- **More detailed data:** A more detailed set of data to facilitate detailed analysis using pivot tables, and re-use of the data using a variety of software packages. Provided in both .csv (comma separated values) and .ods (OpenDocument Spreadsheet) formats
- **Index of data in Legal Aid statistics:** An index to the more detailed data published in the csv and ods files, lists of available data from Legal Aid systems and guidance on how to work with the more detailed data using pivot tables.

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

The next edition of Legal Aid Statistics will be published on Thursday 30 March 2017

In accordance with principle 2 of the code of practice for official statistics, the MoJ is required to publish transparent guidelines on its policy for revisions. A copy of this statement can be found at: <https://www.gov.uk/government/statistics/ministry-of-justice-statistics-policy-and-procedures> and details about specific revisions can be found in our user guide.

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

## User feedback

Feedback from users helps us to make the Legal Aid Statistics valuable and relevant. We can be contacted at [statistics@legalaid.gsi.gov.uk](mailto:statistics@legalaid.gsi.gov.uk) or you can follow this link to complete our short user survey: <http://www.smartsurvey.co.uk/s/6U58M> .

## Measuring activity in the legal aid system

### Workload

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

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

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

### Expenditure

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

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

- For more complex work, for example many crime higher and civil representation cases, a portion of the work on a case that is completed and paid for in a given period may have taken place over previous periods, but on the closed-case basis its entire value will be included within the expenditure figures for the period in which the case closes.
- Similarly, the value of any work that is done in a given period on cases that have not yet been completed or paid for will not be included in the closed-case expenditure figures for that period.

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

Another important difference is that the figures in this bulletin do not take account of income received in the period or expenditure in relation to changes in debt (to illustrate, the LAA's income in 2015-16 was £200m and expenditure in relation to debt changes was £5m, out of total net programme expenditure (that is, excluding administration costs) of £1,526m).

# Key findings

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## Criminal legal aid

1. **Crime lower** workloads continue to decline gradually in the context of falling overall crime rates. The latest quarter saw a 4% fall compared to the same period in the previous year (see figure 3).
2. **Expenditure on crime lower** has declined 2% compared to the same period of the previous year. However, the suspension from April 2016 of the most recent cut to criminal legal aid fees has contributed to an increase in expenditure of 3% from the quarter prior to this change (see figure 4).
3. In **crime higher**, new orders for legal representation in the Crown Court continue to decline. The volume of **cases completed** also fell, down 11% in the latest quarter compared to the same period of last year (see figure 10).
4. **Expenditure within crime higher** is 16% lower in the latest quarter when compared to the same period of the previous year. This is partly due to the reduction in volumes and partly because that quarter of 2015 saw a particularly high-cost mix of cases completed.

## Civil legal aid

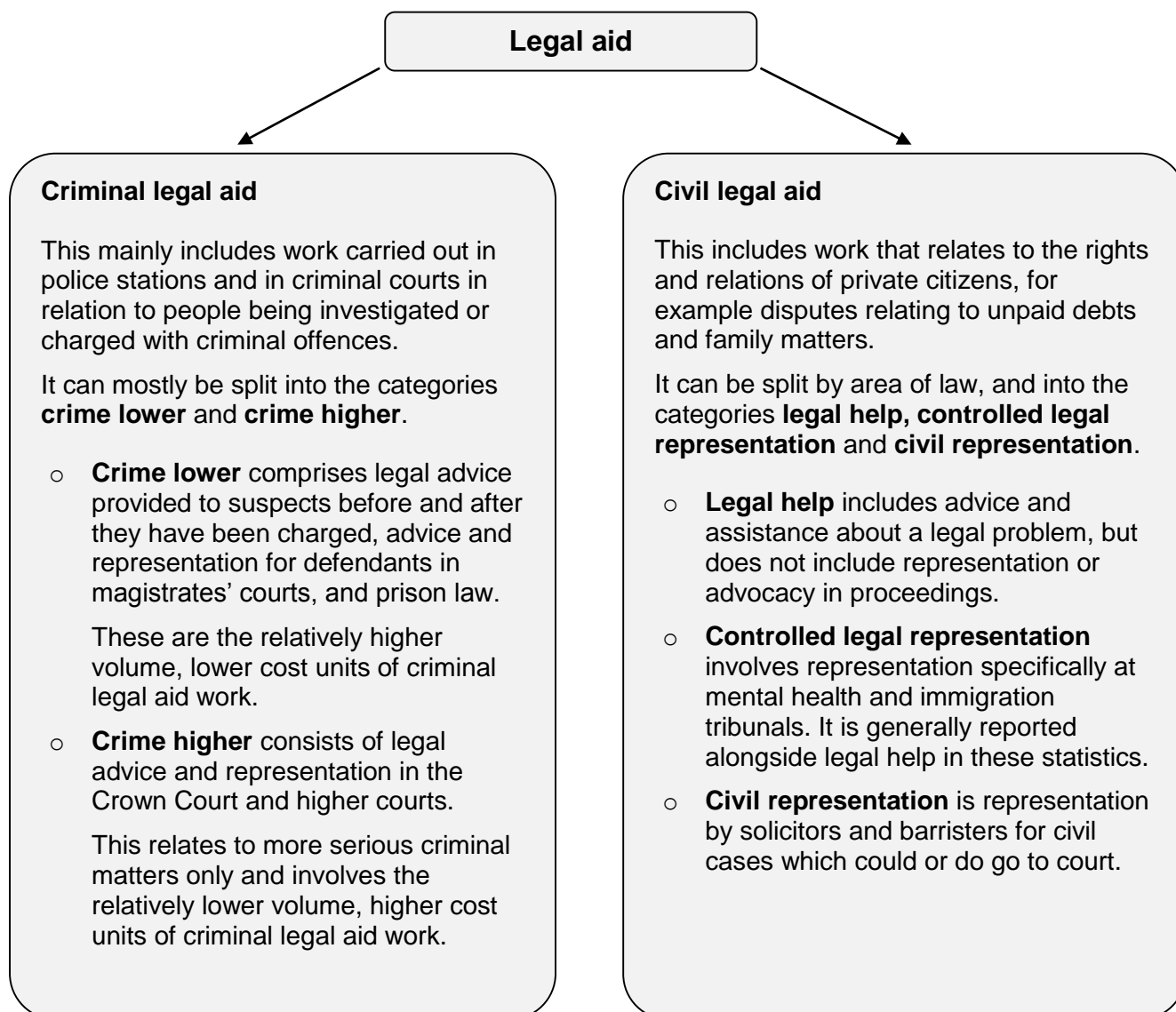
5. In the latest quarter **legal help** new matter starts were 9% lower than in the same period of 2015. The implementation of the Legal Aid Sentencing and Punishment of Offenders (LASPO) Act in April 2013 resulted in large reductions in legal help workload and the overall trend subsequently levelled out at around one-third of pre-LASPO levels (see figure 12).
6. The number of **civil representation** certificates granted levelled out at around two-thirds of previous levels following the implementation of the LASPO Act, but has increased over the last year. In the latest quarter they were up 8% compared to the same period of the previous year (see figure 12).
7. The number of **mediation** assessments in the latest quarter was 17% down compared to the same period in 2015 and starts were down by 19% over the same period.
8. There were 479 applications for **Exceptional Case Funding (ECF)** received in the latest quarter; the most in a single quarter since the ECF scheme began in 2013. 455 of these had been determined as at 30 November, of which 46% were granted.

# Analysis and commentary

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## Summary

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



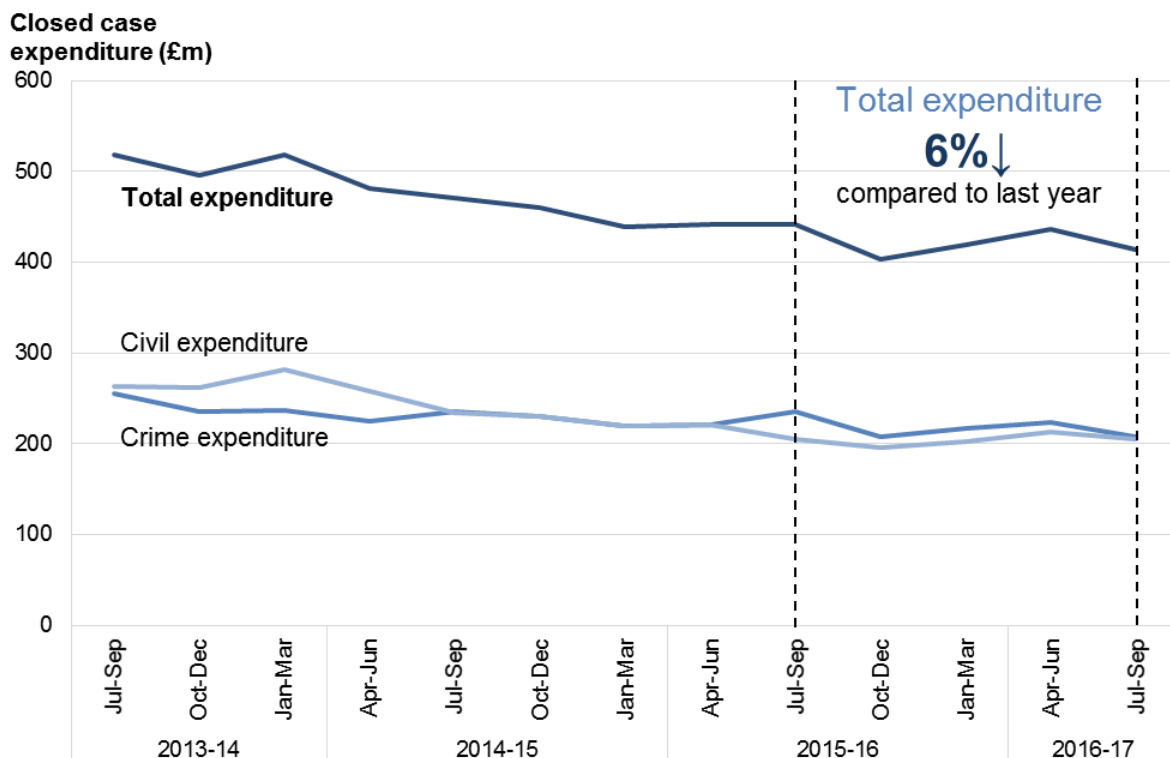
It is difficult to summarise workloads across the legal aid system meaningfully within a single number because of the diversity of services being provided, so users of these statistics are best advised to look at trends in workload for each area of legal aid separately.

Perhaps the best way to summarise the entire system in a broad sense is to look at expenditure. These statistics present expenditure in terms of the value of payments made to legal aid providers for work completed in each period, which is different from the way

expenditure figures are presented for budgeting and accounting purposes (see page 4 for further explanation).

On this ‘closed-case’ basis, expenditure on work completed between July and September 2016 was £413m<sup>1</sup>, a 6% reduction on the same quarter of 2015 and a 20% reduction on the same quarter of 2013 (see figure 1). Expenditure on civil legal aid has fallen further than that on criminal legal aid since 2013. These trends reflect changes to workloads, fees and the scope of legal aid over recent years, although they are not adjusted for inflation. These changes are discussed in more detail throughout this statistical bulletin.

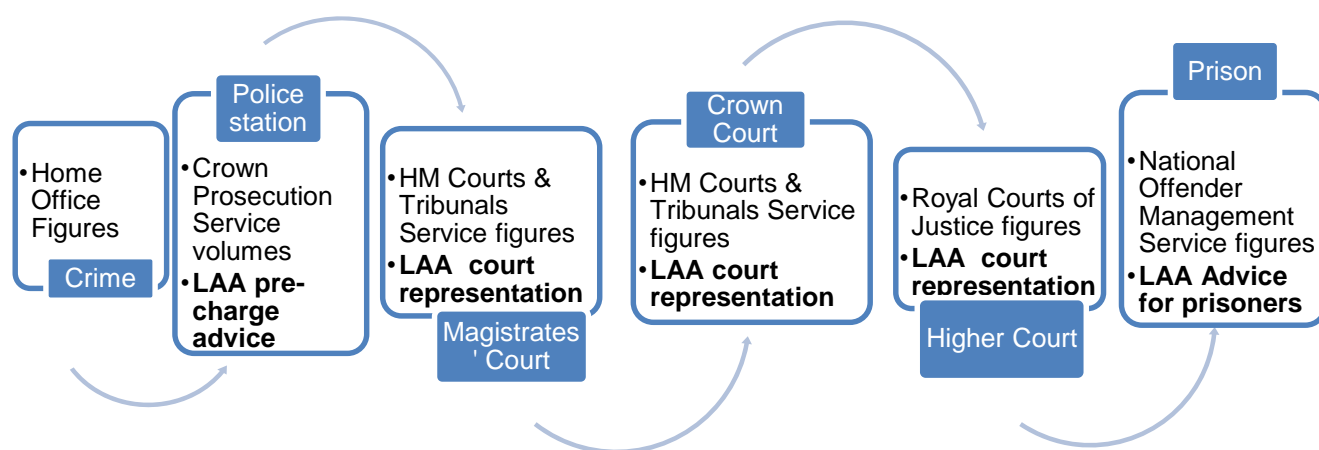
**Figure 1:** Value of payments made for cases completed in July 2013 to September 2016, by legal aid scheme



<sup>1</sup> Data on the value of completed cases are provisional and subject to change in subsequent publications. Figures include mediation in the civil expenditure category and central funds in the crime expenditure category but the cost of work in the higher courts is excluded here.

# Criminal legal aid

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



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

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

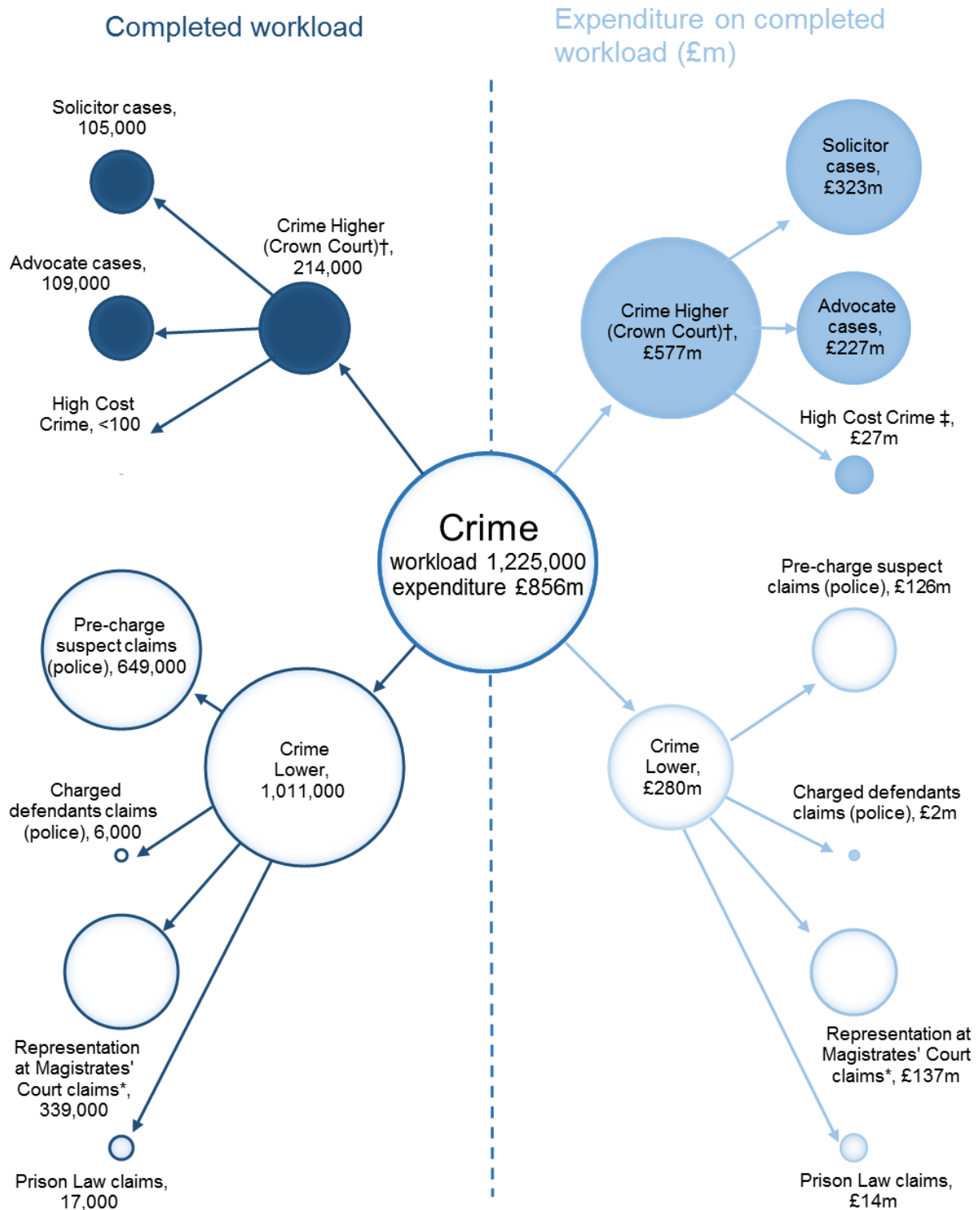
**Crime Lower** includes information from the pre-charge and police station stage, the early court system (including magistrates' courts) and prison assistance. These are the relatively higher volume, lower cost units of criminal legal aid work. For more detailed figures on Crime Lower, see Tables 2.1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

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

Workload in the wider Criminal Justice System has fallen in the last few years and, partly as a consequence of this, some areas of criminal legal aid have also seen a gradual fall. The largest reduction in workload within criminal legal aid between July and September 2016 and the same period in the previous year was for pre-charge defendants, which has fallen by around 7,500 cases (4%) driven by the continued falls in police station attendance work.



**Figure 2:** Volumes and expenditure within criminal legal aid area, Oct 2015 to Sep 2016



\* includes court duty solicitor sessions

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

‡ The spend for high cost crime is the on-going spend for the last 12 months, not closed case spend. Figures are for the 12 months to September 2016

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

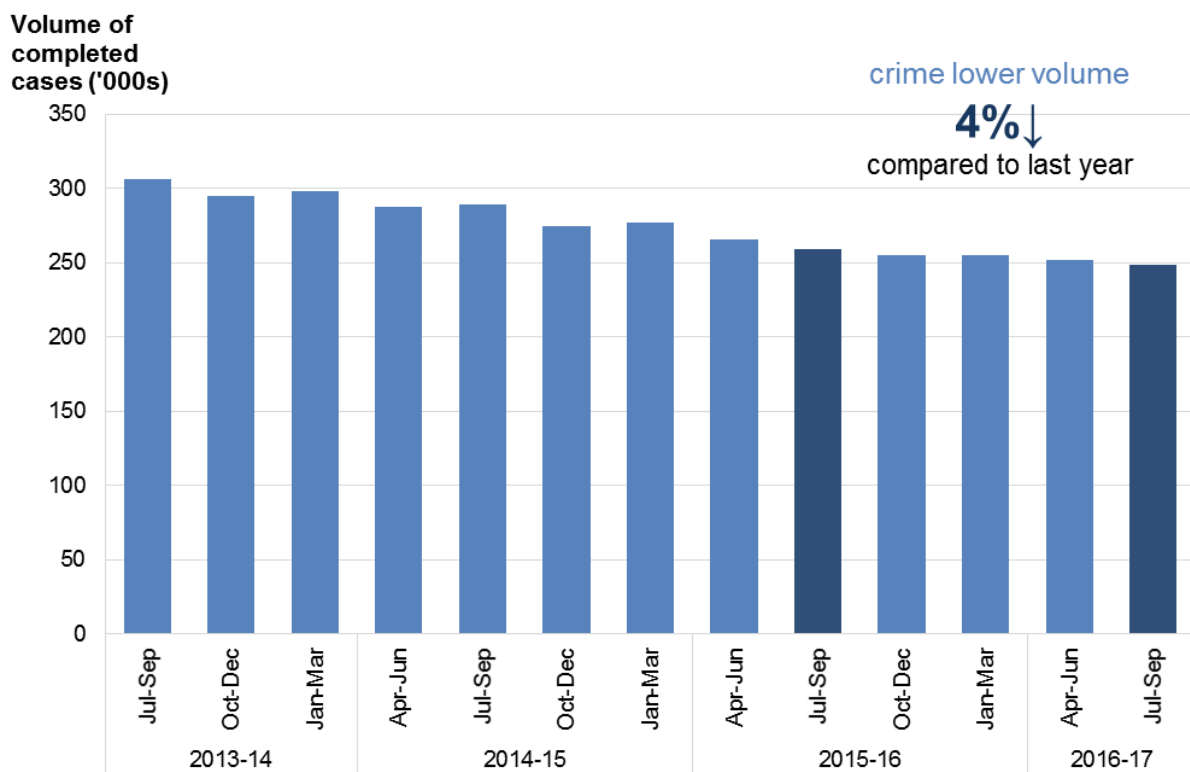
## Crime lower

The gradual decline in crime lower workloads in recent years has continued in the context of falling overall crime rates, and the latest quarter saw a 4% fall compared to the same period in the previous year (see figure 3).

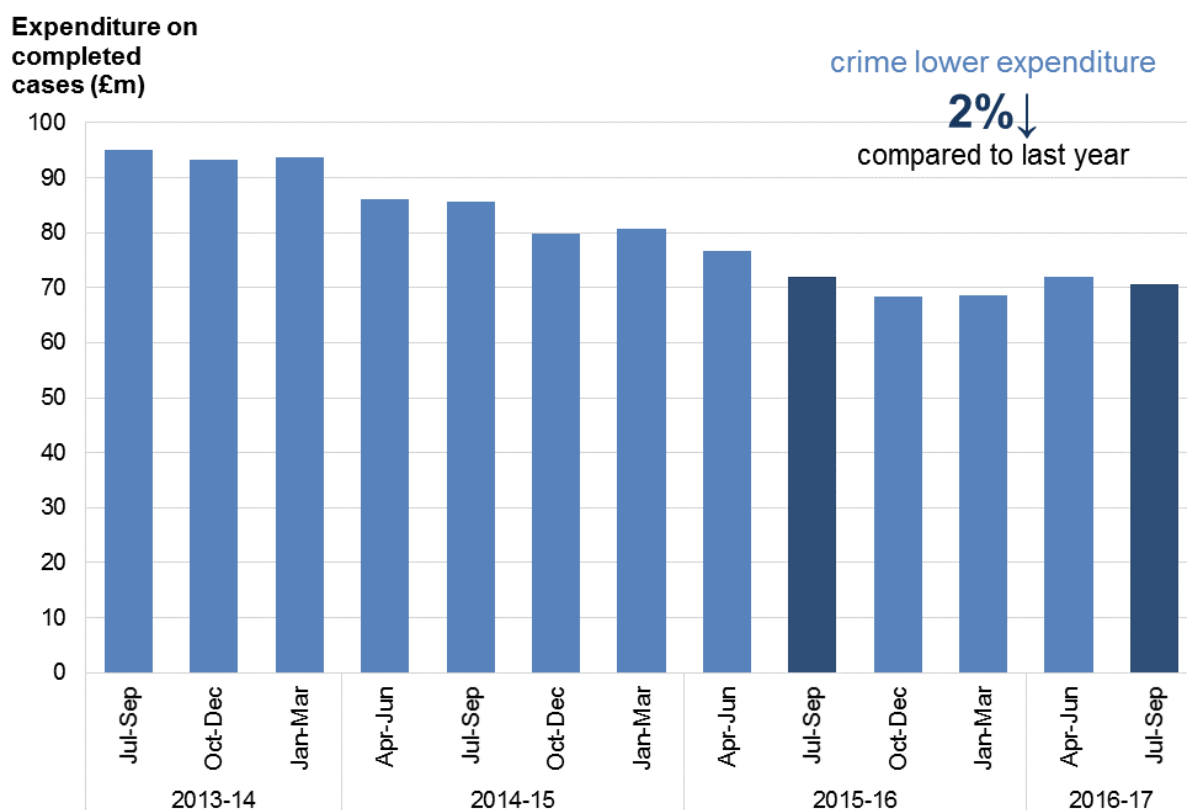
Prior to April 2016, expenditure on crime lower had been declining more than workloads over recent periods, reflecting the impact of the two successive reductions to the fees paid for most crime lower legal aid work which were introduced in March 2014 and July 2015.

From April 2016 however, the second of these reductions was suspended and the impact of this can be seen in the trend, with expenditure in the July to September quarter down 2% compared to the same period of the previous year and 3% higher than in the period from January to March 2016 (see figure 4).

**Figure 3:** Number of cases within crime lower, Jul-Sep 2013 to Jul-Sep 2016



**Figure 4:** The value of completed crime lower cases, Jul-Sep 2013 to Jul-Sep 2016



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

### Pre-charge suspects

(Table 2.1 and 2.2)

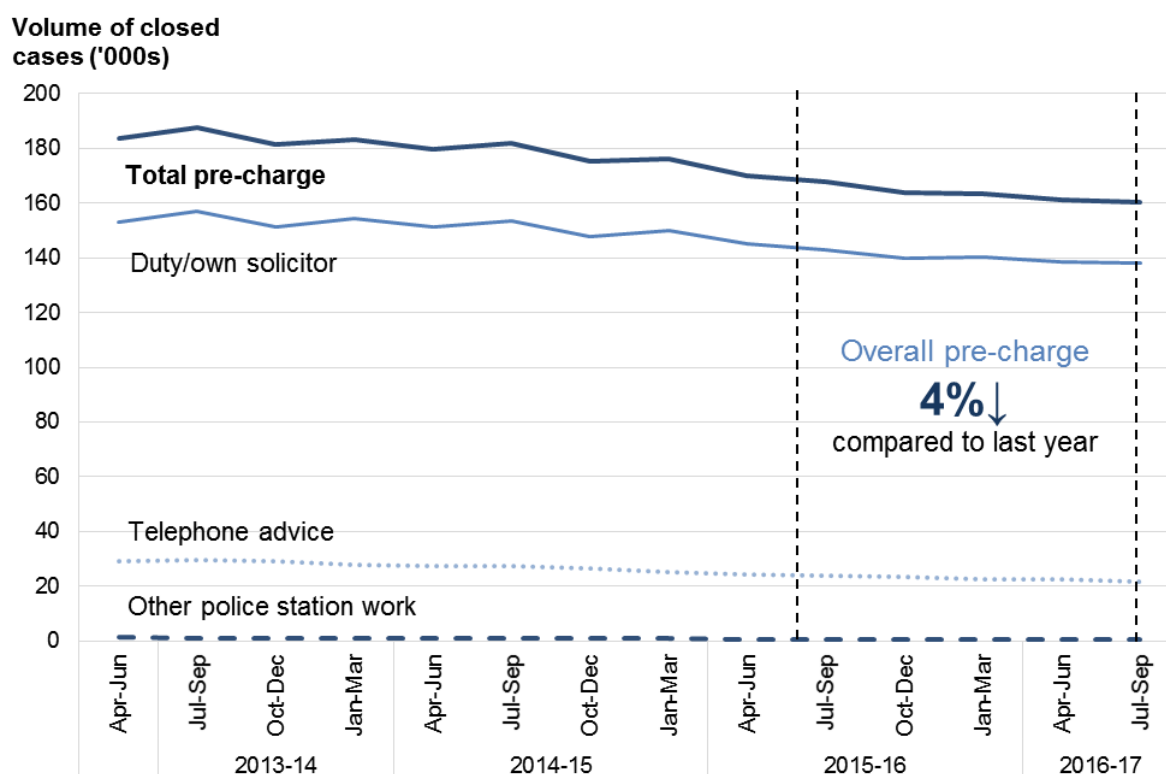
Anyone in England and Wales who is interviewed by the police or attends a police station can receive advice funded by legal aid either on the telephone or by a solicitor in attendance with the suspect. The LAA has limited control over the volume of police station claims. Changes to police numbers and priorities will lead to changes in the number of arrests, charges and cautions.

Pre-charge work made up almost two-thirds of the crime lower workload between July and September 2016 but less than half of crime lower expenditure. Pre-charge legal aid workload between July and September 2016 fell by 4% compared to the previous year (see figure 5). Over the last two years the trend has been gradually downward, but not by as much as crime lower as a whole or overall Crime Survey figures for England and Wales<sup>2</sup>.

The majority of the pre-charge workload (86% in April to June 2016) consists of suspects receiving legal help with a solicitor in attendance at the police station.

<sup>2</sup><http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2015>

**Figure 5:** Workload with pre-charge suspects, Jul-Sep 2013 to Jul-Sep 2016



## Magistrates' court

(Table 2.1 and 2.2 and 3.1)

Legally-aided representation in the magistrates' court comprised around one-third of the crime lower workload between July and September 2016 and around half of crime lower expenditure. The volume of completed work in the magistrates' court fell by 3% in this quarter when compared to the same period of the previous year.

The number of orders granted for legally-aided representation in the magistrates' court rose by 1% in this quarter when compared to the same quarter of the previous year. This goes against the downward trend of the last 2 years. The overall number of receipts in the magistrates' court<sup>3</sup> (including those not involving legal aid) was 5% down over the same period. The proportion of legal aid applications that are granted has changed very little over recent years, at around 95% (table 3.1). Figure 6 shows the overall number of receipts and the number of representation orders granted in the period.

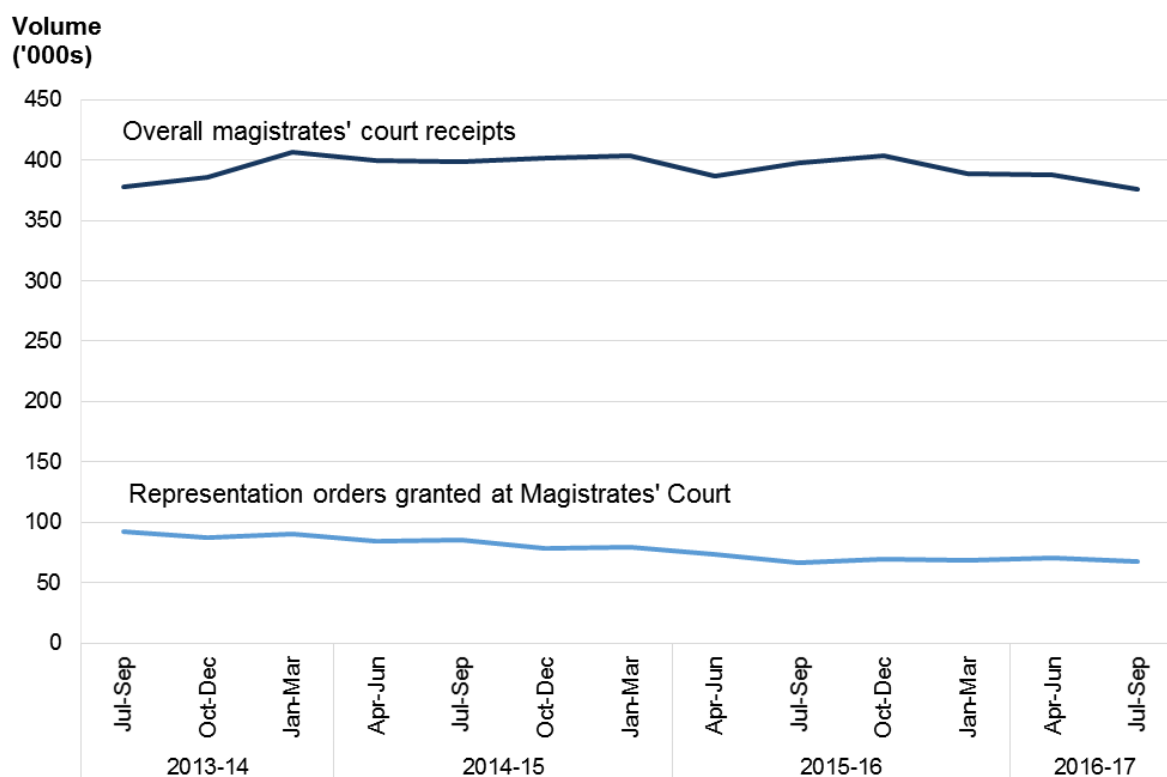
Receipts in the magistrates' court include triable-either-way and indictable trials, summary motoring, summary non-motoring and breach cases. The overall number of receipts is much greater than the numbers of legal aid representation orders because applications for legal aid are not submitted for many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

The IOJ test considers the merits of a case (for example a person's previous convictions, the nature of the offence and the risk of custody) to determine if an applicant qualifies for legal

<sup>3</sup> <https://www.gov.uk/government/collections/criminal-court-statistics>

aid. The more serious the charge or possible consequences for the defendant, the more likely that the case will qualify for legal aid.

**Figure 6:** Magistrates' court trends - representation and receipts, Jul-Sep 2013 to Jul-Sep 2016



## Prison Law

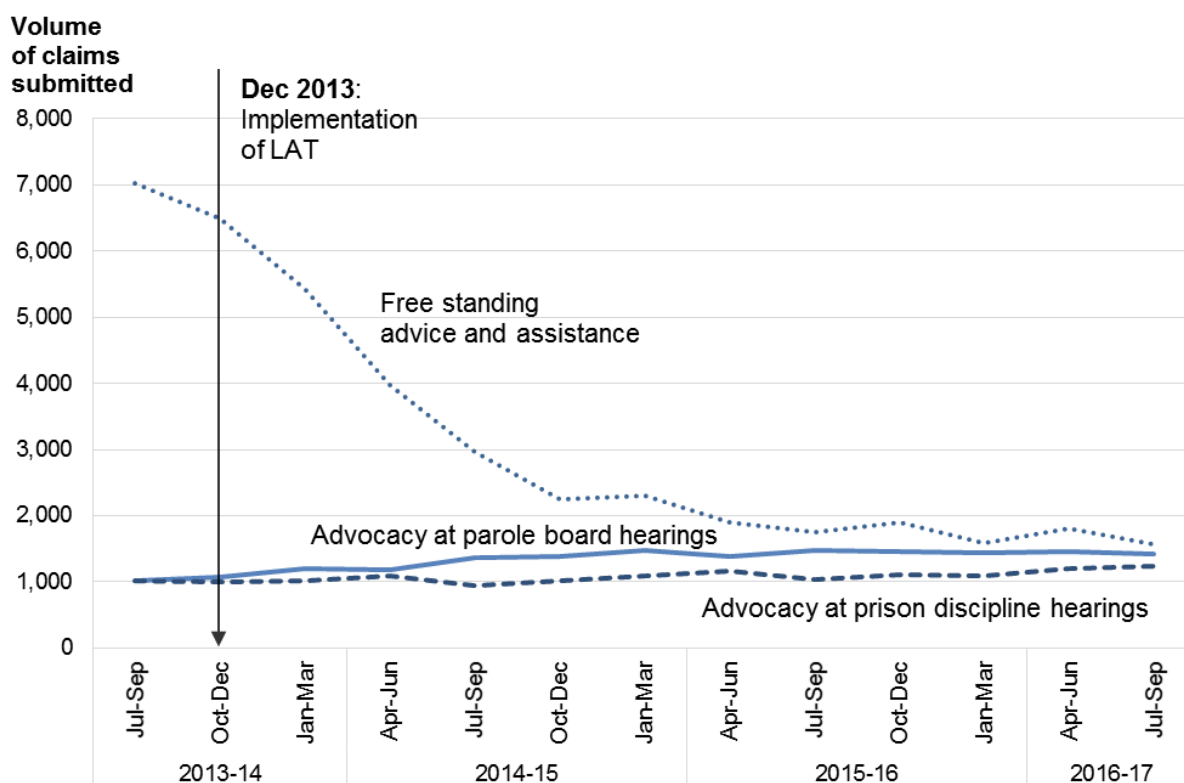
(Table 2.1 and 2.2)

Prison law made up less than 2% of the crime lower workload between July and September 2016, but around 5% of expenditure. In July 2010 changes were made to legal aid for prison law, including a new requirement for legal aid providers to apply to the LAA for prior approval before starting work on treatment cases. Following those changes, prison law workload began to decline.

In December 2013, under the Legal Aid Transformation (LAT) programme, changes were made to the scope of legal aid available for prison law. These changes appear to have accelerated the existing downward trend in prison law workload over the following year, with free standing advice and assistance accounting for most of the decline (see figure 7).

The trend has been more stable over the last year, with workload in July to September 2016 down 1% compared to the same period the previous year. Expenditure on prison law over the same period fell by 10% however, in part due to a reduction in relatively expensive cases among parole board hearings work.

**Figure 7:** Volume of workload within prison law, Jul-Sep 2013 to Jul-Sep 2016



## Crime higher

### Representations at Crown Court

(Table 3.2)

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

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

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

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

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

The trend in new Crown Court work entering the legal aid system continues to decline, with new orders for representation having been falling since the middle of 2013. This is driven by a reduction in cases received in the Crown Court overall (see figure 8)<sup>4</sup>. Over 99% of

<sup>4</sup> <https://www.gov.uk/government/collections/criminal-court-statistics>

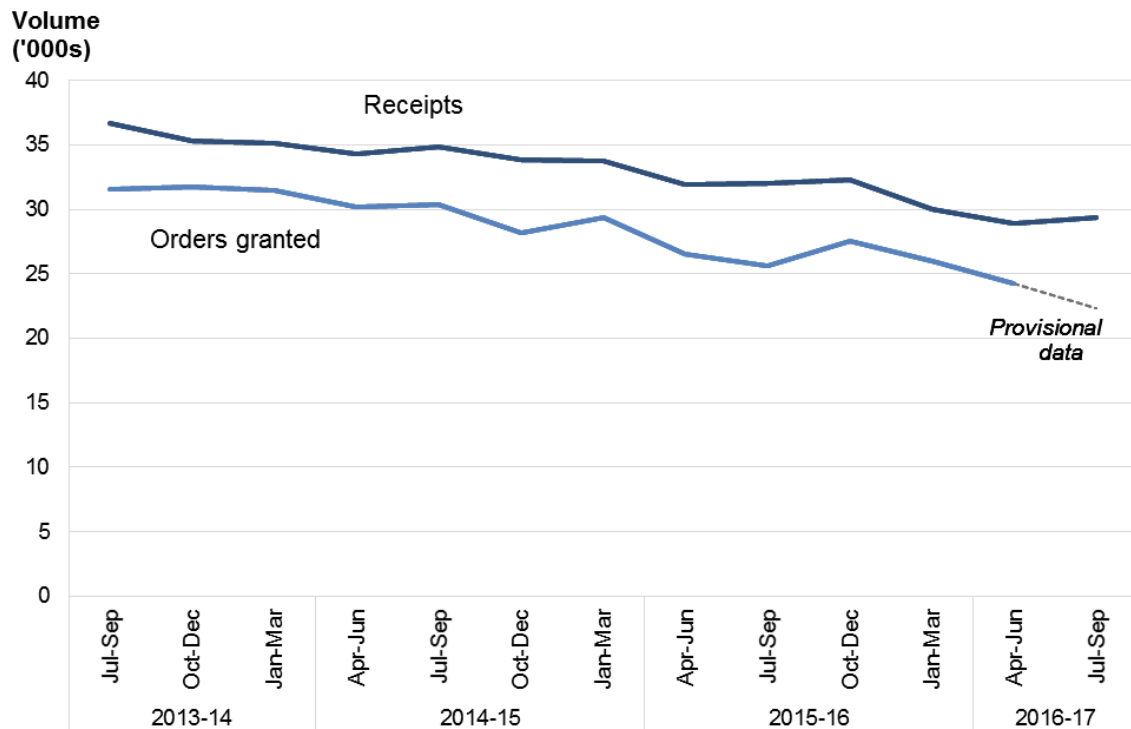
applications for legal aid in the Crown Court are granted, and this has changed very little over recent years (table 3.2).

All categories of orders declined over this period, but those relating to indictable offences fell proportionately less than other categories (see figure 9).

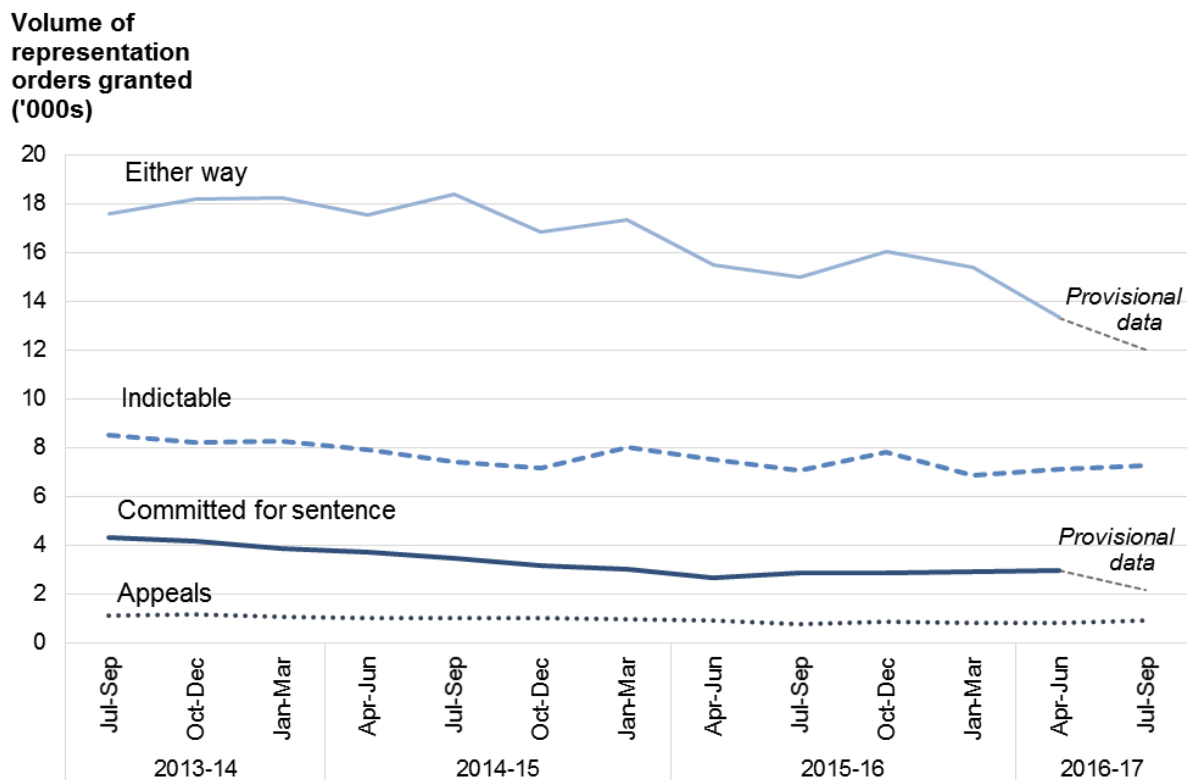
Figures for the most recent 2 to 3 quarters should be considered provisional, and the most recent quarter in particular will be subject to upward revisions in later releases. This is because orders for legally-aided representation in the criminal courts are generally granted at the magistrates' court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

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

**Figure 8:** Representation orders granted and receipts in the Crown Court, Jul-Sep 2013 to Jul-Sep 2016



**Figure 9:** Representation orders granted in the Crown Court, Jul-Sep 2013 to Jul-Sep 2016, by case category



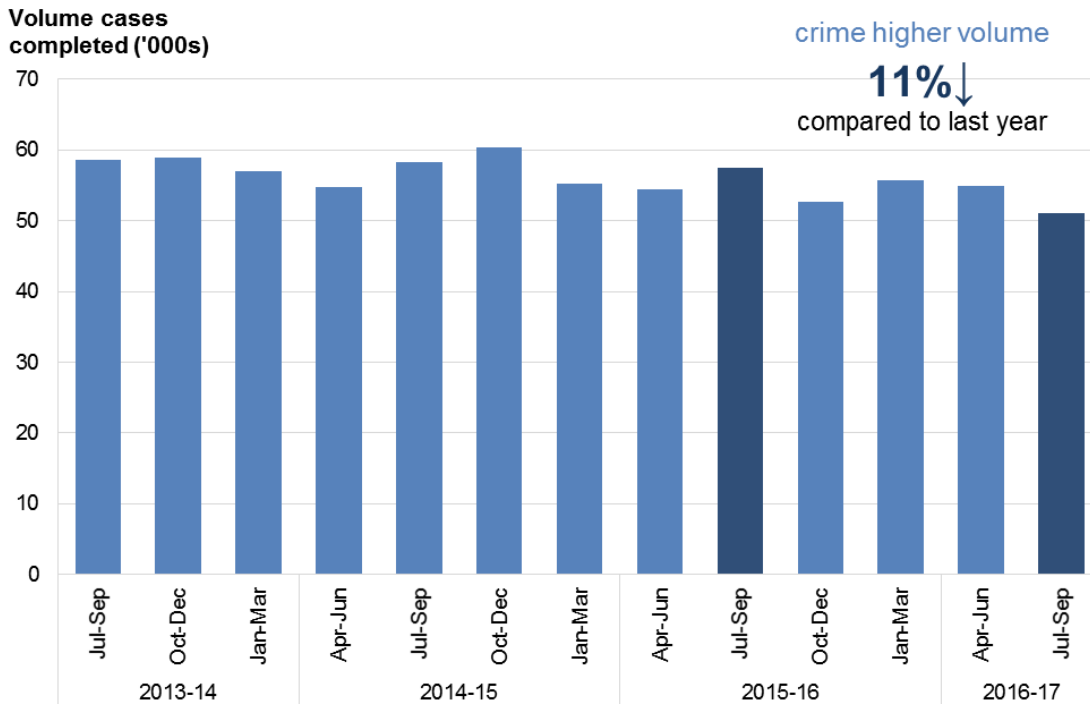
Volumes of cases completed in the crime higher category have declined slightly over the last three years, but were down by 11% in the latest quarter compared with the same period of the previous year (see figure 10).

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

The value of payments for completed cases (figure 11) decreased by more than volumes over the last year, 16% lower in Jul-Sep 2016 than in the same period of the previous year. This is partly because that quarter of 2015 saw a particularly high-cost mix of cases completed.

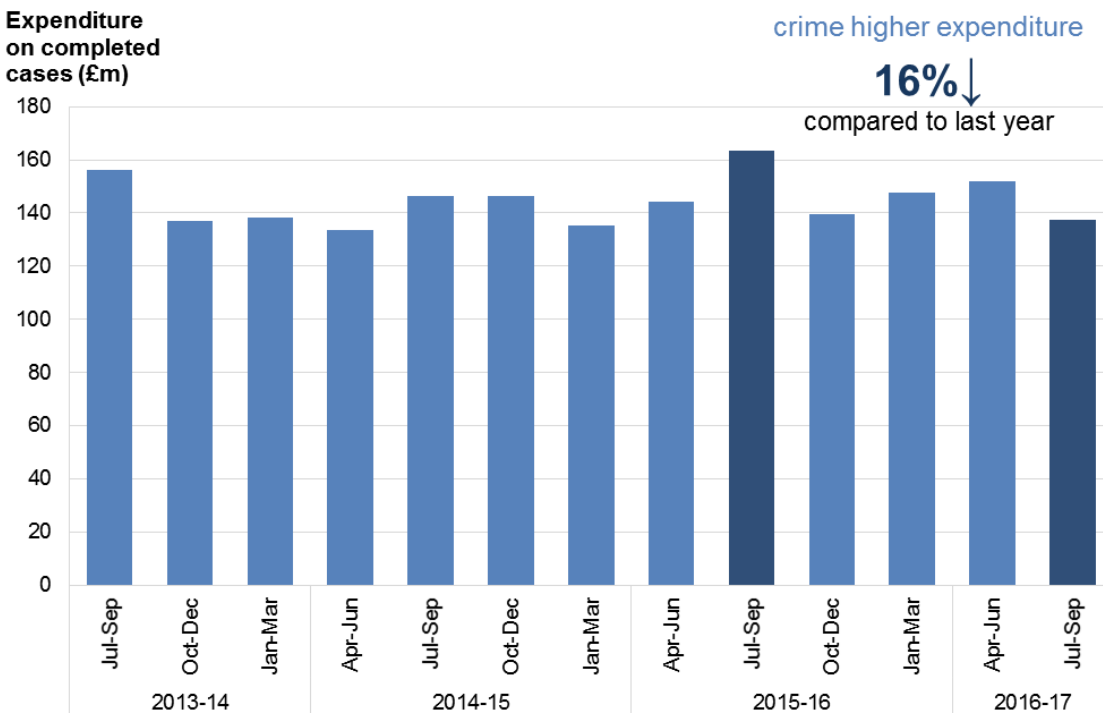


**Figure 10:** Number of cases completed within crime higher (Tables 4.2 – 4.4), Jul-Sep 2013 to Jul-Sep 2016



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

**Figure 11:** The value of completed crime higher cases (Table 4.2 – 4.4), Jul-Sep 2013 to Jul-Sep 2016



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

## **Very High Cost Cases (VHCCs)**

(Table 4.4)

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

Total expenditure on VHCCs from July to September 2016 was £8.1 million, an increase of 9% compared to July to September 2015. Over the longer term however, VHCC costs have fallen due to changes in fee rates paid and also a reduction in the proportion of cases classified as a VHCC due to the threshold being increased from 40 to 60 days on 1 April 2013. VHCCs currently represent around 6% of the overall cost of legal aid in the Crown Court in the latest quarter.

# Civil legal aid

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



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

Many of these matters will then extend into civil representation with full investigations undertaken or in-court representation given. However, under some circumstances a client

may enter straight into civil representation. Legal Aid for representation at the Mental Health Tribunal or the Immigration & Asylum Tribunal is funded through controlled legal representation.

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

In the last quarter **legal help** new matter starts were 9% lower than in the same period of 2015 (see figure 12). The implementation of the LASPO Act in April 2013 resulted in large reductions in legal help workload and the overall trend had subsequently levelled out at around one-third of pre-LASPO levels.

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

The number of **civil representation** certificates granted in the last quarter was up 8% compared to the same period of the previous year (see figure 12). Workloads fell by a smaller proportion than legal help following the implementation of the LASPO Act, before having levelled out at around two-thirds of pre-LASPO levels.

We show grants in two ways. Grants are shown against the period in which the decision was made and recorded (see table 6.2 and 6.9) – these are referred to as ‘decision-based timing’. Grants are also shown against the period in which the application to which they relate was made – these are referred to as ‘application-based timing’ (shown alongside applications in table 6.1 and 6.8). Each way has advantages and disadvantages for the user: the former shows more accurately the timing of latest workload entering the system, while the latter enables the calculation of the proportion of applications in a given period that were granted. We would welcome further feedback from users on this addition via the contact details in Annex A.

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

## Civil representation and overall court volumes

Figure 12 shows the number of certificates granted for legally-aided civil representation (see table 6.2) and the number of trials overall from court data, with figures from the latest release of Civil Justice Statistics quarterly<sup>5</sup> (table 1.5). The trends were broadly similar until the implementation of LASPO, when there were large reductions in civil representation workload.

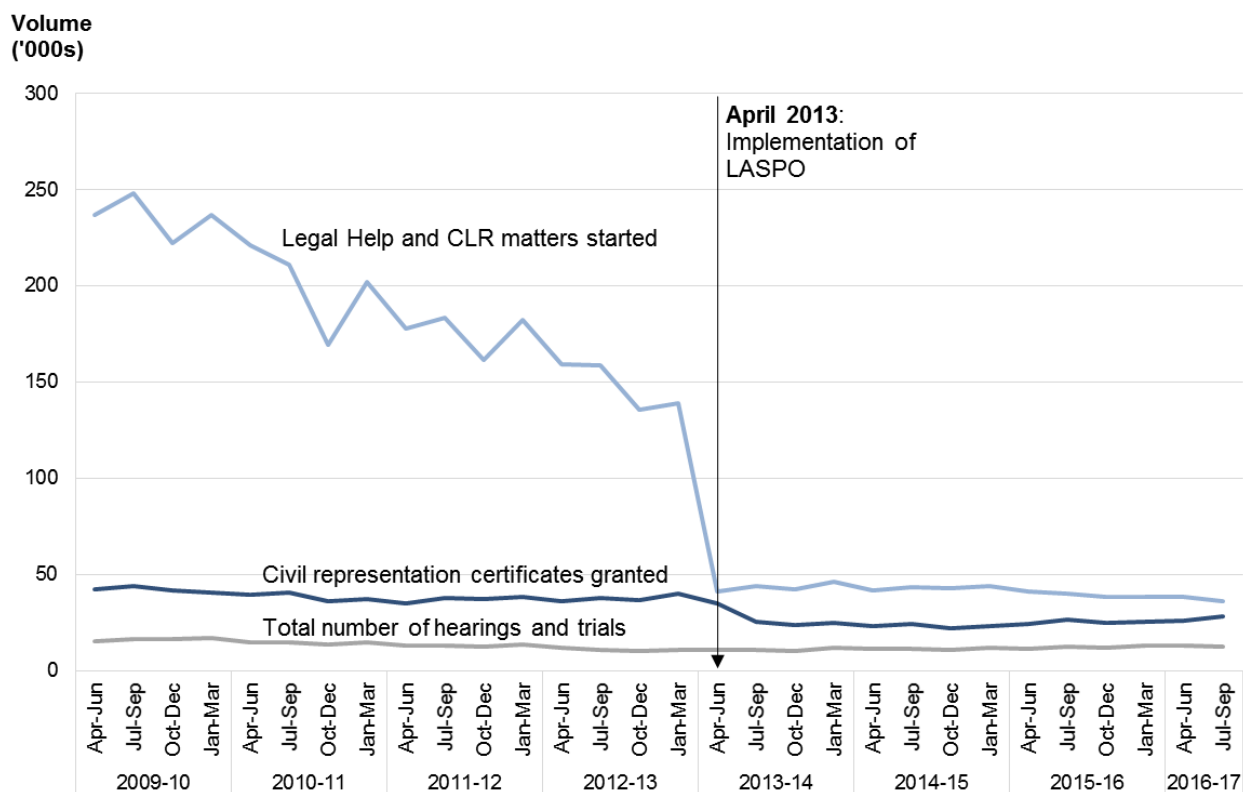
However, since then, as new civil representation workload has stabilised, the trends have again become similar. More certificates are granted than the final number of trials as not all

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<sup>5</sup> <https://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-july-to-september-2016>

claims will reach court and cases with multiple parties can involve more than one legal aid certificate.

**Figure 12:** Longer term trends in civil legal aid and overall court workloads, legal help/controlled legal representation, civil representation and total number of hearings and trials, Apr-Jun 2009 to Jul-Sep 2016.

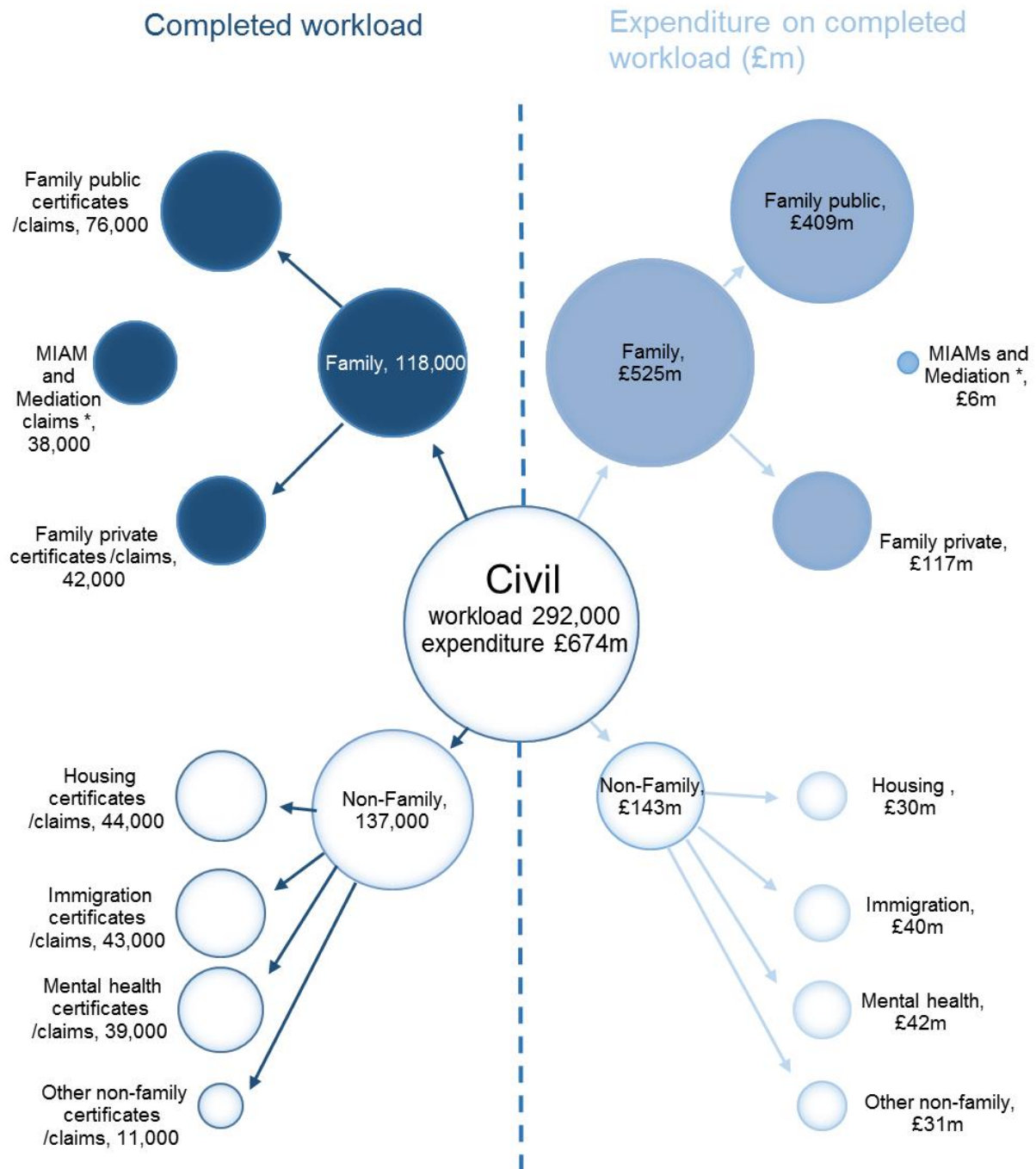


### Civil legal aid by category of law (Tables 5.1 - 6.9)

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

Figure 13 shows the volume of completed work and the associated expenditure for each area of civil legal aid over the latest 12-month period, combining both legal help and civil representation. Although workloads are spread fairly evenly across categories, in expenditure terms family public law is by far the largest area of civil legal aid.

**Figure 13:** Civil legal aid volumes and expenditure by category of law, Oct 2015 to Sep 2016



\* MIAM and Mediation figures are not included in the family total  
 Figures are for the 12 months to September 2016

**Notes:** These figures are a combination of legal help/controlled legal representation matters completed and civil representation closed costs met by LAA. They have been rounded so may not sum to totals. The figure for family mediation is not included within the Family (private) total. These figures also exclude housing possession court duty scheme and telephone operator service volumes and expenditure.

## Family

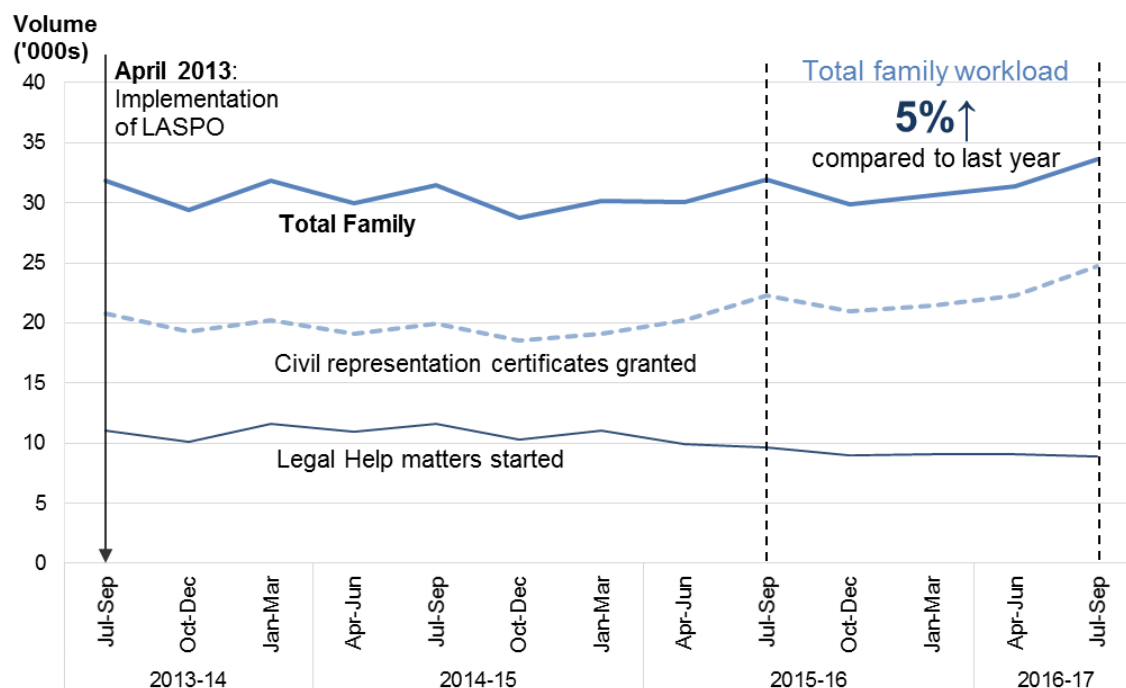
The category of family legal aid covers work on both private and public family law and includes work associated with the Children Act, domestic abuse, financial provision and family mediation.

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

The LASPO Act removed many areas of civil law from the scope of legal aid, including some areas of private family law, resulting in a large decrease in family **legal help** workload. This now appears to have stabilised, but new matter starts in July to September 2016 were 8% lower than the same quarter of 2015 (figure 14). **Civil representation** fell less sharply following LASPO, and the trend had then levelled out, but in July to September 2016 the number of certificates granted was up by 11% compared to the same period of the previous year, largely due to an increase in public law family certificates.

Some areas of family legal aid, in particular domestic violence and public family law, were not affected by scope changes in the LASPO Act and so did not show large decreases in volume when the Act was introduced. In public family law the civil representation workload has increased recently, with 16% more certificates granted in Special Children Act and other public law Children Act proceedings in July to September 2016 than in the same period of the previous year (table 6.2). Legal help matters completed in family public law reduced by 9% over this period however (table 5.2). Public family workloads in civil representation and legal help are higher now than before the LASPO Act was introduced.

**Figure 14:** Family workload: legal help and civil representation, Jul-Sep 2013 to Jul-Sep 2016



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

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

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

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

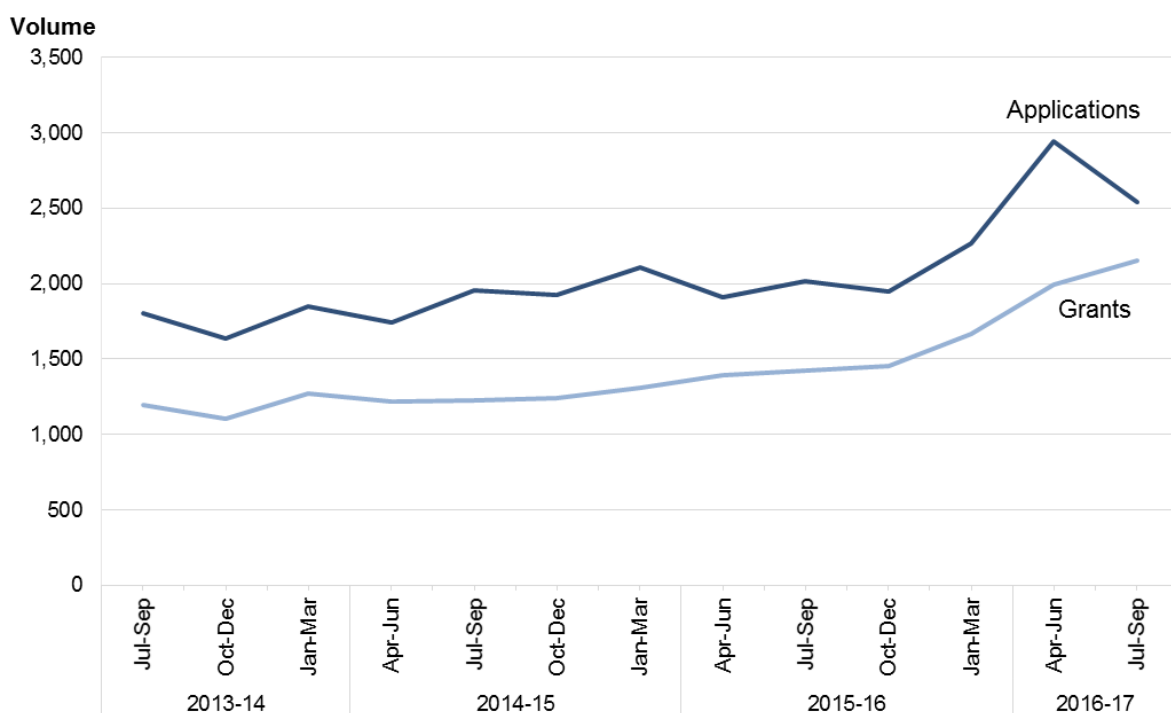
Similar to the figures on civil representation overall, numbers of grants for this type of application are presented both on the basis of decision-based timing (see table 6.9) and application-based timing (see table 6.8). See the introduction to the Civil legal aid section above for more information.

From the beginning of 2016 there has been a steep increase in both applications and numbers of certificates granted. Comparing July to September 2016 with the same period of the previous year, applications were up 26% and the number granted (on decision-based timing) were up 51% (see figure 15).

The proportion of applications granted remained steady at around 70% from the inception of this type of application until the end of 2015, but has increased to over 75% in the 3 quarters since then (see table 6.8).

Between 1 April 2013 and 30 September 2016 the Legal Aid Agency received almost 28,000 such applications. During this same period just over 19,000 certificates were granted.

**Figure 15:** Applications, and certificates granted (decision-based timing) for civil representation in private family law supported by evidence of domestic abuse, Jul-Sep 2013 to Jul-Sep 2016.





## Family mediation

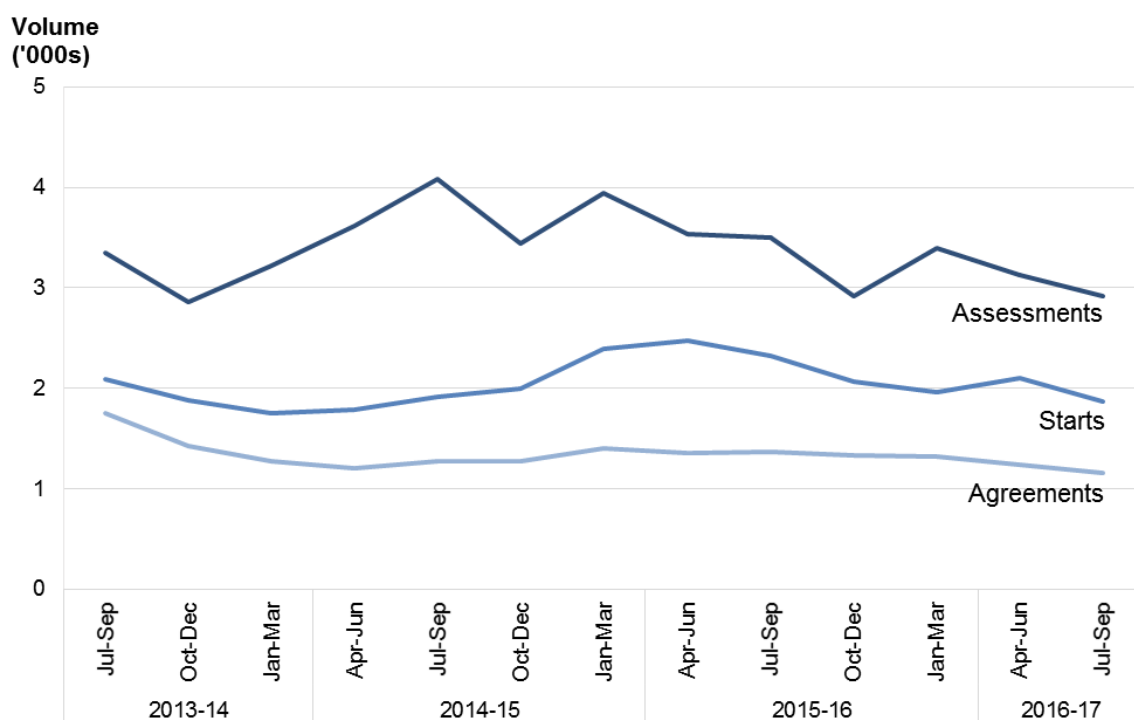
Family mediation (Tables 7.1 – 7.2) involves an independent and impartial professionally accredited mediator discussing problems with a divorcing or separating couple. The process is cheaper and quicker than using the courts and it also allows for a more flexible approach.

A mediation assessment, sometimes also known as a MIAM (Mediation Information and Assessment Meeting), is an initial meeting between one or both parties and a mediator. The aim of the meeting is to see if mediation could be used to resolve the issue, rather than going straight to court. The MIAM therefore takes place before the mediation sessions and must be undertaken for any individual wanting legal aid for this area of work.

The number of MIAMs fell sharply after the introduction of LASPO in April 2013, and numbers have fluctuated since then. They were down by 17% in the last quarter compared to the previous year (see figure 16) and currently stand at around half of pre-LASPO levels.

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

**Figure 16:** Family mediation assessments, starts and agreements Jul-Sep 2013 to Jul-Sep 2016



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

The number of mediation starts fell by a similar proportion to assessments following LASPO. After recovering somewhat, they have now fallen back to just over half of pre-LASPO levels.

Family mediation can be used to resolve issues to do with children or property and finance following divorce or separation, and the 'all issues' category describes mediations which deal with both areas. The children category consistently accounts for the majority of starts,

comprising 65% of all mediation starts in the last year (this information is taken from the more detailed data published alongside this bulletin).

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

Mediations in the 'all issues' category can reach full agreement, where agreement is reached on all issues, or partial agreement, wherein an agreement has been reached on either children or property and finance, but not both. As such, successful agreements include both partial agreements and full agreements. Over the last year 62% of all mediation outcomes involved successful agreements. The rate of success varied between different categories of mediation, with the highest proportion of agreements (65%) in the children category (this information is taken from the more detailed data published alongside this bulletin).

## Non-family

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

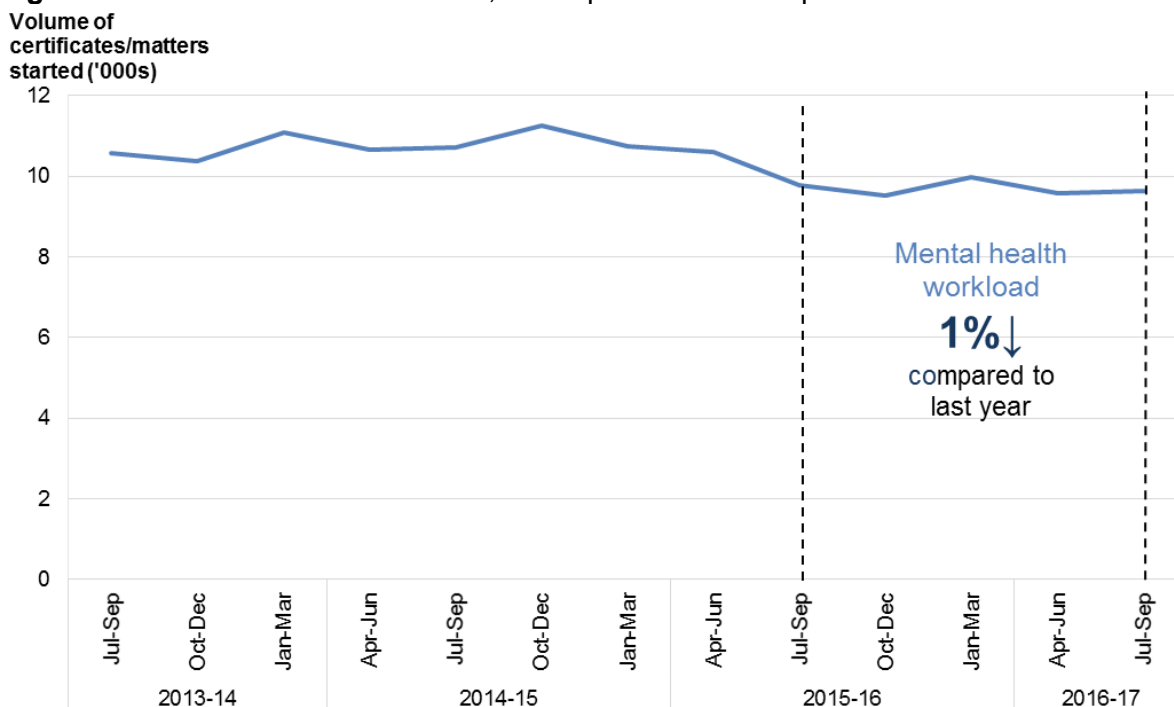
### **Mental Health**

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

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

Mental health workload has remained stable when comparing the latest quarter to the previous year (see figure 17). There was a reduction in workload in summer 2015 due to the exit from the legal aid market of the largest provider of mental health legal help and controlled legal representation.

**Figure 17:** Workload in mental health, Jul-Sep 2013 to Jul-Sep 2016



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

## Immigration

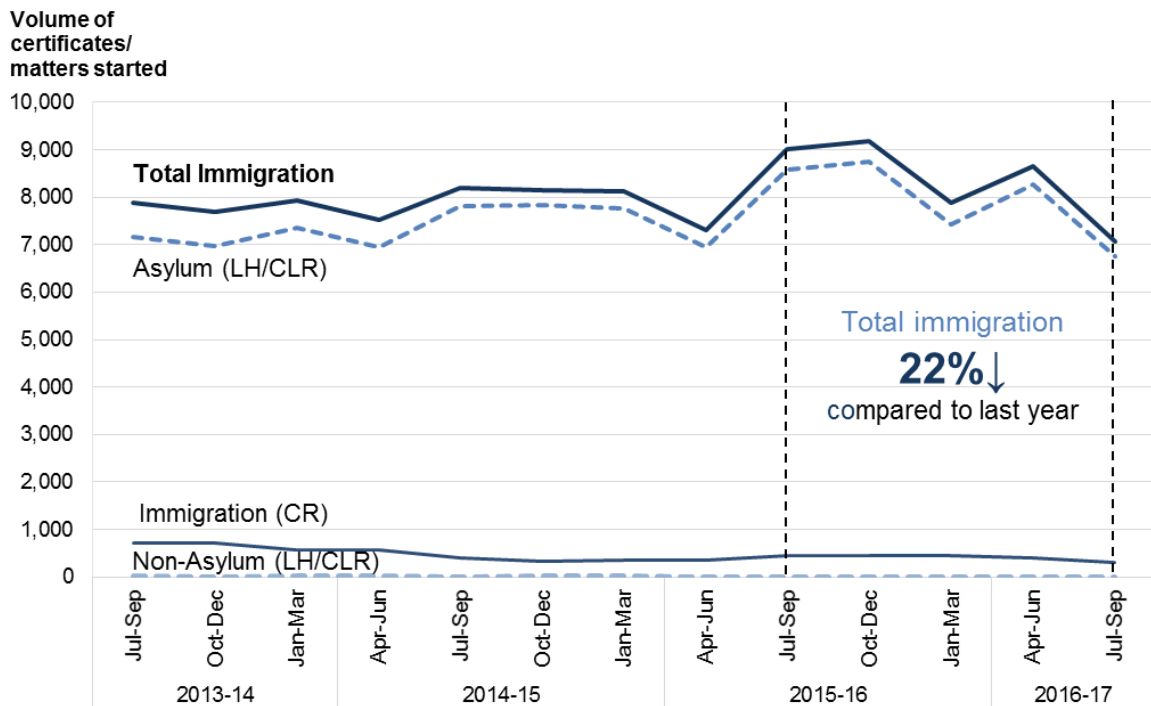
The LASPO Act, which came into effect on 1 April 2013 made changes to the scope of legal aid for immigration law, but some areas remained in scope. These include asylum, immigration-detention, victims of trafficking or domestic violence, and judicial review. Although a distinct level of funding, controlled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

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

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

The workload that remains in the immigration category consists largely of asylum-related work. Having fallen by 40% over the 5 years to 2013-14, new matter starts in the asylum category stood 21% lower in the July to September 2016 quarter than in the same quarter of the previous year (see figure 18).

**Figure 18:** Workload in immigration, Jul-Sep 2013 to Jul-Sep 2016



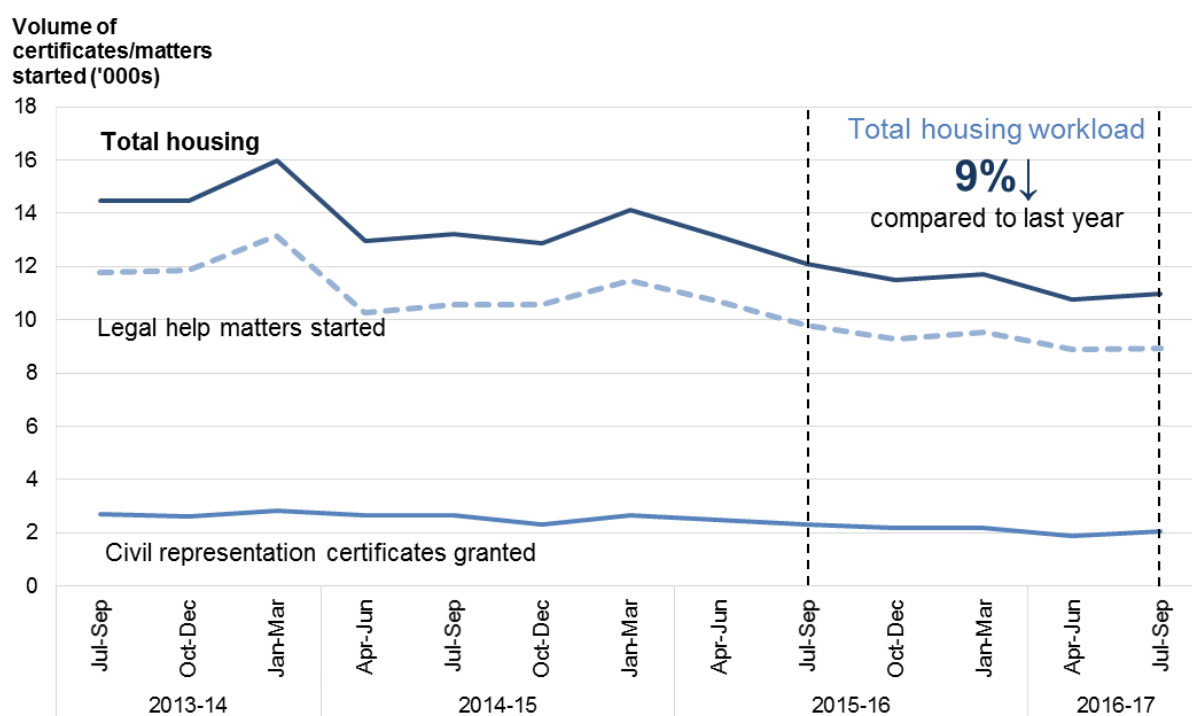
**Note:** workload has been calculated by adding legal help / controlled legal representation matters started and civil representation certificated granted.

## Housing

In April 2013 the LASPO Act made changes to the scope of legal aid for housing issues, but some areas remain in scope. These include cases where there is serious disrepair or homelessness and possession proceedings.

The volume of legally-aided housing cases halved between July to September 2012 and July to September 2013. The trend then fluctuated for around 18 months but since 2014 it has been falling, and in July to September 2016 there was a 9% decrease compared to the same quarter the previous year (see figure 19). Workload figures in this category of law are driven by legal help, which comprised more than 80% of overall housing legal aid volume in the latest quarter.

**Figure 19:** Workload in housing law, Jul-Sep 2013 to Jul-Sep 2016



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

### Other non-family

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

**Figure 20:** Non-family workload: legal help and civil representation, Jul-Sep 2015 to Jul-Sep 2016

	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016	Apr-Jun 2016	Jul-Sep 2016
Actions against the police etc.	661	671	777	798	720
Clinical negligence	81	114	89	100	97
Community care	831	841	898	869	925
Consumer	-	-	-	-	-
Debt	196	154	119	122	112
Discrimination	366	268	348	436	270
Education	431	387	476	507	318
Employment	-	3	2	-	2
Miscellaneous	217	192	201	137	163
Personal injury	7	1	1	-	-
Public law	610	649	608	708	647
Welfare benefits	51	65	78	107	119
<b>Other Non-family</b>	<b>3,085</b>	<b>3,345</b>	<b>3,597</b>	<b>3,784</b>	<b>3,373</b>

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

## Civil legal aid subcategories

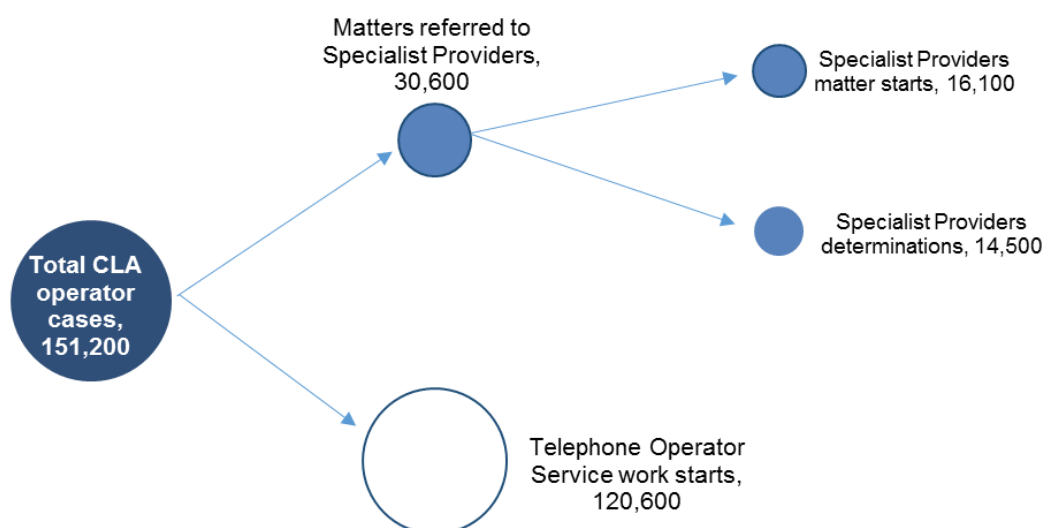
### Legal help telephone service

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

Between October 2015 and September 2016, 20% of telephone operator cases were referred to the specialist telephone service for advice, where a specialist then assessed whether the matter should be started, or instead determined (for example because it is subsequently deemed out of scope, lacks merits or the client has failed to provide evidence).

The remaining 80% of cases were dealt with entirely by the operator service. In such instances the client is referred to a face-to-face legal help provider, an alternative helpline or offered self-help resources.

**Figure 21:** Workload in telephone service, October 2015 to September 2016



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

The specialist telephone advice service covers 5 different areas of law; debt, discrimination, education, family and housing. In the period from July to September 2016, 12% of all legal help matter starts and 14% of all legal help completed matters were dealt with through the specialist telephone service. Legal help for discrimination and education matters can only be accessed through the specialist telephone advice service.

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

## Judicial reviews

Legal aid for judicial reviews takes the form of civil representation and can relate to any category of civil law. Applications for legal aid for judicial reviews are made by those requiring assistance in challenging a government decision.

Of all civil representation applications granted, fewer than 5,000 a year relate to judicial review. The number granted in July to September 2016 was 31% lower than in the same quarter in 2015. Over 40% of judicial reviews were for immigration cases and nearly 30% for public law (see figure 22).

The CSV file of more detailed figures published alongside this document additionally includes figures for applications, applications granted, and outcomes (showing whether the case is considered to be a judicial review).

**Figure 22:** Judicial review applications granted by category, Jul-Sep 2015 to Jul-Sep 2016

Category	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016	Apr-Jun 2016	Jul-Sep 2016
Actions against the police etc.	4	1	1	4	1
Community care	145	130	151	102	118
Debt	0	0	0	0	0
Education	3	4	3	5	1
Housing	143	151	135	93	80
Immigration	385	404	421	347	275
Mental health	2	2	3	3	2
Miscellaneous	15	18	13	6	12
Other public law Children Act proceedings	0	3	1	0	0
Public law	303	285	248	277	203
Welfare Benefits	0	1	1	2	0
<b>Judicial Review total</b>	<b>1000</b>	<b>999</b>	<b>977</b>	<b>839</b>	<b>692</b>

## Exceptional case funding

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

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

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

An ECF determination can generally only be granted if:

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

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

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

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

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

### Applications

There were 479 applications for ECF received between July and September 2016, the highest in a single quarter since the scheme began. 82% of these were new applications; a smaller proportion than it has been recently (see Figure 23).

The remaining 84 applications were re-submitted for review; this is where a case has previously been rejected or refused ECF funding and then resubmitted by the client for reconsideration. These 84 applications also include reviews of refused amendments; amendments are not included in the figures normally since including these would be double counting the volume of grants. Over half of the total reviews this quarter were for immigration matters; this is three times the volume of immigration reviews received in April-June 2016.

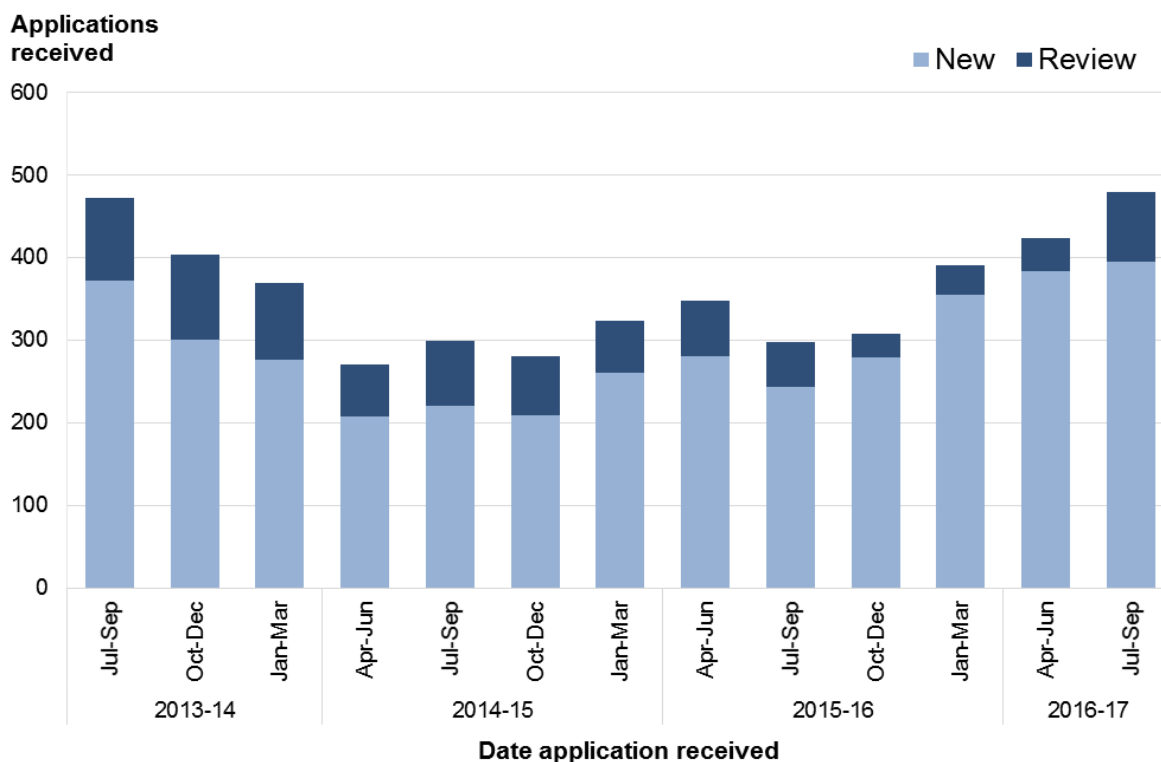
The average turnaround time for new applications received between July and September 2016 and determined by 30 November was 15 working days, against a target of 20. The average for reviews in this period was 10 working days, against a target of 10.

The turnaround time for each ECF application starts on the date it is received by the LAA ECF team and finishes on the day a decision over the case is made, excluding weekends,



bank holidays and time spent waiting for further information, e.g. financial information to support the means assessment. These figures do not take into account changes to targets for specific application types<sup>6</sup>.

**Figure 23:** Volume of ECF applications received, new or review, Jul-Sep 13 to Jul-Sep 16.



This quarter, 116 ECF applications (24%) were made directly by the client, which is the highest proportion in a quarter since the scheme began more than double the proportion this time last year. The increase in direct client applications may be due to the ECF application form being simplified in response to a judicial review (mentioned later in this chapter).

## Determinations

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

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

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

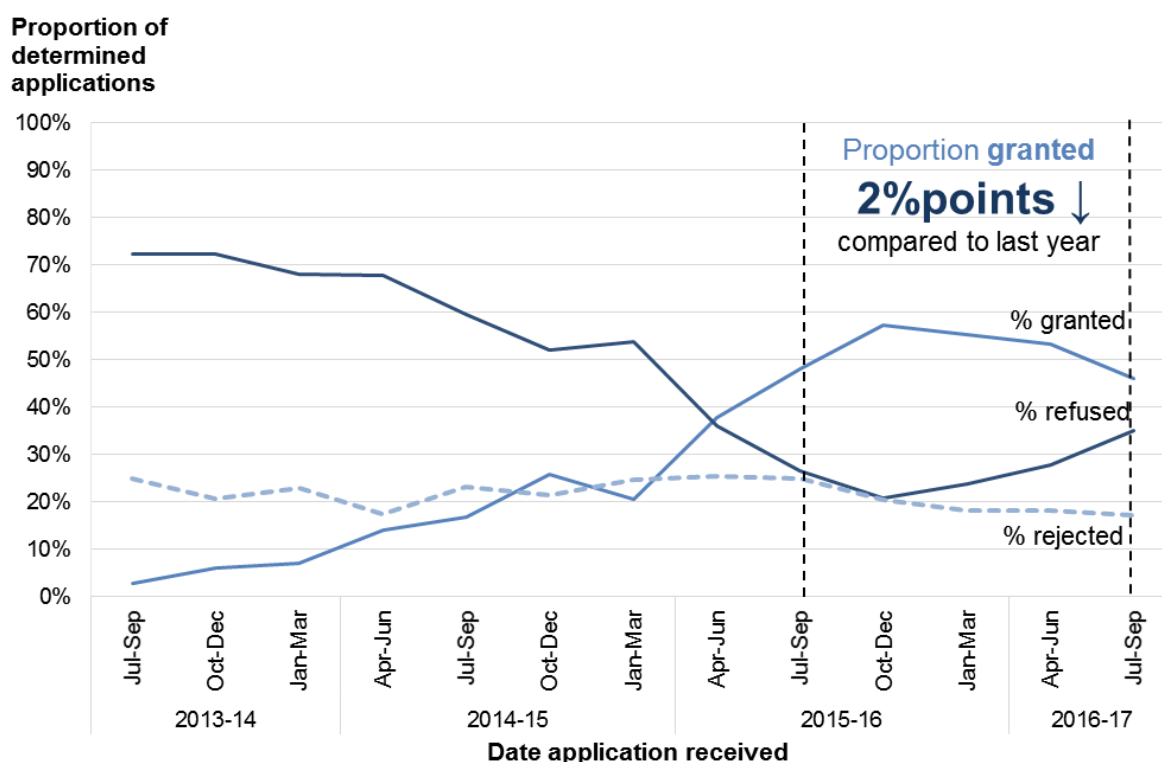
<sup>6</sup> As a result of the 2015 Judicial Review, certain cases may be treated as urgent with shorter targets.

Of the 479 ECF applications received between July and September 2016, 455 (95%) had been determined by the LAA as of 30 November 2016. Of these, 46% (210) were granted, 35% were refused and 17% rejected (see figure 24).

The remaining 24 applications were awaiting assessment as at 30 November, and a further 24 applications from earlier quarters also still await a determination.

The number and proportion of ECF applications being granted has generally been increasing since the scheme began, although the proportion of grants has fallen slightly recently.

**Figure 24:** ECF determinations by outcome, Jul-Sep 2013 to Jul-Sep 2016.



### Changes in relation to court judgements

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

On 15 July 2015, judgement was also handed down in the case of *IS*; a judicial review challenging the operation of the ECF scheme. The court found that there was “unacceptable risk” that the ECF scheme was not able to provide legal aid in those instances where failure to do so would be a breach of the Human Rights Act 1998, or any rights of the individual to the provision of legal services that are enforceable EU rights, and that the Civil Legal Aid (Merits Criteria) Regulations 2013 were unlawful. As a result, applications with a ‘poor’ or ‘borderline’ prospect of success had to be considered for funding.

This judgement was appealed at the Court of Appeal in March 2016. In May 2016, the court found that the LAA regulations were lawful, contrary to the initial judgement. Consequently, from this date, applications with a ‘poor’ or ‘borderline’ prospect of success no longer need to be considered for funding. However, the volume of applications assessed to have a poor or borderline prospects of success is generally small so this may have little impact.

## Applications and determinations by category of law

Of the ECF applications received between July and September 2016, immigration (53%), family (16%), and inquest (13%) remained the most requested categories of law (figure 25).

The impact of the first court judgement discussed above can be seen in the figures; the proportion of immigration applications being granted has increased sharply since around Apr-Jun 2015. However, this quarter has seen this proportion fall for the first time, down to 58% compared to 72% between April and June 2016.

Since immigration forms a majority of the total ECF applications received, this may be the reason for the dip in overall grant proportion this quarter.

**Figure 25:** ECF determinations by category of law, July to September 2016.

Category of law	Awaiting	Granted	Refused	Rejected	Withdrawn	Part-grant	Total
Debt/Consumer/Contract	0	0	0	1	0	0	1
Discrimination	0	0	0	1	0	0	1
Family	3	24	26	20	2	3	78
Housing/Land Law	0	1	8	6	0	0	15
Immigration	2	147	84	20	2	0	255
Inquest	13	33	10	7	0	0	63
Other	3	1	31	22	0	0	57
PI/Clinical Negligence	2	1	1	0	0	0	4
Welfare Benefits	1	3	0	1	0	0	5
<b>Grand Total</b>	<b>23</b>	<b>207</b>	<b>160</b>	<b>77</b>	<b>4</b>	<b>3</b>	<b>479</b>

# Annual updates

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

## Appeals and representations

This section of legal aid statistics contains figures on:

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

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

<https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-january-to-march-2016>

## Legal aid providers

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

The annual provider section presents information on the number of provider offices who have completed work and received associated payments from the LAA in any given quarter or financial year.

The main document includes commentary and maps, and tables 9.1 to 9.4 present summary figures. A CSV file of more detailed data published alongside gives, at the provider office level, the name and category of each provider, the volume of each type of legal aid work completed in each quarterly period and the associated expenditure.

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

<https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-january-to-march-2016>

In December 2015 a paper was published presenting the findings from research undertaken by a research and data working group formed as a collaboration between the Bar Council, Criminal Bar Association, Legal Aid Agency and Ministry of Justice. The aim of the paper was to improve knowledge of the demographic composition of junior barristers (all barristers excluding QCs) receiving legal aid fee income. The paper can be found here:

<https://www.gov.uk/government/publications/composition-and-remuneration-of-junior-barristers-under-the-advocates-graduated-fee-scheme-in-criminal-legal-aid>

## Clients and provider characteristics

This section of legal aid statistics shows summary figures on the breakdown of clients in each main area of legal aid by gender, disability status, ethnicity and age and compares these with the England and Wales population as a whole, using the latest population estimates from the Office for National Statistics.

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

<https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-january-to-march-2016>

## Other criminal legal aid

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

### Discretionary and legacy claims

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

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

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

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

### Central Funds

This category encompasses arrangements to meet costs in a variety of scenarios that are not covered by the main legal aid schemes. Some aspects of these are administered by the LAA and others by Her Majesty's Courts and Tribunals Service. These scenarios include:

- the reimbursement of defendants acquitted after privately funding their defence lawyers. Payments from central funds are normally triggered when a judge grants a Defence Cost Order (DCO) for legal aid at Magistrates, Crown or higher courts;
- lawyers required where a defendant is unrepresented but where the court decides that the defendant must not themselves be allowed to cross-examine a vulnerable witness, with cases of domestic violence being typical. This situation is covered by the terms of section 38 of the Youth Justice and Criminal Evidence Act 1999;
- court interpreters and translators, and court intermediaries;
- reimbursement for successful private prosecutions;
- reimbursement of some of the costs of attending magistrates' court for witnesses, experts and defendants.

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

<https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-january-to-march-2016>

## Annex A - Contact points for further information

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

**Richard Shand**

Tel: 0203 334 4078

Email: [Richard.Shand@justice.gsi.gov.uk](mailto:Richard.Shand@justice.gsi.gov.uk)

Other enquiries about these statistics should be directed to:

**Richard Field**, Head of Statistics

Legal Aid Agency

7th Floor, 102 Petty France

London SW1H 9AJ

Tel: 07469 579 287

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

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

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