



Face-to-face and telephone advice under legal aid

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1 Introduction

1.1 The recent Green Paper on legal aid¹ has proposed dramatic changes to civil legal aid, including

- The removal from scope of several areas of law
- The creation of a telephone service that will act as a “single gateway” to civil legal aid services²
- An overall shift from face-to-face to telephone advice provision, with the majority of cases being transferred to the Community Legal Advice (CLA) specialist telephone advice service³, while CLA operators refer clients to “residual face to face services” where telephone advice would be inappropriate⁴.
- Expected “overall savings” at the specialist telephone advice stage⁵.

1.2 This paper looks at LSC statistics for “acts of assistance” over the last few years, to examine how the distribution of advice giving has changed, notably as between solicitors’ firms, not for profit agencies (NfPs) and telephone advice. This may help to put the current proposals into context.

2 LSC Targets

2.1 The LSC’s target for **2007/08** was 850,000 acts of assistance, of which

- 700,000 would be provided face-to-face
- 150,000 would be provided over the telephone by CLA specialists⁶.

2.2 The LSC’s target for **2008/09** was 1,000,000 acts of assistance, of which

- 700,000 would be provided face-to-face
- 100,000 would be provided by CLA specialists
- 200,000 would be CLA “triage”⁷.

2.3 The LSC’s target for **2009/10** was the same as for 2008/09⁸.

2.4 The LSC’s target for **2010/11** is 1,000,000 acts of assistance, of which

- 600,000 would be provided face-to-face
- 100,000 would be provided by CLA specialists
- 300,000 would be CLA “triage”⁹.

¹ Proposals for the Reform of Legal Aid in England and Wales, Ministry of Justice, November 2010

² Ibid para 4.272

³ Ibid para 4.274.

⁴ Legal Aid Reform: Provision of Telephone Advice Impact Assessment para 35

⁵ Ibid para 46

⁶ Annual report and accounts 2007/08, LSC, p8

⁷ Annual report and accounts 2008/09, LSC, p26. For an analysis of “triage” see below.

⁸ Letter from LSC to ASA 16 November 2010

⁹ Ibid

2.5 It will be noted that the target for 2010/11 envisages a drop in 100,000 face-to-face cases, and an increase in the number of CLA “triage” cases from 200,000 to 300,000.

3 The overall picture

3.1 The LSC statistics tell us the number of

- Cases started by solicitors and NfPs as legal help cases
- “Other” cases, which are mostly housing duty possession cases¹⁰
- Cases started by CLA specialists
- Cases started by Community Legal Advice Centres (CLACs)
- Cases classified as CLA “triage” cases.

3.2 The LSC targets do not include immigration and asylum cases, which are counted separately. The figures do also not include cases conducted under legal aid certificates.

3.3 Adopting these limitations, the figures for the last five years are set out in the following table¹¹.

	2005/06	2006/07	2007/08	2008/09	2009/10
Solicitors	449,890	446,794	419,230	452,002	465,108
NfPs	163,140	201,875	214,090	239,026	243,749
Others	21,855	36,575	34,747	38,419	36,980
CLACs				6,950	9,538
Total face-to-face	634,885	685,244	668,067	736,397	755,375
CLA specialists	73,625	111,319	84,575	100,851	126,866
Total specialist	708,510	796,563	752,642	837,248	882,241
CLA triage				235,947	290,574
Total				1,073,195	1,172,815

3.4 The figures for immigration are¹²

	2005/06	2006/07	2007/08	2008/09	2009/10
Solicitors	64,669	61,607	51,887	55,933	56,934
NfPs	26,648	29,430	33,012	39,050	42,249
Total	91,317	91,037	84,899	94,983	98,643

¹⁰ The LSC reports include in this category some cases classed as mediation.

¹¹ Annual report 2005/06 p18, Annual report and accounts 2006/07 p19, Annual report and accounts 2007/08 p19, Annual report and accounts 2008/09 p18, Statistical Information 2009/10 Table CLS2. The total face-to-face and total specialist calculations are the author's.

¹² Statistical Information 2006/07, 2007/08, 2008/09, 2009/10, LSC, Table CLS2

3.5 The figures highlight four trends in particular:

- Solicitors have averaged around 450,000 non-immigration new matter starts (NMS) since 2005/06 (and indeed since 2003/04¹³). The figure dropped in 2007/08, returned to its usual level in 2008/09 and increased slightly in 2009/10.
- NfPs' non-immigration NMS continued to rise, as they have done every year since 2000¹⁴. The rate of increase slowed in 2007/08, picked up in 2008/09, and slowed again in 2009/10.
- CLA specialists' figures rose initially, fell substantially in 2007/08, made up most of their lost ground in 2008/09, and increased substantially (by nearly 26%) in 2009/10.
- In immigration, solicitors' NMS fell over the first two years, but picked up in 2008/09. NfPs' NMS rose steadily over the full period. Their share of the total increased from 29% in 2005/06 to 43% in 2009/10.

4 **Certificated cases**

4.1 The figures do not include legal aid certificates issued, of which there were

- 155,065 in 2005/06
- 151,247 in 2006/07
- 137,963 in 2007/08
- 145,286 in 2008/09
- 159,715 in 2009/10¹⁵.

¹³ For a discussion of the earlier figures, see Adam Griffith, "Solicitors, NfPs and telephone advice", *Legal Action* October 2008, p9 and "Playing the numbers game", *Independent Lawyer* June 2007, p12

¹⁴ See note11

¹⁵ Annual report 2005/06 p19, Annual report and accounts 2006/07 p19, Annual report and accounts 2007/08 p21, Annual report and accounts 2008/09 p18, Statistical Information 2009/10, Table CLS5.

5 Telephone Advice from Community Legal Advice (CLA)

5.1 Starting in late 2006 a telephone operator system was introduced, so callers speak to an operator, and have their eligibility checked, before they can speak to a specialist adviser.

5.2 In the 2007/08 Annual Report, the LSC stated that the number of calls dealt with by the operator service, without the need to transfer them, was “almost double what we expected”¹⁶. This presumably was the major reason for the fall in the number of cases dealt with by CLA specialists in 2007/08, and the decision to include the CLA “triage” cases in the latest targets and figures.

5.3 A breakdown of the **CLA figures** for the last three years is contained in the following table¹⁷

	Closed by operator service (triage)	Referred to face-to-face (and to no other source)	Referred to CLA specialists	Total
2007/08	166,297	61,732	76,621	304,650
2008/09	235,947	65,140	108,868	409,955
2009/10	290,574	60,941	125,143	476,658

5.4 In 2008/09, of the matters closed by the operator service (and classed as “triage”)

- 63% were referred to another helpline
- 22% were either referred to a “self-help” resource or were referred to a face-to-face provider but also to a helpline or self help resource
- 15% were consumer calls and were referred to Consumer Direct¹⁸.

5.5 It seems therefore that cases are classed as “triage” cases if they are referred to another helpline or to a “self-help” resource (whether or not they are also referred to a face-to-face provider).

5.6 Overall, approximately 25% of matters were referred to CLA specialists in each of the last three years. However the proportion was much higher in the categories of law in which CLA provides specialist advice. In these categories, the proportion of matters referred to CLA specialists in the last three years were¹⁹

	2007/08	2008/09	2009/10
Debt	47%	48%	45%
Education	50%	58%	56%
Employment	37%	34%	36%
Housing	54%	55%	48%
Welfare Benefits	42%	56%	57%

¹⁶ Annual report and accounts 2007/08 p19

¹⁷ Information provided to the author by the LSC

¹⁸ Information provided to the author by the LSC

¹⁹ Information provided to the author by the LSC

5.7 In family, the proportion of matters referred to CLA specialists in 2009/10 was 29%²⁰.

5.8 A breakdown of the **cases started by CLA telephone specialists** in the last two years is set out in the following table²¹

	2008/09	2009/10	% change in number of cases
Debt	28,026	35,395	+26%
Housing	26,450	28,328	+7%
Welfare Benefits	22,615	26,724	+18%
Employment	12,942	16,333	+26%
Family	5,825	16,525	+184%
Education	4,947	3,540	-28%
Miscellaneous	46	21	
Total	100,851	126,866	+26%

5.9 The large increase in the number of family cases is due to the national roll out of provision in family law. The other categories all saw an increase in the number of cases handled by CLA specialists, of between 7% and 26%, with the exception of education, where the number of cases fell by 28%.

6 The overall breakdown between categories of law

6.1 Of the total specialist “acts of assistance” started in 2009/10 by solicitors, NfPs, CLA and the CLACs (including immigration but excluding the “others”)

- 33% were in family
- 16% were in debt
- 15% were in housing
- 15% were in welfare benefits
- 10% were in immigration
- 4% were in mental health
- 3% were in employment
- 5% were in other categories.²²

²⁰ See previous note

²¹ Statistical Information 2009/10, Table CLS2

²² Percentages calculated from Statistical Information 2009/10, Table CLS2. The equivalent figures for 2008/09 were virtually identical.

7 Who advises about what

- 7.1 The family and mental health cases were provided overwhelmingly by solicitors.
- 7.2 The immigration cases, as we have seen, were provided fairly equally by solicitors and NfPs.
- 7.3 In the five categories that are covered by solicitors, NfPs and CLA, the distribution of new matters (or “market share”) over the **last three years** can be summarised as follows²³:

	Solicitors	NfPs	CLA
Housing	40-44%	37- 38%	18-20%
Welfare benefits	18-19%	61- 66 %	15-19 %
Debt	14%	60-67%	20-24%
Employment	19-22%	28-32%	46-51%
Education	16-23%	10-11%	66-71%

- 7.4 The actual distribution of new matters in the last three years is shown in the following table²⁴:

	Solicitors			NfPs			CLA		
	07-08	08-09	09-10	07-08	08-09	09-10	07-08	08-09	09-10
Housing	44%	42%	40%	38 %	37%	37%	18%	19%	20%
Welfare benefits	19%	18%	18%	66%	64%	61%	15%	16%	19%
Debt	14%	14%	14%	67%	63%	60%	20%	21%	24%
Employment	19%	22%	19%	32%	31%	28%	49%	46%	51%
Education	18%	20%	23%	10%	10%	11%	71%	70%	66%

- 7.5 Over the three years
- In housing, the relevant market shares are fairly static
 - In welfare benefits and debt there appears to be a slight shift from NfPs to CLA
 - In employment there appears to be a slight shift from NfPs to CLA in 09-10
 - In education there appears to be a slight shift from CLA to solicitors in 09-10.

²³ The percentage calculations are based on the figures in Table CLS2, Statistical Information 2008/09.

²⁴ See previous note. The figures for 2009/10 in the first four categories do not add up to 100% as 2% of matters in each category were started by CLACs. For the previous years, see Legal Action October 2008 p10.

8 Conclusion

- 8.1 With the exception of 2007/08, the last five years have seen a welcome increase in the number of specialist cases started both face-to-face and over the telephone. It is too early to say what the position will be in 2010/11, but it is worrying that the LSC's target for face-to-face advice this year is 100,000 lower than it was for 2009/10, and 155,000 lower than was actually achieved in 2009/10.
- 8.2 It is possible that 2009/10 will represent the high water mark as far as face-to-face provision funded by the LSC is concerned.
- 8.3 As for the future, much will depend on the extent to which the present government's proposals change as a result of the consultation that is now taking place. As they stand at present, the proposals envisage a dramatic shift from face-to-face to telephone advice in those categories of law that remain in scope.

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